

Central Planning Authority

Minutes of a meeting of the Central Planning Authority held on March 16, 2022 at 10:00am in Conference Room 1038, 1st Floor, Government Administration Building, and Elgin Avenue.

08th Meeting of the Year

CPA/08/22

Mr. Ian Pairaudeau (Chair)

Mr. Handel Whittaker (Deputy Chair)

Mr. Joshua Bernard

Mr. Gillard McLaughlin

Mr. Charles Russell Jr.

Mr. Windel Scott

Mr. Peter Campbell

Mr. Kenneth Ebanks

Ms. Danette McLaughlin

Ms. Shakina Bush (apologies)

Ms. Christine Maltman, MCIP, AICP

Ms. Celecia Bancroft

Mr. Ashton Bodden (left at 3:30)

Mr. Haroon Pandohie (Executive Secretary)

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

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

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APPLICANTS ATTENDING THE AUTHORITY'S MEETING

APPLICANT NAME	TIME	ITEM	PAGE
JBCO	10:30	2.14	79
Helen Dombowsky	11:00	2.2	9
Beverley Nunez	11:30	2.3	16
Shane Allenger	1:00	2.4	18
Jason Ebanks	1:30	2.5	24
J. Magnussen	2:00	2.6	34
Palm Sunshine	2:30	2.7	47

1.1 no Minutes for confirmation

1.2 Declarations of Conflicts/Interests

ITEM	MEMBER
2.14	Handel Whittaker

2.0 APPLICATIONS
APPEARANCES (Items 2.1 to 2.7)

2.1 ROGER S. FREEMAN (George Manderson Jr.) Block 14BJ Parcel 19 (P21-1163) (\$100,000) (NP)

Application for proposed open air deck.

An appearance had been scheduled for 10:30, but the applicant requested the application to be adjourned

FACTS

<i>Location</i>	South Church Street in George Town
<i>Zoning</i>	BRR with GC4 overlay
<i>Notification Results</i>	Objections
<i>Parcel size</i>	0.36 acres.
<i>Parcel size required</i>	0.5 acre
<i>Current use</i>	Ground floor – watersports business Upper floor - restaurant
<i>Proposed use</i>	balcony extension
<i>Building Footprint</i>	853 sq. ft.
<i>Site Coverage Permitted</i>	40 %
<i>Site Coverage Proposed</i>	13.8 %
<i>Parking Required</i>	20
<i>Parking Proposed</i>	20 (11 onsite, 9 leased)

Decision: It was resolved to adjourn the application at the applicant’s request.

BACKGROUND

April 25, 2012(CPA/10/12; Item 2.14) - The Authority granted planning permission for a change of use of retail space to a bar/restaurant.

September 6, 2018 (CPA/17/18; Item 2.6) The Authority granted planning permission for an off-site parking area on Block 14BJ Parcel 24 for 12 months only.

February 5, 2019 (CE10-0029) An enforcement notice was issued for a shoreline modification and placement of a commercial tent without planning permission.

July 17, 2019 (CPA/15/19; Item 5.4) - The Authority waived the requirement to provide a current High Water Mark survey for the previous application.

December 4, 2019 (CPA/25/19; Item 2.4) - a similar application proposing an upper floor

balcony was refused by the Central Planning Authority for the following reasons:

- 1) The applicant failed to provide sufficient reasons per Regulation 8(11) why a high water setback less than what is prescribed in regulation 8(10(a)) should be allowed.
- 2) The Authority is of the view that the balcony can only physically exist if a deficient high water mark setback is allowed and that would not be consistent with Section 2.06 (e) of The Development Plan 1997 in that the resultant noise from the proposed balcony that is intended for outside seating associated with a bar/restaurant would cause a negative impact on the occupants of the neighbouring residential lots.
- 3) Per Section 3.03 (b) of The Development Plan 1997, the Authority is of the view that the resultant noise from the proposed balcony that is intended for outside seating associated with a bar/restaurant will not be harmonious or compatible with the adjacent residential developments.

November 10, 2021 (CPA/23/21; Item 5.2) - The Authority waived the requirement to provide a current High Water Mark survey for the current balcony application.

AGENCY COMMENTS

Agency comments received to date are provided below.

National Roads Authority

As per your memo dated November 3rd, 2021 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

The NRA has no objections or concerns regarding the above proposed addition.

Water Authority Cayman

Existing Wastewater Treatment System Needing Regular Servicing

The following are the Water Authority's requirements for this development proposal:

The development is served by two existing Clearstream 1000N treatment systems with a design capacity of 2,000 gpd. The existing systems can accommodate the proposed additions. However, following a review of the Water Authorities online maintenance tracking system, it appears the system has not been adequately maintained nor has a service report been submitted since April 30th 2020. As the system has been poorly maintained it requires the following to comply with Water Authority regulations:

- *A copy of a monthly maintenance contract with a Registered Service Provider shall be provided to the Water Authority.*
- *The system shall be repaired and serviced by a Registered Service Provider per the link of companies employing certified OWTS technicians.*

http://www.waterauthority.ky/upimages/pagebox/2018_ListofCompaniesEmployingCertifiedOWTSOMTechs_1533930948.pdf

• *Registered Service Providers submit monthly Service Reports to the client and the Water Authority via our online tracking system. The required maintenance should be scheduled without delay. Receipt of a copy of the maintenance contract, an updated service report and subsequent inspection and sampling of the system by the Water Authority to ensure compliance with regulatory limits are conditions for approval of Certificate of Occupancy.*

Department of Environment

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

The subject parcel is man-modified and of limited ecological value. However, the area offshore from this parcel is a Marine Reserve protected area and therefore it is important to ensure that the construction will not have any unacceptable adverse effects on the Marine Protected Area.

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

All construction materials shall be stockpiled landward of the existing seawall.

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

A person aggrieved by a decision of the National Conservation Council to impose a condition of approval may, within 21 days of the date on which the decision is received from the Central Planning Authority/Department of Planning, appeal against the decision of the Council to the Cabinet by serving on the Cabinet notice in writing of the intention to appeal and the grounds of the appeal (Section 39 of the National Conservation Act, 2013).

Fire Department

The Fire Department has stamp approved the drawings.

Department of Environmental Health

The DEH has yet to respond to the request for comments. However, it is noted that the solid waste enclosure has existed for many years.

OBJECTION LETTERS

See Appendix A

SUPPORT LETTER

See Appendix B

PARKING SPACE LEASE

See Appendix C regarding a lease for 9 parking spaces on Block 14E Parcel 681.

PLANNING DEPARTMENT ANALYSIS

General

The subject property is located on South Church Street, across from Uglund House.

The shoreline is ironshore and the Authority previously determined that a high water mark survey is not required in this instance.

The property contains an existing watersports operation on the ground floor and a restaurant/bar on the upper floor.

The application is to add an 853 square foot uncovered balcony to the upper floor restaurant.

Abutting properties were notified by Registered Mail and two advertisements were placed in a local newspaper. Objections have been received as well as a letter of support.

Zoning

The property is zoned Beach Resort Residential.

Specific Issues

1) Seaside Setback (33'4" vs 75')

Regulation 8(10(a) requires a minimum 75 foot setback in this area of central George Town.

The applicant is proposing a 33'4" setback to the edge of the proposed deck.

It is noted that the previous 2019 application extended slightly further west to the edge of the existing seawall.

The Authority should consider the proposed seaside variance.

2) Parking

The subject property contains parking for 11 vehicles, including one accessible parking space.

Regulation 8(1) requires a total of 20 parking spaces for both the expanded restaurant/bar use on the upper floor and the commercial use on the ground floor.

The applicant is proposing to provide the additional 9 parking spaces a short distance away on Block 14E Parcel 681. In this regard, a signed lease for nine parking spaces has been provided by the applicant and can be found in Appendix C.

It should be noted that the site is zoned BRR which does not allow for off-site parking,

but the lands are also subject to the General Commercial zone 4 overlay which does allow for off-site parking. More specifically, the Regulation states that up to 100% of the required parking (excluding those required for accessibility) may be located not more than 700' from the respective building. In this instance, the proposed 9 off-site parking spaces will be located across the street on 14E 681, about 280' from the building.

The Authority should discuss whether the proposed off-site parking arrangement is acceptable in this instance.

3) Water Authority Comments

The Water Authority has indicated that there are some outstanding Agency requirements that have not been met to date.

2.2 HELEN DOMBOWSKY (Paradise Drafting Ltd.) Block 75A Parcel 157 (P21-1234) (\$1,000,000) (EJ)

Application for two (2) houses, pool, 3.6' roadside wall and 2' 6" retaining wall.

Appearance at 11:00

FACTS

<i>Location</i>	Austin Conolly Drive
<i>Zoning</i>	BRR
<i>Notification result</i>	One Objector
<i>Parcel size proposed</i>	0.54 ac. (23,522 sq. ft.)
<i>Parcel size required</i>	20,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	5,504 sq. ft.
<i>Total building site coverage</i>	14.9%
<i>Allowable units</i>	2
<i>Proposed units</i>	2
<i>Allowable bedrooms</i>	NA
<i>Proposed bedrooms</i>	4
<i>Required parking</i>	2
<i>Proposed parking</i>	2

BACKGROUND

NA.

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

In addition to Building Permit requirements, conditions (1-2) listed below shall be met before a Building Permit can be issued.

- 1) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 2) The construction drawings for the proposed swimming pool filtration system shall be submitted to the Department of Environmental Health. The applicant shall also submit to the Director of Planning the requisite signed certificate certifying that if the pool filtration system is constructed in accordance with the submitted plans it will conform to public health requirements.
- 3) Construction sites for in-ground swimming pools and spas shall be provided with construction fencing to surround the site from the time that any excavation occurs up to the time of completion. The fencing shall be not less than 4 feet in height.
- 4) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 5) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area.
- 6) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 7) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s)**.

If the existing grade level does not currently provide for it, the applicant is reminded that the finished floor level of all buildings should be at least seven feet (7') 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 (2021 Revision).
- 2) The proposed septic tank does not comply with the minimum required side setback per Regulation 15(4)(b)(i) of the Development and Planning Regulations (2021 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 main buildings comply with the required setback it is only the septic tank that does not and the 10' setback would comply if the site was in a residential zone;
 - 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 of the view that the objector did not raise sufficient grounds to refuse planning permission. More specifically, the Authority does not agree with the objector that a 2' 6" retaining wall set back 75' from the high water mark will lead to coastal erosion. The Authority notes that the shoreline is stable as noted by a review of the available historic aerial photography and this position is also supported by the Department of Environment. The Authority also noted that there is shallow water adjacent to the site and there is a protective reef about a ½ mile off shore, both of these factors contributing to the stability of the shoreline.

AGENCY COMMENTS

Comments from the Department of Environment, National Roads Authority are noted below.

Department of Environment

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

The Department notes that the majority of the subject parcel is man-modified previously cleared regrowth with a small area of remaining coastal shrubland and the coastline has remained relatively stable over the last few decades (as shown in figure 1 below). It is recommended that vegetation should be retained where possible, especially on the seaward side of the retaining wall, and incorporated into the landscaping scheme. Native vegetation is best suited for the habitat conditions of the site, requiring less maintenance and making it a cost-effective and sustainable choice for landscaping. Any sand excavated during construction should be retained on-site and beach quality sand should be placed along the active beach profile.





Fig.

1: Aerial Imagery showing the subject parcel in 2004, 2008, 2013 and 2018 (LIS 2018).

APPLICANT'S LETTERS

Letter #1

We are writing on behalf of our client who kindly requests two setback variances be granted for this project.

The existing site is very shallow from the roadway to the MHWM setback line and it also falls within the Beach Resort Residential zoning. The zoning side yard setbacks further reduce the developable area for a single-family house.

The house and garage structures both respect the 20-foot side yard setback requirements per Regulation 8 (5) of the Development and Planning Regulations (2017 Revision).

Our client kindly requests side yard variances be granted for the following items which are in conflict with Regulation 8 (5) of the Development and Planning Regulations (2017 Revision) which requires 20-foot side yard setbacks:

1. *Underground septic tank, which would not be visible to any neighbor and is set 10'-0" from adjacent side yard boundary line,*
2. *Pool equipment / pad which is set 15'-4" from adjacent side yard boundary line.*

We do not believe that these minor setback variances would negatively impact the adjacent neighbours anymore than their existing reduced setbacks impact our client.

Letter #2

We are writing on behalf of our client who wishes to respond to a letter of objection received earlier this month from their neighbour, Kerith W. A. McCoy. It should be noted the applicant very much wishes to have a harmonious relationship with all neighbours including Mr. McCoy as has been the case since the applicants moved to the Cayman Islands in 1992.

Our client wishes to note that they are as concerned about the preservation of the beach shoreline as anyone else and have also witnessed the unfortunate changes along Seven

Mile Beach during their 30 years in Cayman. As a result, they are not requesting a variance for the retaining wall and have taken efforts to produce a site layout that respects the Planning Regulations, specifically Regulation 8(10f), requiring a minimum setback of 75-feet from the high-water mark.

The objector's reference to the beach erosion along Seven Mile Beach seems misplaced for this project as it is our understanding that referenced beach erosion has been caused in great part by developments not respecting the beach setback guidelines and over the years, due to variances granted to permit outbuildings, pools, cabanas and decks. The proposed site layout for this project and all beach setback guidelines were strictly followed by the applicant for this project.

The applicant respectfully reminds the CPA that the property is zoned Beach Resort/Residential. Under current guidelines, the Beach Resort designation would permit a structure up to four stories and up to 10 apartments on the site with a maximum of 20 bedrooms. Instead, the applicant is proposing just a single family residence that ultimately will have far less impact to the land and marine environments, neighbours, traffic and the community of East End.

Our client is requesting the approval of the retaining wall as the existing site grades are actually quite high in the buildable portion of the site ranging from +10 to almost +13 feet above sea level (contrary to objector's view that the area is "very low"). There are few sites around Cayman's beaches in this writer's experience being this high so close to the sea. As the site slopes down quite steeply to the shoreline there is a need to create a level buildable plateau, hence the need for the wall.

It is our client's intention to maintain the existing indigenous plantation materials, such as the Sea Grape trees, on the site as much as possible and to supplement them after construction with vegetation such as Suriana Maritima (Shore Juniper) and Sea Lavendar to maintain the stability and look of the natural beach shoreline.

Finally, the applicant has no intention of removing any sand from the site and plans to use any available sand to grade the beach to the retaining wall and for beach nourishment if needed.

OBJECTION LETTER

I write as a joint proprietor of the property at EE 75A/31, which is immediately adjacent to the site of the referenced application. I hereby submit formal objection to the approval of the construction of a seawall as a part of the proposed development, at this or any other time in the future.

The reasons are as follows:

- 1. At the present time, severe beach erosion has decimated large sections of Seven Mile Beach. There are also documented cases, of lesser social prominence, of other cases of beach erosion around the island. Particularly of concern however, is the strong indication and almost verifiable proof that such erosion is prompted or certainly enhanced by solid structures built near and too near to the tidal water lines. The concern is so valid that indeed the Cayman Islands Government has announced measures to*

address beach erosion and remediation in some areas.

2. *The natural topographic features of this specific area of the East End coastline, known as "Blakes", show that it is very low and does not have a strong vegetation buffer along the sea-front, so as to benefit from vegetation and roots holding the sand in place.*
3. *The area, not unlike many beach areas around the islands, sometimes naturally experiences a small degree of seasonal tidal erosion but like other areas, sees the restoration of the shoreline to its "natural" state in due course. The attached recent photo shows the "sensitive" nature of the shoreline to tidal activity. Please note, parcel 31 is the one outlined in blue, parcel 1517 is adjacent. One can clearly see that any unnatural alteration to, or near, the shoreline would very likely promote further erosion.*

The situation at the "beaches" at Royal Palms, Marriott and adjoining properties is very clear evidence of the results when the dynamic forces of tidal activity are blocked, interrupted or re-directed. The fact and evidence that the beach shoreline in the area of EE75-157, 75A/31 and adjoining properties is already in a "sensitive" state and the fact that current Government mandate has taken on the problem of beach erosion and some of its causes amount to irrefutable evidence that NO such opportunities should be facilitated through any application or approval process.

As such, it is our collective opinion that permission to construct a sea wall on 75A/157 should not be given and this forms the basis of our objection.



PLANNING DEPARTMENT ANALYSIS

General

Application for two (2) houses, pool and 3.6' wall on Austin Conolly Drive

Zoning

The property is zoned Beach Resort Residential.

Specific Issues

1) Side Setback Variance

The proposed septic tank does not meet the required side setback proposed at 10' vs 20' and therefore the applicant is seeking a side setback variance from the CPA per Regulation 15(4)(b)(i).

At 11:00am, Mr. Dombowsky appeared as the applicant and John Yeo appeared as his agent. Kerith McCoy appeared as an objector. Summary notes are provided as follows:

- John Yeo provided several comments:
 - the application is for a 2 storey house, 2 storey garage, pool and retaining wall
 - there have been no objections from any Agencies
 - DOE is suggesting to retain the vegetation on the beach side and his client wants to do that anyway
 - They need variances for the septic and pool pump, setback at 10' and 15' vs 20'
 - apart from these 2 minor variances, it fully complies
 - The retaining wall is along the 75' setback and it is needed because the site slopes quite significantly toward the beach and in order to create a level building area they need the retaining wall
- Mr. Dombowsky noted that he only needs variances for the items at the east and there has been no objection to those items
- Mr. McCoy provided several comments:
 - he has no objection to the development in general or the variances for the utilities, but he has a concern with the construction of the retaining wall
 - you can see erosion every day when you build too close to the beach
 - when the natural tidal flow is blocked erosion occurs
 - we should try to be proactive to prevent such occurrences in the future by mitigating against erosion
 - the pictures in his letter show how fragile the shoreline is
 - he fears the erection of a solid obstacle to tidal flow will most likely cause beach erosion
 - he would suggest an alternative like what is shown in the picture of the house in North Side where vegetation was used and it maintains a healthy beach
 - he feels retaining vegetation instead of a concrete retaining wall is better
- The Authority asked if they considered post and beam instead of a retaining wall with compacted fill.
- Mr. Yeo replied no, they had not considered that.
- Mr. Dombowsky noted that the wall fully complies with Planning requirements
- The Authority asked if the wall has been engineered to allow water refraction
- Mr. Yeo replied that it is a straight vertical wall that will attach to the hard rock 3' to 4' below the sand. He noted that it's a retaining/garden wall, not a seawall

- The Authority asked the length of the wall and Mr. Yeo replied it stops at the side setbacks
- The Authority noted that the objector is concerned about creating a vertical wall and during a storm water hits the wall and erodes the beach
- Mr. Yeo indicated that the wall has been designed in compliance with the Regulations
- The Authority asked if there is a HWM survey and Mr. Yeo replied there is and it is less than 6 months old
- The Authority noted that the DOE did an historical analysis of the aerials and they say the shoreline is relatively stable over the last few decades
- The Authority asked if they would retain the vegetation seaward of the wall and Mr. Yeo replied that is the intent
- Mr. McCoy noted that the shoreline may be relatively stable because there are no concrete retaining walls
- Mr. Dombowsky noted that he gets along well with Mr. McCoy and his family and doesn't want to do any harm and have tried to follow the rules and he noted that DOE's experts say it is okay
- Mr. McCoy noted that his only concern is the concrete wall and vegetation should be used instead

2.3 BEVERLEY NUNEZ (Caribbean Design Group) Block 22D Parcel 96 & 97 (P21-0580) (\$25,000) (MW)

Application for shed & maid's quarters.

Appearance at 11:30

FACTS

<i>Location</i>	Abbey Way., George Town
<i>Zoning</i>	Low Density Residential
<i>Notification result</i>	N/A
<i>Parcel size proposed</i>	0.99 ac. (43,124.4 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Existing Residence
<i>Proposed building size</i>	428.22 sq. ft.
<i>Total building site coverage</i>	13.1%

BACKGROUND

June 02, 1982 – House – (Applied)

November 28, 2019 – Addition to House; 1,184 sq. ft. – the application was considered and it was resolved to grant planning permission.

June 17, 2021 – ATF Gazebo; 249.66 sq. ft. – the application was considered and it was resolved to grant planning permission.

September 29, 2021 – the application was adjourned to invite in the applicant to discuss health and safety concerns of placing a maid's quarters over a septic tank

Decision: It was resolved to adjourn the application and advise the applicant to withdraw the application as it is not required as the structures have existed for about 30 years.

PLANNING DEPARTMENT ANALYSIS

General

The application is for a Shed & Maid's Quarters; 428.22 sq. ft. to be located on Abbey Way., George Town.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Health/Safety Concerns

The applicant has proposed a storage shed & maid's quarters to be placed over the existing septic tank which services the main existing residence. The Department is not overly concerned with the storage shed but the maid's quarters may pose several health and possible safety risks regarding odours and possible structural failure with the increased weight placed upon the top of the septic.

SUPPLEMENTARY ANALYSIS

The applicant has now submitted revised plans showing the proposed storage above the septic, but the maid's quarters attached on the opposite side. It doesn't appear that much has changed since the application was first considered and it would appear that the previous health and safety concerns would remain.

At 11:30am, Ms. Nunez and her father appeared as applicants. Summary notes are provided as follows:

- Ms. Nunez provided several comments:
 - she added on a master bedroom
 - the shed and maid's quarters have been there 35 years

- the septic was there first, then the shed was built on top
- after she was born, they built the maid's quarters next to the shed
- their helper has been living there 35 years and is 74 years old and has had no health concerns due to the septic
- Her father explained the septic was put in around 1983/84 and two years later they built the apartment next to the septic
- The Authority noted that they are trying to regularize it and Ms. Nunez replied that is correct
- Ms. Nunez received an email from the Department asking for after-the-fact fees which she paid
- The Authority asked how they access the septic and her father replied through the shed
- There was a general discussion about why it isn't healthy to have a structure over a septic tank
- The Authority asked if the existing septic would be condemned given that there will be a new one for the master bedroom addition
- Her father indicated that they have been living there since 1983 and have never had a problem with the septic
- Ms. Nunez noted that the new septic is just for the master bedroom
- The Authority asked if the septic tank is the floor of the shed and her father replied it was

2.4 SHANE ALLENGER (Roland Bodden and Company) Block 61A Parcel 34 (P21-1112) (BES)

Application for 6- lot subdivision.

An appearance was scheduled for 1:00, however, in advance of the meeting the objector advised they could not attend the meeting and requested it to be re-scheduled. The applicant was advised of this request, therefore no one was in attendance for the meeting.

FACTS

<i>Location</i>	off Queens HWY
<i>Zoning</i>	A/R
<i>Notification result</i>	Objectors
<i>Parcel Size proposed</i>	13 acres or (566,280 sq ft)
<i>Parcel Size required</i>	0.50 ac or (21,780 sq ft)
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	Subdivision (6-lots)

BACKGROUND

No previous CPA history.

Decision: It was resolved to adjourn the application and re-invite the applicant and objector to appear before the Authority to discuss the application.

AGENCY COMMENTS

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

Department of Environment

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

*The application site consists of a mixture of primary dry shrubland and forest habitat and man-modified areas as shown in figure 1 below. The parcel to the immediate south (65A/48) is owned by the National Trust of the Cayman Islands and is particularly ecologically important as it provides habitat for Blue Iguanas (*Cyclura lewisi*). Blue Iguanas are listed in Part 1 of Schedule 1 to the National Conservation Act, 2013, as being 'protected at all times' and are also listed as **endangered** on the IUCN Red List.*

In order to reduce the risk of impact on the neighbouring National Trust parcel, the DOE recommends that the road parcel be shortened so that it does not reach the southern parcel boundary and that an uncleared buffer area of 50ft in width be retained along the southern parcel boundary adjoining 65A/48. DOE also strongly recommends that the building of the road and any clearing should not occur until development is imminent and that any future clearing, filling or development of the resulting parcels should be the subject of a separate consultation with the National Conservation Council.

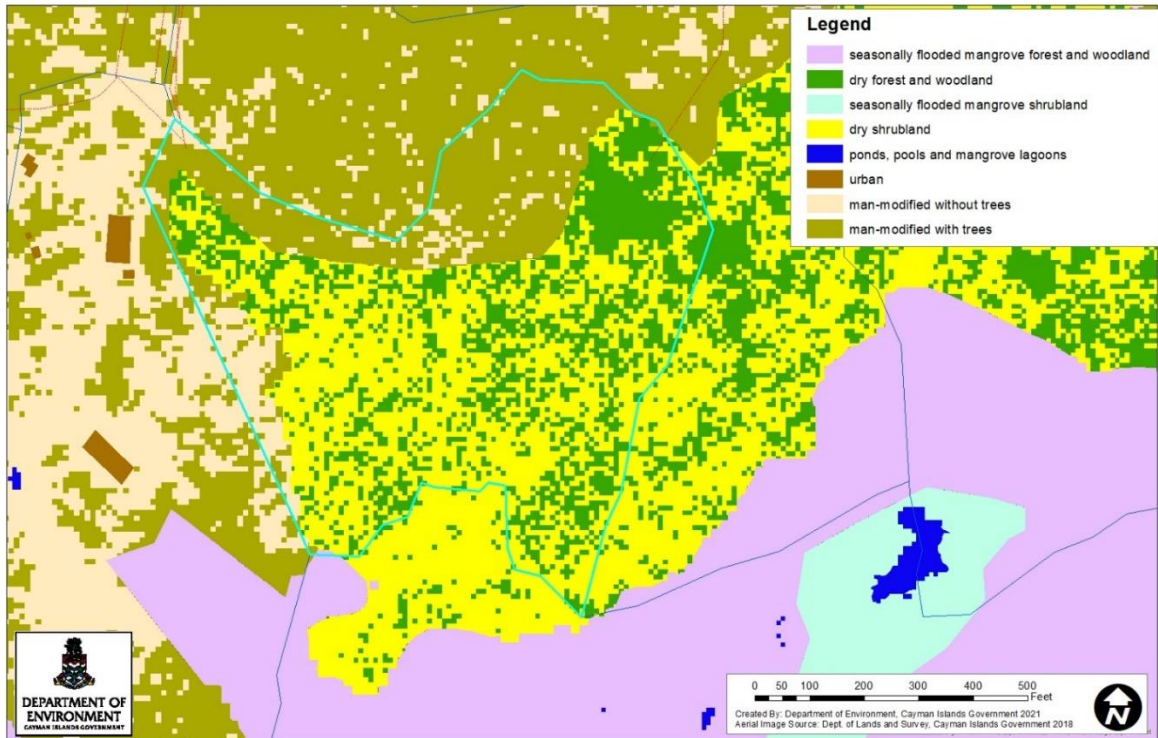


Figure 1: A terrestrial habitat map showing the subject parcel (outlined in blue) showing the man modified areas and the existing dry shrubland and forest (DOE, 2021).

In the future, should the land be brought forward for development, we would strongly recommend the installation of predator fencing to ensure that no domestic animals enter the nearby Salina Reserve, which would present a serious threat to the Blue Iguana population.

National Roads Authority

As per your memo dated November 26th, 2021 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

Access Issues

A thirty (30) ft. wide road parcel through Block 61A parcels 22REM1, 26, 27 and 35 will need to be provided so as to provide adequate access. The NRA does not endorse the use of vehicular ROWs. This access road shall also be HMA to NRA specs.

Stormwater Management Issues

A comprehensive drainage plan needs to be provided by the applicant for the entire project, including the access road to Sea View Road.

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

Infrastructure Issues

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

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.

Water Authority

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

Water Supply:

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

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

Wastewater Treatment:

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

OBJECTOR'S LETTER

The National Trust for the Cayman Islands (NTCI) is writing to register our objections concerning the development of the above-referenced parcel. As an adjacent landowner, the National Trust has some recommendations regarding the plans that we would like to put forward.

*Parcel 61A34 is heavily wooded and bordering the Salina Reserve, a National Trust protected area. The Salina Reserve contains a mosaic of habitats, including primary forest, buttonwood wetlands, shrublands, and a sedge wetland covering over 646 acres. The site is almost entirely undisturbed and is home to nearly every living organism in Grand Cayman, including the endemic Blue Iguana. This area is one of the locations for controlled releases of our captive-bred Blue Iguanas as part of our programme to bring this species back from the edge of extinction, resulting in some of the first hatchlings to be born in the wild. Additionally, an abundant population of a small, pink-flowering herb, *Agalinis kingsii*, has been found growing in the margins of the sedge swamps. This plant is unique to Grand Cayman and is only known to occur on one other privately-owned parcel located in Frank Sound. At least three different types of bats also roost in caves on a high forested ridge in the reserve: the Brazilian Free-tailed Bat; the Jamaican Fruit-eating Bat and the Big-eared Bat. Grand Cayman Parrots and White-crowned Pigeons known as “Bald Pates” also nest in the old-growth dry forest; many rare hardwood trees flourish there as well.*

Due to the critical habitat and endemic species found in this region, the National Trust recommends that the developer follow certain guidelines to limit negative impacts on the area.

- We request that the road that is to be built through the parcel be pulled back away from the border with the Salina Reserve.*
- We also ask that the developer maintain at least a 50 ft buffer along the edge of their property.*
- Lastly, we urge that the site plans be developed to retain as much natural diversity as possible.*

We commend the owner for limiting development to one house per parcel and further suggest that only the area needed for the actual building footprint is cleared. Research shows that developing sites with a natural, forested design benefits property values. Studies indicate that the presence of larger trees can add from 3% to 15% to home values while homes that are adjacent to naturalistic parks and open spaces are valued at 8-20% higher than comparable properties elsewhere.¹ If these recommendations are met, we hope to limit the negative consequences of development on the adjacent protected areas with the hope that future generations can have access to the natural wilderness areas that we enjoy today.

PLANNING DEPARTMENT ANALYSIS

General

The applicant is requesting planning permission to subdivide the above-captioned property into six (6 lots) located off Queen HWY, North East Coast.

The resultant acreage of the lots after the subdivision would be lots#1-4 (one acre lots), Lot# 5 (0.6-acre road lot) and lot# 6 (8.6 acres). Access to the site is via a 15-ft vehicular right of way over 61A22Rem1.

The application complies with the minimum requirements of the Development and Planning Regulations regarding lot sizes and lot widths.

Zoning

The property is zoned Agricultural Residential.

Specific Issue

1) Access Road to Property

As noted on the Land Register, the subject parcel has registered 15' vehicular rights-of-way over several other parcels leading to Queens Highway. Cayman Land Info and Google Earth map show that the access road to the subject property as a marl road. A 30' subdivision road parcel will provide access for the proposed subdivision lots. The Authority needs to determine if the 15' access road is sufficient to accommodate the development on the proposed lots, in terms of width and surface material.

2.5 JASON EBANKS (TSC Architecture) Block 43D Parcel 25 (P21-1083) (\$630,000) (NP)

Application for proposed 4 apartments.

Appearance at 1:30

FACTS

<i>Location</i>	Lakeview Drive in Bodden Town
<i>Zoning</i>	LDR
<i>Notification Results</i>	No Objections
<i>Parcel size</i>	11,255.4 sq ft.
<i>Parcel size required</i>	25,000 sq ft
<i>Current use</i>	Vacant
<i>Proposed use</i>	Apartments
<i>Building Footprint</i>	2,100 sq. ft.
<i>Building Area</i>	2,100 sq. ft.
<i>Site Coverage</i>	18.6%
<i>Number of Units Allowed</i>	3
<i>Number of Units Proposed</i>	4
<i>Number of Bedrooms Allowed</i>	6
<i>Number of Bedrooms Proposed</i>	4
<i>Parking Required</i>	6
<i>Parking Proposed</i>	7

BACKGROUND

December 8, 2021 (**CPA/25/21: Item 2.11**) – application adjourned to invite the applicant to appear before the CPA to discuss the CPA concerns regarding suitability, lot area, number of units proposed, and lot width.

February 2, 2022 (**CPA/03/22: Item 2.1**) – application adjourned in order to re-invite the applicant and his agent to address the Authority.

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) The applicant shall submit revised plans showing:
 - a) a maximum of three (3) apartment units;

- b) the road correctly depicted within the site boundaries;
 - c) removal of the sidewalk; and
 - d) the entry/exit with proper 15' turning radii.
- 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) under Policy Development, Policy Drafts.*
 - 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 applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 8) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 9) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area.
- 10) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 11) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s).**

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

The applicant is reminded that they must receive all relevant approvals from all required agencies.

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

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

Reasons for the decision:

- 1) With the exception of the lot size and lot width, which are addressed below, the application complies with the Development and Planning Regulations (2021 Revision).
- 2) The proposed application does not comply with the minimum required lot size and lot width per Regulations 9(8)(f) and (g) of the Development and Planning Regulations (2021 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser lot size and lot width as follows:
 - a) The characteristics of the proposed development are consistent with the character of the surrounding area;
 - 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 proposed apartments fit on the subject parcel without the need for setback or site coverage variances.
- 3) A condition will be included requiring revised plans showing a maximum of 3 units which is the maximum permissible for the subject lot size.

AGENCY COMMENTS

Agency comments received to date have been provided below:

Department of Environment

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

The site is man-modified and is therefore of low ecological value. However the filling of this land will reduce the site's natural capacity to retain storm water and could cause drainage impacts to the neighboring Crown owned Pease Bay Pond. Therefore, it is recommended that the pond side area of the parcel be landscaped with a vegetation buffer to intercept stormwater runoff. Native vegetation should be used in the landscaping scheme

as it is best suited for the habitat conditions of the site, requiring less maintenance and making it a cost effective and sustainable choice for landscaping. In addition to this there should be no clearing of any areas outside of the parcel boundaries, particularly the pond side area which contains mangroves as shown in figure 1 below.



Figure 1: Aerial Imagery showing the subject parcel outlined in blue (Source: LIS 2018)

Department of Environmental Health (DEH)

The department has no objections to the proposed development. This development will require four thirty-three gallon bins and an enclosure built to the department's requirements.

Fire Department

The Fire Department has stamp approved the drawings.

Water Authority

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

Wastewater Treatment & Disposal

- *The developer shall provide a **septic tank(s)** with a capacity of at least **1,250 US gallons** for the proposed townhouses, based on the following calculations:*

TOWNHOUSES	GPD/UNIT	TOTAL GPD
4 x 1-Bed Units	150gpd/1-Bed Unit	600GPD

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

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

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

Water Supply

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

- *The developer shall contact Water Authority’s Engineering Services Department at 949-2837, without delay, to be advised of the site-specific requirements for connection to the public water supply.*
- *The developer shall submit plans for the water supply infrastructure for the development to the Water Authority for review and approval.*
- *The developer shall install the water supply infrastructure within the site, under the Water Authority’s supervision, and in strict compliance with the approved plans and*

Water Authority Guidelines for Constructing Potable Water Mains. The Guidelines and Standard Detail Drawings for meter installations are available via the following link to the Water Authority's web page: <http://www.waterauthority.ky/water-infrastructure>

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

National Roads Authority

As per your memo dated October 14th, 2021 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

General Issues

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

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

If the CPA decides to approve this application, please see NRA comments below.



Road Capacity Issues

The traffic demand to be generated by a residential development of four (4) multi-family units has been assessed in accordance with ITE Code 220. Thus, the assumed average trip rates per dwelling unit provided by ITE for estimating the daily, AM and PM peak hour trips are 6.65, 0.51 and 0.62 respectively. The anticipated traffic to be added onto Lakeview Drive is as follows:

<i>Expected Daily Trip</i>	<i>AM Peak Hour Total Traffic</i>	<i>AM Peak 20% In</i>	<i>AM Peak 80% Out</i>	<i>PM Peak Hour Total Traffic</i>	<i>PM Peak 65% In</i>	<i>PM Peak 35% Out</i>
<i>27</i>	<i>2</i>	<i>0</i>	<i>2</i>	<i>3</i>	<i>2</i>	<i>1</i>

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

Access and Traffic Management Issues

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

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

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

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

Stormwater Management Issues

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

- The applicant shall demonstrate, prior to the issuance of any Building Permits, that the Stormwater Management system is designed to embrace storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and ensure that surrounding properties and/or nearby roads are not subject to stormwater runoff from the subject site.
- The stormwater management plan shall include spot levels (existing and finished levels) with details of the overall runoff scheme. Please have the applicant provide this information prior to the issuance of a building permit.
- Construct a gentle ‘hump’ at the entrance/exit (along the entire width of each driveway) in order to prevent stormwater runoff from and onto Lakeview Drive. Suggested

dimensions of the 'hump' would be a width of 6 feet and a height of 2-4 inches. Trench drains often are not desirable.

- *Curbing is required for the parking areas to control stormwater runoff.*
- *Roof water runoff should not drain freely over the parking area or onto the surrounding property. Note that unconnected downspouts are not acceptable. We recommend piped connection to catch basins or alternative stormwater detention devices. Catch basins are to be networked, please have the applicant provide locations of such wells along with details of depth and diameter prior to the issuance of any Building Permits.*
- *Sidewalk detail needs to be provided as per NRA specifications. See (<https://www.caymanroads.com/upload/files/3/Sidewalk%20&%20Curbing%20Details.pdf>)*

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

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

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

APPLICANT'S LETTER

I am writing this letter on behalf of my client, Jason Ebanks, who recently applied to the Department of Planning to construct 4-1-bedroom Town Homes.

The application has been referred to the Central Planning Board ("CPA") as variances are needed in the three areas listed below:

- 1. Lot size requirements is 100 feet in width; the referenced property is 60 feet wide*
- 2. Lot area for apartments in 25,000 sq. feet; the referenced property is 11,225 sq. feet*
- 3. Extra unit as this lot size is regulated for maximum of 3 units; proposed is 4 units*

When considering this application, it should be noted that the proposed plan includes sufficient parking spaces (1.5 parking spaces per unit) and the required sidewalks. Having met all of the other planning requirements, my client is confident that this structure will not be materially detrimental to persons residing or working in the vicinity of the property.

It is further noted, that the adjoining property owners of Block 43D Parcels 26,12, 159, 168, 22REM1, 24 and 21; will be notified of the proposed project via registered mail as of November 02, 2021.

As such we believe that there is sufficient evidence and grounds to grant variances in the three areas noted above.

In closing, I will greatly appreciate the CPA's consideration for my client's application to construct these 4-1bedroom units.

PLANNING DEPARTMENT ANALYSIS

General

The subject properties are located in Bodden Town on Lakeview Drive.

The property is currently vacant and the proposal is for four single storey townhomes.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Suitability for Apartments

There do not appear to be apartments located on Lakeview Drive but a site visit was not conducted.

The Authority should determine whether this is a suitable area for apartments or whether the road is adequate for additional apartments.

2) Lot Size

Regulation 9(8)(f) requires a minimum lot area of 25,000 square feet for apartments.

The subject property has 11,255.4 square feet.

The Authority should consider whether the applicant's variance letter is satisfactory in this instance.

3) Number of Units

Regulation 8(8)(c) permits a maximum 15 apartment and townhouse units per acre.

The 0.2577 acre property is allowed a maximum of 3 units and 4 units are proposed.

The Authority should consider whether the applicant's variance letter is satisfactory in this instance.

4) Lot Width

Regulation 8(8)(g) requires a minimum lot width of 100 feet for apartments and townhouses.

The subject property has a width of 60 feet.

The Authority should consider whether the applicant's variance letter is satisfactory in this instance.

5) NRA Comments

The NRA has advised against further apartment development on this narrow 20 foot wide road.

SUPPLEMENTARY COMMENTS

The applicant and his agent were not able to attend the scheduled meeting of the Authority on February 2, 2022. The application was adjourned and the applicant and his agent have been re-invited to the meeting.

At 1:30pm. Jason Ebanks and his mother appeared as applicants. Summary notes are provided as follows:

- The Authority asked if Mr. Ebanks was aware of the NRA's comments
- Mr. Ebanks replied he was not. He thought the application was adjourned because there was nothing like it in the area. He noted that he has pictures showing a similar development next door which is 5 units with multiple bedrooms. He noted that his architect made accommodation to widen the road.
- The Authority asked if he needed a variance for the number of units and Mr. Ebanks replied that he did, but he does have enough parking.
- The Authority noted that the lot size is 11,255 sq ft, but 25,000 is needed
- Mr. Ebanks explained that is the case, but the adjacent property has 5 units and he feels this project will enhance the area
- The Authority noted that there is no record of permission for apartments on 43D 24 and Mr. Ebanks explained that there are 5 electrical meters
- The Authority asked if he could accept 3 units, not 4, and Mr. Ebanks replied 3 would be fine
- The Authority asked if he had the pictures and Mr. Ebanks handed them out
- The Authority noted that it seems he hasn't seen NRA's comments regarding the area being served by easements and not a proper road and they don't want more apartments approved there. The Authority asked if there were other apartments in the area other than the 5 next door and it was also noted that the driveway doesn't have the proper 15' turning radius. The Authority then asked if the site had been surveyed.
- Mr. Ebanks replied there hasn't been a survey
- The Authority noted that the road seems to run through the property
- Mr. Ebanks explained they took measurements from the other side of the road because there is a CUC pole there

- The Authority noted that the 11,255 sq ft includes the area on the other side of the road so the area for building is even smaller

2.6 JEFFREY 2 MAGNUSSEN (John Doak Architecture) Block 57A Parcel 8 (P21-0904) (\$1million) (JP)

Application for four (4) houses, cabana and two pools.

Appearance at 2:00

FACTS

<i>Location</i>	Old Robin Road, North Side
<i>Zoning</i>	BRR
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	45,302 sq. ft.
<i>Parcel size required</i>	40,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	7,000 sq. ft.
<i>Total building site coverage</i>	7.73%
<i>Allowable units</i>	4
<i>Proposed units</i>	4
<i>Required parking</i>	6
<i>Proposed parking</i>	6

BACKGROUND

January 5th, 2022 (**CPA/01/22; item 2.9**) – Members considered the application and resolved to adjourn the application to:

- 1) Enable submission of revised plans showing the 15’ driveway turning radii extending to the property boundary, not the road.
- 2) Invite the applicant to appear before the Authority to discuss concern regarding the deficient HWM setbacks.

November 13, 2015 (**CE15-0065**) – Unauthorised land clearing by mechanical means.
File closed 12.12.2005

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

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

- 1) The applicant shall submit revised plans showing:
 - a) the driveway turning radii situated within the property boundary;
 - b) a minimum 20' side setback for the cabana;
 - c) the sidewalk replaced with a landscaped verge; and
 - d) a note on the site plan stating that the mature vegetation within the required public access to the sea will be retained.
- 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) under Policy Development, Policy Drafts.*
- 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, conditions (7-8) listed below shall be met before a Building Permit can be issued.

- 7) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 8) The construction drawings for the proposed swimming pool filtration system shall be submitted to the Department of Environmental Health. The applicant shall also submit to the Director of Planning the requisite signed certificate certifying that if the pool

filtration system is constructed in accordance with the submitted plans it will conform to public health requirements.

- 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) Construction sites for in-ground swimming pools and spas shall be provided with construction fencing to surround the site from the time that any excavation occurs up to the time of completion. The fencing shall be not less than 4 feet in height.
- 11) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area.
- 12) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

Additionally, once construction has started, conditions (13-14) shall be complied with before a final Certificate of Occupancy can be issued.

- 13) 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
- 14) All construction materials shall be stockpiled a minimum of 50' from the Mean High Water Mark.
- 15) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s)**.

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

The applicant is reminded that they must receive all relevant approvals from all required agencies.

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

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

Reasons for the decision:

- 1) With the exception of the high water mark setback, which is addressed below, the application complies with the Development and Planning Regulations (2021 Revision).
- 2) A small portion of house #4 does not comply with the minimum required setback from the high water mark per Regulation 8(10)(b) of the Development and Planning Regulations (2021 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 concurs with the reasons provided by the applicant in regard to sub-regulations 1) through f) per their letter contained in Appendix D.

AGENCY COMMENTS

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

Department of Tourism

No comments received.

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 **1,250 US gallons** for the proposed, based on the following calculations:*

DEVELOPMENT	GPD/UNIT	TOTAL GPD
4 x 1-Bed Units	150gpd/1-Bed	600GPD

- *The septic tank shall be constructed in strict accordance with the Authority’s standards. Each compartment shall have a manhole to allow for inspection and service. Manholes shall extend to or above grade and be fitted with covers that provide a water-tight seal and that can be opened and closed by one person with standard tools. Where septic tanks are located in traffic areas, specifications for a traffic-rated tank and covers are required.*
- *Treated effluent from the septic tank shall discharge to an effluent disposal well constructed by a licensed driller in strict accordance with the Authority’s standards. Licensed drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.*
- *To achieve gravity flow, treated effluent from the septic tank shall enter the disposal well at a minimum invert level of 4’8” above MSL. The minimum invert level is that*

required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.

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

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

Water Supply

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

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

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

National Roads Authority

Road Capacity Issues

The traffic demand to be generated by a residential development of four (4) multi-family units has been assessed in accordance with ITE Code 220. Thus, the assumed average trip rates per dwelling unit provided by ITE for estimating the daily, AM and PM peak hour

trips are 6.65, 0.51 and 0.62 respectively. The anticipated traffic to be added onto Old Robin Road is as follows:

<i>Expected Daily Trip</i>	<i>AM Peak Hour Total Traffic</i>	<i>AM Peak 20% In</i>	<i>AM Peak 80% Out</i>	<i>PM Peak Hour Total Traffic</i>	<i>PM Peak 65% In</i>	<i>PM Peak 35% Out</i>
27	2	0	2	3	2	1

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

Access and Traffic Management Issues

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

Entrance and exit curves shall have no less than fifteen (15) feet radius curves. Please have applicant place the 15ft radius within the property boundary.

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

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

Stormwater Management Issues

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

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

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

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

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

Department of Environmental Health

Solid Waste Facility:

1. *DEH has no objections to the proposed in principle. This development require four (4) 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.*

Swimming Pool:

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

Fire Department

Please depict Proposed/Existing Fire well and Fire Hydrant.

Department of Environment (NCC)

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

The application site has been previously cleared and as such is now man-modified and the terrestrial habitat is therefore of limited ecological value. However, the area offshore from this parcel is Marine Reserve protected area. It is important to ensure that the construction will not have any unacceptable adverse effects on the Marine Protected Area.

The Department of Environment is concerned regarding the proposed reduced coastal setbacks of approximately 57ft for this development given the exposed eroding coastline and lack of design features (such as a wash through ground floor or positioning of the building on elevated pilings) to help mitigate against the effects of sea inundation. The site does not have any natural protection from a nearshore shallow lagoon and whilst there is reef very close to the coastal boundary, it is not emergent meaning that this also offers very limited coastal protection. This is considered to be a high wave energy coastline.

It is therefore important that minimum coastal setbacks of 75ft are met or properties are appropriately designed to reduce potential impacts. This is particularly important given climate change predictions for the region and the increasing prevalence of coastal erosion associated with inappropriately sited development. Figure 1 below shows the coastline of the property showing signs of recent erosion causing a steep drop in the beach profile.



Figure 1: Site visit photos showing the eroding coastline on the subject parcel (DOE 2021).

*It is **recommended** that the following conditions be imposed should planning permission be granted:*

- 1. The plans for the proposed house should be revised to take into account the threat of sea inundation by including design features, such as a wash through ground floor or positioning of the building on elevated pilings;*
- 2. Any sand excavated during the works shall remain on the site and any beach quality sand shall be placed on the active beach area; and*
- 3. Vegetation should be retained on the seaward side of the property between the house and the mean high water mark to help to provide stabilization to the beach system.*

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

- 1. All construction materials shall be stockpiled a minimum of 50ft from the Mean High Water Mark.*

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

A person aggrieved by a decision of the National Conservation Council to impose a condition of approval may, within 21 days of the date on which the decision is received from the Central Planning Authority/Department of Planning, appeal against the decision of the Council to the Cabinet by serving on the Cabinet notice in writing of the intention to appeal and the grounds of the appeal (Section 39 of the National Conservation Act, 2013).

APPLICANT'S LETTER

Letter 1

With reference to our client's application for planning permission for 4# houses, 2# swimming pools and associated works, we request the Central Planning Authority's approval to vary the setbacks from the HWM as shown in the attached plans and as described below.

SIDE SETBACK VARIANCE

- *To vary the 75ft ocean setback from HWM for the pool #2 to be 65'-4" and the house #4 to be 65'-11" at the closest corner, whilst noting :*
 - *The proposal is for 4# individual houses and 2# pools which are allowable on this 1.04 acre (45,302.4 sqft) land*
 - *The property is zoned Beach Resort Residential being the transition zone between Hotel/Tourism and Low Density Residential. The submitted proposal*

is a low density residential solution for the Owner and their houseguests and not at all intended as a resort nor hotel type usage

- *The proposed footprint of the buildings is only 7.73% which is extremely low in relation to the allowable max coverage*
- *The proposal complies with 20ft roadside boundary setbacks and exceeds 15ft residential side setbacks*
- *The land is tapered from west to east such that the narrowest part barely allows an ancillary cabana to be located as shown at 65'-4" from the HWM*
- *With reference to the Development and Planning Regulations (2020 revisions) Clause 15(2)(d) we submit that this location is suitable for a residence that comprises 4# dwellings*
- *The applicant has separately responded to the favourable reviews received from Government Agencies including DEH, DoE (NCC), Fire Services and the Planning Department.*
- *With reference to Clause 8 (11) regarding setbacks, waterfront property the Authority may grant permission for the setback having regard to:*
 - (a) the elevation of the property and its environs – the proposals respect the shoreline, contours and levels of the existing conditions particularly in consideration of occasional storms and the property's topography*
 - (b) the geology of the property – the geology of the land is suitable to the proposed use and method of construction*
 - (c) the storm/beach ridge – the proposals respect the location of the storm ridge and the natural and manmade topographical profiling of this coastline and subject property. The buildings are all elevated above the existing grounds to mitigate against sea inundation.*
 - (d) the existence of a protective reef adjacent to the proposed development – the proposals will have no negative impact to the reef, shoreline or other adjacencies in the ocean.*
 - (e) location of adjacent development – the proposal is respectful of neighbouring properties and does not negatively impact adjacent development.*
 - (f) any other material consideration which the Authority considers will affect the proposal – there is no other aspect nor material consideration that would affect the proposal.*

LETTER 2

With reference to our client's application for planning permission for 4# houses, 2# swimming pools and associated works, and to various agency reviews carried out since the application was submitted in August we note and summarize the Applicant's responses as follows:

- 1) *PLANNER REVIEW (4th October 2021)*
 - a) *Notices – we have issued notices to the property owners of the lands that are within 150ft of the subject parcel, being Block 57A parcels 2REM2, 3, 7, 9, 10, 11, 142, 143. Parcel 8 is the applicant's land*
 - b) *ROW – the site plan has been amended to show the 12' ROW on the east side of the property*

- c) *GARBAGE – the site plan has been adjusted to show the garbage area as 4ft from the roadside boundary*
 - d) *SHORELINE TYPE – the shoreline is a mix of exposed Ironshore and beach sand along its entire length. We have shown both the 50ft and 75ft setback lines on the plans.*
 - e) *SIDE SETBACK – we have shown 15ft setback lines on west boundary given that the proposal is for residences. This is covered in the variance request letter that was submitted in August at the time of the application. We have reworded the Variance letter and uploaded at today's date*
 - f) *SITE LEVELS – all site levels are both existing and proposed for the lands, as the applicant has been advised via DoE memorandum to essentially leave the shore line as presently profiled and set. The levels for the patios and house are as shown on the site plan*
 - g) *HWM – the high water mark survey is shown on drawing A-102 of the submission set of drawings and has been uploaded to OPS. The HWM and Boundary survey has been undertaken by Abernethy and Associates and the authentication process is underway.*
- 2) *DEPARTMENT OF ENVIRONMENTAL HEALTH (7th October 2021)*
- a) *BINS – the site plan shows the garbage enclosure including the 4# thirty gallon bins. The enclosure would be constructed to DEH requirements*
 - b) *ENCLOSURE – the enclosure is located per setback requirements and is positioned such that it does not impede the flow of traffic*
 - c) *The enclosure has access gates as requested*
- 3) *DEPARTMENT OF ENVIRONMENT 9 25th October 2021)*
- a) *The Department makes reference to setbacks of 57ft for this development however all buildings are min 65ft from the HWM as noted on the site plan. There are pathways that are closer to the HWM than the buildings. The applicant has issued a variance request letter for the setbacks for the House#4 which is 65'11" at its closest to the HWM.*
 - b) *Noting the commentary regarding “exposed eroding coastline” the proposed design already includes for design features that respect the dynamic coastline and potential for storm surge and other such occurrence that are typical of the north coast of Grand Cayman, ie. the building as are all set clear of the existing ground on extended piles to help mitigate against the effects of sea inundation, as shown on the drawings*
 - c) *In response to DoE commentary it is our opinion that the building designs allow for the “potential impacts” described by DoE*
 - d) *In response to comments regarding conditions to be imposed we respectfully note that the buildings are designed to mitigate against the effects of sea inundation and the designs also respect the existing coastline and maintained during the development process.*
 - e) *Further, during construction all sand will be held within the bounds of the site and any beach quality sand can be placed on the active beach area as found necessary. Vegetation will be retained as noted on the drawings. During construction the builder will respect the 50ft setback line in terms of stockpiling and temporary storage of materials etc.*

- 4) *CAYMAN ISLANDS FIRE SERVICE 912th November 2021) –*
- a) *In response to the Fire Service requests, the drawings show the location of the fire well and fire hydrant on the west end of the property*
- 5) **WATER AUTHORITY**
- a) *At the time of writing this response we note that the Water Authority was assigned the request to review on 4th October however we have not seen a response.*
 - b) *The applicant has shown a sewage treatment plant and this will be designed and engineered to Water Authority standards*
 - c) *A submission to the Water Authority would be made prior to the submission for a building permit.*
- 6) **VARIANCE REQUEST AND NOTIFICATIONS**
- a) *These have been uploaded to OPS*

PLANNING DEPARTMENT ANALYSIS

General

The application is located in North Side with the Caribbean Sea forming the northern boundary. Old Robin Road provides access to the site from the south. Vacant lots are sited to the east and west.

The application seeks Planning Permission for the construction of 4 houses, a cabana and two pools.

Zoning

The property is zoned Beach Resort Residential.

Specific Issues

1) High Water Mark setback variance (65' v 75')

Regulation 8(10)(b) requires a 75' setback from the high water mark in areas where the shoreline is beach.

A variance is sought for the cabana, pool and one unit whereby each of these features fall within the 75' setback at 65' 4", 65' 11" and 65', respectively.

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

2) Driveway design

The driveways extend outside of the property boundary by 12' and then the turning radii are provided connecting to the paved road. This design will not allow for any future road widening. If the required driveway turning radii are provided within the property boundary it is likely that the building would have to be shifted closer to the sea thereby increasing the required HWM setback variance.

SUPPLEMENTARY ANALYSIS

The application was deferred to:

- 1) Enable submission of revised plans showing the 15' driveway turning radii extending to the property boundary, not the road.

- 2) Invite the applicant to appear before the Authority to discuss concern regarding the deficient HWM setbacks.

Appendix D contains:

- A letter responding to the CPA's decision;
- A revised variance letter;
- Renderings of the proposed development.

Planning Department comments regarding revised plans:

- No change to driveway turning radii;
- Parking spaces have increased to 7;
- Development has been shifted south to increase conformity to HWM setback. Unit 4 appears to be the only structure which encroaches into the HWM at 67' 5" v 75'

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

- Mr. Doak noted that he understands he is here for two items, the HWM setback and access. The Authority noted that side setbacks are also an issue.
- Mr. Doak provided several comments:
 - he is very familiar with the dynamics of this beach
 - three HWM surveys have been done so far
 - the site is zoned BRR and the application is residential, it is not apartments or a resort
 - the design is such that these are almost 2 duplexes, but they are actually 4 dwellings
 - the site is over 1 acre which would allow 21 apartments and these are just 4-1 bedroom dwellings
 - the site coverage is only 7.7%
 - he referred to the site plan and indicated where the 75' setback is and where the 20' setback is from the road
 - he noted they are using 15' side setbacks because this is residential, not a resort
 - he noted the cabana has been moved to comply with the HWM setback
 - previously there were more invasions into the 75' setback, now it is just a small triangular portion of building 4
 - if they ask if he can make it all compliant, to do so would change the whole scheme
 - The Authority explained the 15' driveway turning radius issue and Mr. Doak noted that he wasn't aware of that issue and he probably has a lot of other projects that have been approved without that turning radius

- Mr. Doak explained he can address the radius at the right, but the driveway area to the left is tighter
- The Authority noted that it appears the building to the left could be shifted closer to the 75' HWM setback which gives more space by the road
- Mr. Doak noted that a part of building 4 would still be in the 75' setback. He asked procedurally how it would work.
- The Authority explained that the application could be approved subject to revisions or adjourned so he can submit a revised plan
- Mr. Doak asked if he would have to appear again and the Authority advised only if he doesn't meet things requested by the Authority
- The Authority asked him to address the side setbacks
- Mr. Doak explained he used 15' because this is residential, not a resort. On the easterly side the client has forfeited 12' for a public right-of-way so he could shift the cabana to meet 20'.
- The Authority noted there would be 2 public accesses next to each other and Mr. Doak replied that is the case, but they wouldn't be combined
- Mr. Doak noted that the NRA has requested a sidewalk and he asked if this is consistent with this type of development
- The Authority noted that there are no sidewalks along this stretch of road and he could leave it as a landscape strip
- The Authority asked if he can fit the turning radius without moving the buildings and Mr. Doak replied he isn't sure until he does the drawing, but he thinks they would probably have to move
- The Authority asked if building 4 could be moved further away from the 75' setback and Mr. Doak replied he can move it a bit more

2.7 PALM SUNSHINE (Arco Ltd.) Block 12E Parcel 93 (P21-1082) (\$3,000,000) (BES)

Application to modify planning permission to revise the floor plan and to add 3,422.63 sq ft to an existing restaurant.

Appearance 2:30

FACTS

<i>Location</i>	Deckers Restaurant/Bar on West Bay Road
<i>Zoning</i>	N.COM
<i>Notification result</i>	Objectors
<i>Parcel Size Proposed</i>	1.019ac. (44,387.64 sq. ft.)
<i>Parcel Size Required</i>	20,000 sq. ft.
<i>Current Use</i>	Restaurant/bar

<i>Proposed building size</i>	3,422.63 sq. ft.
<i>Total building site coverage</i>	21.4%
<i>Required parking</i>	50
<i>Proposed parking</i>	50

BACKGROUND

March 1, 2022 (CPA/06/22; item 2.7) – the current application was adjourned as the applicant was present, but the objector was not

Decision #1: 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 to allow revisions to the existing floor plan layout as shown on the plans submitted on February 23, 2022.

Decision #2: It was resolved to grant planning permission for the addition to the restaurant, **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) The applicant shall submit a revised site plan showing and additional ten (10) parking spaces.
- 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) under Policy Development, Policy Drafts.*
- 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 applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 8) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 9) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area.
- 10) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 11) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s)**.

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

The applicant is reminded that they must receive all relevant approvals from all required agencies.

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

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

Reasons for the decision:

- 1) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2021 Revision).
- 2) The applicant's agent indicated that they would be willing to provide additional parking spaces and the Authority accepts that offer and a condition of approval has been included to that effect.
- 3) The Authority is of the view that the objector did not raise sufficient grounds to refuse permission. More specifically, the objector raises concerns with the parking arrangements for other uses in the area which are not before the Authority for consideration. In this instance, the application complies with the minimum required number of parking spaces and the applicant also offered to provide additional spaces.

AGENCY COMMENTS

Comments from the Water Authority, National Roads Authority, Department of Environmental Health, Fire Department 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 existing development is connected to the **West Bay Beach Sewerage System (WBBSS)**.*

- *The developer shall notify the **Water Authority's Engineering Department** at 949-2837, extension 3003 as soon as possible to determine any site-specific requirements for connection; i.e., direct or indirect connection of the addition to the WBBSS. Plans for the connection shall then be submitted to the Engineering Department for approval.*
- *The developer has proposed **grease interceptors with a capacity of 4,000 US gallons**. The Water Authority deems this capacity as acceptable in pre-treating kitchen flows from fixtures and equipment with grease-laden waste. Equipment and fixtures include: pot sinks, pre-rinse sinks, dishwashers, soup kettles or similar devices and floor drains. The outlet of the grease interceptor shall be plumbed to the sanitary sewage line leading to the WBBSS.*
- *The developer shall notify the **Water Authority's Customer Service Department** at 814-2144 to make application for sewerage service additions.*

Water Supply

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

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

If there are questions or concerns regarding the above, please email them to: development.control@waterauthority.ky

National Roads Authority

As per your memo dated October 20th 2021 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

Road Capacity Issues

The traffic demand to be generated by the above proposed total development of 10,030 sq. ft. (6,607 existing; 3,423 proposed) has been assessed in accordance with ITE Code 820 –

Quality Restaurant. The anticipated traffic to be added onto West Bay Road is as follows:

Expected Daily Trip	AM Peak Hour Total Traffic	AM Peak In	AM Peak Out	PM Peak Hour Total Traffic	PM Peak In	PM Peak Out	Pass-By
900	8	N/A	N/A	75	28	14	33

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

Access and Traffic Management Issues

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

Entrance and exit curves shall have no less than fifteen (15) feet radius curves, and have a width of twenty-four (24) ft. **Fifteen (15) ft. radius are required at the driveway. Please have the applicant revise the site plan accordingly.**

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

Stormwater Management Issues

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

- The applicant shall demonstrate, prior to the issuance of any Building Permits, that the Stormwater Management system is designed to embrace storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and ensure that surrounding properties and/or nearby roads are not subject to stormwater runoff from the subject site.
- The stormwater management plan shall include spot levels (existing and finished levels) with details of the overall runoff scheme. Please have applicant provide this information prior to the issuance of a building permit.
- Construct a gentle ‘hump’ at the entrance/exit (along the entire width of each driveway) in order to prevent stormwater runoff from and onto West Bay Roads. 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 Act (2005 Revision). For the purpose of this Act, Section 16(g) defines encroachment on a road as

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

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

Department of Environment (NCC)

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

The DoE confirms that we have no comments at this time as the application site is man-modified and of limited ecological value.

Department of Environmental Health

This application is recommended for approval with the conditions that the following be submitted at the BCU stage for review:

- 1. The approved BCU hood details.*
- 2. Specifications for the hot water heater.*
- 3. Specifications for all kitchen equipment.*

Fire Department

The CFO approved the site layout.

OBJECTOR'S LETTER

Letter# 1

Attached, please find my 2 page Objection to the Applicant Palm Sunshine Ltd, with regards to Parcel 12E93

I am submitting this Objection by email, and I would be glad to submit this “Objection” in original form by Hand to Planning, if needed.

I am requesting to get on the Planning agenda, for the Palm Sunshine Ltd Application plan discussion and review by the commission so I can personally present my concerns as a neighbor (for the past 25 years).

I am Gordon F Scherer and we live at 12C26H15 immediately North of Palm Sunshine Ltd properties.

Letter# 2

See Appendix E

PLANNING DEPARTMENT ANALYSIS

General

The application is to modify the floor plan and an addition (3,422.63 sq.ft.) to the existing restaurant/bar at the above-captioned property. The site is located on Deckers Restaurant/Bar on West Bay Road.

The proposal consists of a staff room, office on the ground floor and a mezzanine area on the second floor.

Zoning

The property is zoned Neighbourhood Commercial.

At 2:30pm, Eduardo Bernal appeared on behalf of the applicant and Thomas Shaw appeared on behalf of the objector. Summary notes are provided as follows:

- Mr. Bernal provided several comments:
 - This is a renovation and expansion of Deckers
 - They are upgrading the kitchen
 - They have met with the Water Authority
 - There is a small mezzanine as it is available in the roof space
 - The old restaurant was deficient in parking, this will now comply
 - The parking was based on all covered areas
 - No variances are required
- The Authority asked what is the restaurant capacity and Mr. Bernal replied that would be calculated when they go for a permit and they do the life safety analysis
- The Authority asked if this is about a 3,000 sq ft restaurant and if it can seat 200 people and 100 people show up, where will the other 100 people park
- Mr. Bernal explained they can only comply with the Regulations. He noted restaurants on Seven Mile Beach often have other options for parking. He noted

again that this has been designed to comply with the law. He noted that the kitchen takes up about half of the restaurant so he doesn't think the capacity will be much more than before.

- The Authority asked about the upper floor and Mr. Bernal explained it is a small area in the mezzanine for customers
- The Authority asked if the other gentleman was representing Mr. Scherer and Mr. Shaw replied he was
- The Authority asked where his client lives and Mr. Shaw replied at the Colonial Club
- Mr. Shaw provided several comments:
 - His client takes it that the restaurant is associated with the hotel and other facilities
 - He is looking at parking for the overall development and especially on weekends
 - The other buildings in the area have had to hire Security Guards and on-site managers to ensure people associated with the hotel don't park in their spaces
 - 50 parking spaces is okay for the restaurant, but not for the development as a whole
 - His client feels 30 more spaces should be provided
- The Authority asked Mr. Bernal how he would respond to the parking issue
- Mr. Bernal noted that there was the same discussion with Mr. Scherer with the Palm Heights application. He explained that they are providing more parking than before. He explained that there are containers on the plot to the south that are needed for building materials at the moment, but once those are gone more parking will be put there. He noted that they could fit more spaces on the site, but at the detriment of green space as they are trying to keep as much garden as possible.
- The Authority noted that it appears Mr. Shaw's client doesn't object to the overall project, but to the parking issue and Mr. Shaw replied that is correct.

2.0 APPLICATIONS
APPEARANCES (Items 2.8 to 2.14)

2.8 NOEL DAWKINS (Abernethy & Associates Ltd.) Block 43A Parcel 45 (P21-0936) (\$4,238) (EJ)

Application for a four (4) lot subdivision.

FACTS

<i>Location</i>	Harvey Stephenson Drive
<i>Zoning</i>	AGR
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	4.24 ac. (184,694 sq. ft.)
<i>Parcel size required</i>	0.50 ac (21,780 sq. ft.)
<i>Current use</i>	Vacant / House (Lot 3)

BACKGROUND

June 1, 1999 – Planning permission was granted for a house.

June 30, 2000 – Planning permission was granted for a house addition.

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

- 1) The applicant is required to submit a revised plan showing a 30’ wide road parcel leading to proposed lots 2 and 3.

AGENCY COMMENTS

Comments from the National Roads Authority, Water Authority and Department of Environment are provided below.

National Roads Authority

As per your memo September 30th, 2020 the NRA has reviewed the above-mentioned planning proposal.

The NRA recommends that the proposed thirty (30) ft VROW’s be road parcels, built to NRA specifications, as the created lot sizes will be large enough to build apartments.

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

Water Authority

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

Water Supply:

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

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

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

Wastewater Treatment:

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

Department of Environment

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

The application site is man-modified with some regrowth. There are no environmental concerns with respect to the proposed subdivision. However, any future clearing, filling or development of the resultant parcels should be the subject of a separate consultation with the National Conservation Council.

PLANNING DEPARTMENT ANALYSIS

General

Proposed four (4) lot subdivision on Harvey Stephenson Drive in Lookout Gardens, Bodden Town.

Zoning

The property is zoned Agriculture/Residential.

Specific Issues

1) Right-of-Way vs Road

The proposed four-lot (1-4) subdivision meets the minimum lot size proposed at 0.71, 0.52, 0.50 & 2.52 acres respectively; and all lots exceed the minimum lot width of 80’.

However, lots 2 and 3 will have a 30' ROW vs 30' road access over lot 1, with lot 4 having direct access from Harvey Stephenson Drive.

2.9 THE PINES (Frederick & McRae) Block 14D Parcels 96 & 343 (P21-1219) \$300,000 (NP)

Application for proposed 12 apartments & pavilion.

FACTS

<i>Location</i>	Pines Drive in George Town
<i>Zoning</i>	High Density Residential
<i>Notification Results</i>	No Objections
<i>Parcels size</i>	1.52 acres (66,211 sq ft)
<i>Parcel size required</i>	5,000 sq ft
<i>Current use</i>	Nursing Home and 7 Apartments
<i>Proposed use</i>	12 Apartments and Pavilion
<i>Building Footprint</i>	6,080 sq. ft.
<i>Building Area</i>	15,596 sq. ft.
<i>Site Coverage</i>	32.6%
<i>Number of Apt Units Allowed</i>	38
<i>Number of Apt Units Proposed</i>	12
<i>Number of Bedrooms Allowed</i>	63
<i>Number of Bedrooms Proposed</i>	18
<i>Parking Required</i>	39 (21 for existing based on ITE, 18 for proposed)
<i>Parking Proposed</i>	37

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) The applicant shall provide a copy of the submission made to the Lands and Survey Department to combine Block 14D Parcels 96 and 343.
- 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) under Policy Development, Policy Drafts.*
- 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 applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 8) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 9) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area.
- 10) 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) Block 14D Parcels 96 and 343 shall be combined and registered with a new parcel number.
- 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.

The applicant is reminded that they must receive all relevant approvals from all required agencies.

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

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

Reasons for the decision:

- 1) With the exception of the number of parking spaces and the solid waste storage setback, which are addressed below, the application complies with the Development and Planning Regulations (2021 Revision).
- 2) The proposed application does not comply with the minimum required number of parking spaces and the minimum required solid waste storage setback per Regulations 8(1)(vii) and 8(7) of the Development and Planning Regulations (2021 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 number of spaces and setback as follows:
 - a) The Authority is of the view that the parking demand for an assisted living facility will be far less than for typical apartment units and is satisfied that 37 parking spaces are sufficient;
 - 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

Agency comments received to date have been provided below:

Department of Environment

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

The application site is man-modified with limited ecological value. However, it is recommended that wherever possible sustainable design features are included in projects such as this one, especially renewable energy installations given the target that 70% of energy generation be renewably sourced by the year 2037 (Cayman Islands National Energy Policy 2017-2037). Photovoltaic solar panels in particular could be installed on suitable roof space or over the proposed parking spaces.

Department of Environmental Health (DEH)

The DEH has yet to provide comments.

Fire Department

The Fire Department has stamp approved the drawings.

Water Authority

Existing Wastewater Treatment System

The existing **KEE 0975** onsite aerobic wastewater treatment system has a design capacity of **8,000 GPD** which **can accommodate** the proposed change of use. However, the results from a sample collected from the aerobic treatment system on **03-Sep-2020** show a figure of **134.443 mg/L BOD₅** which **exceeds the regulatory limits of 30 mg/L BOD₅**. TSS results from the same sampling, **12.2 mg/L**, did meet the regulatory limit of 30mg/L TSS.

Accommodation of Additional Wastewater Flows:

To verify the wastewater treatment systems' current condition and operation in relation to the proposed **Assisted Living Units** development, **the system shall be assessed and serviced by a Registered Service Provider per Water Authority's Standard Service Report. Infrastructure assessment should be inclusive of but not limited to: system pre-tank, grease interceptor(s), lift station(s) and the ATU.** Registered Service Providers submit Standard Service Reports to the client and the Water Authority via our online tracking system. The required service should be scheduled without delay. **Any deficiencies found will need to be addressed and rectified prior to BCU approval. This may include a possible increase in the service interval of the system per annum.**

List of Companies Employing Certified OWTS and O&M Technicians:

https://www.waterauthority.ky/upimages/pagebox/2021_ListofCompaniesEmployingCertifiedOWTSOMTechs_1611949874.pdf

Water Supply:

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

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

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

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

National Roads Authority

As per your memo dated December 30th, 2021 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

Road Capacity Issues

The traffic demand to be generated by the above proposed development of 14,579 sq. ft. has been assessed in accordance with ITE Code 252 – Senior Adult Housing. The anticipated traffic to be added onto Pines Drive is as follows:

<i>Expected Daily Trip</i>	<i>AM Peak Hour Total Traffic</i>	<i>AM Peak In</i>	<i>AM Peak Out</i>	<i>PM Peak Hour Total Traffic</i>	<i>PM Peak In</i>	<i>PM Peak Out</i>
41	3	1	2	3	2	1

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

Access and Traffic Management Issues

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

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

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

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

Stormwater Management Issues

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

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

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

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

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

APPLICANT'S LETTER

On behalf of our client The Pines Retirement Home, we hereby request a variance on the following.

*We confirm that our site plan is proposing 37 additional parking space. 34 spaces being indicated on the campus and another 4 spaces as accessible parking along Pines Drive. We note that it is **not** anticipated that each apartment unit should require a designated*

vehicle parking bay, however we have provided 37 of the 39 spaces as required under the regulations. We therefore request a variance on the parking requirement.

We are suggesting that an additional garbage skip location can be provided. The property has a medical waste area in addition to a bulk waste skip location. Currently an 8 cubic yard skip is utilized however this could be increase to a 10 cubic yard skip or alternatively as a variance, we request we be allowed to add an additional skip and enclosure with setback of approximately 2 feet to the boundary.

We confirm that the client has no objections to combining parcels 14D 96 & 343 as a condition of the Planning Approval and prior to the project's completion.

We note that the application conforms with the Development and Planning Regulations (2021 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 neighborhood or to the public welfare.

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

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

PLANNING DEPARTMENT ANALYSIS

General

The subject property is located between Pines Drive and Anthony Drive in George Town.

The property is currently occupied by the Pines Nursing Home and 7 Assisted Living apartments.

The proposal is to demolish the existing 7 one storey apartments and replace them with a three storey apartment building containing 12 units and 18 bedrooms. The purpose of the new apartments is for Assisted Living units.

The proposal also includes a 1,017 square foot pavilion for recreation and hobby activities.

No objections have been received.

Zoning

The property is zoned High Density Residential.

Specific Issues

1) Proposed Parking (37 vs 39 required)

The existing nursing home on the site has a total of 18 bedrooms and 48 patients in a 14,495 square foot building.

There is no parking requirement for a nursing home in the Regulations so staff have referred to the Institute of Traffic Engineers (ITE) parking manual. Based upon ITE standards, the existing building (14,495 square feet) would result in a total of 21

parking spaces (1.5 spaces per 1,000 square feet).

Based upon the regulations, the proposed 12 apartments would require a total of 18 parking spaces.

Therefore, the total required parking spaces is 39 whereas 37 have been provided on the site.

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

2) Solid Waste Enclosure

The proposed solid waste enclosure is setback 1'9" from the common property boundary.

Regulation 8(7) states that solid waste enclosures shall be setback a minimum 6 feet from property boundaries.

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

3) Combine Parcels

The proposed application pertains to two separate parcels of land. Should the application be granted planning permission, the parcels should be combined into one.

2.10 SMB INVESTMENT LTD. (Whittaker & Watler) Block 15D Parcels 120 (P22-0086) (\$80,000) (MW)

Application to increase the height of an existing seawall by 2'-6".

FACTS

<i>Location</i>	South Sound Rd., George Town
<i>Zoning</i>	Beach Resort Residential
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	0.53 ac. (23,086.8 sq. ft.)
<i>Current use</i>	Existing Residence

BACKGROUND

N/A

Decision: It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss concerns regarding the impact of the proposed wall extension on shoreline erosion.

AGENCY COMMENTS

Comments from the Department of Environment are noted below.

Department of Environment

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

The site is adjacent to a Marine Reserve (a Marine Protected Area). The proposed seawall extension will increase the height of the existing seawall by 2 feet and 6 inches. On 11 February 2022, the Applicant provided a letter further explaining the proposed construction. The letter indicated that the existing wall will remain and that all work will be done by hand. There will be no heavy equipment and no work will be done from the water. The proposed wall will be constructed using wood forms on top of the existing seawall and then poured with concrete.

The beach at the site has been heavily modified through the introduction of solid structures (boulders placed on the seabed a number of years ago, and the current wall) and seagrass was removed from the marine environment adjacent to the site. The majority of the modifications occurred before 2004, based on aerial imagery. The modification of the natural environment caused severe erosion at the surrounding properties from scour and the removal of the seagrass has resulted in larger waves reaching the shore, also contributing to erosion. There has been recovery of the seagrass in front of the property, although the state of erosion has persisted. The Department would prefer to see the seawall removed and, if a new seawall is required, it should be placed as close to the structure it is designed to protect as possible, and as far landward as possible.

However, the proposed modifications appear unlikely to cause further environmental concerns.

The construction methodology supplied is acceptable and is unlikely to impact the Marine Reserve. However, the wall is somewhat undercut and cracked (see Figure 1 and 2). Should the works be determined to be more extensive than those specified in the planning application, the Applicant is reminded that it is an offence under Section 32 of the National Conservation Act to, within a protected area and not being authorised or permitted under the National Conservation Act, to:

- damage, destroy or otherwise cause the loss of a natural resource;*
- deposit rubbish, litter or waste of any kind; and*
- dredge, quarry, extract sand or gravel, discharge waste or any other matter or in any other way disturb, alter or destroy the natural environment.*

The Applicant does not have permission from the National Conservation Council to impact the Marine Reserve. Therefore, if the scope of work or construction methodology changes, the Applicant must consult with the NCC to ensure they do not commit an offence.



Figure 1. The existing seawall has some cracks and evidence of structural movement.



Figure 2. The existing seawall is cracked in places.

It should be noted by the Central Planning Authority that increasing the height of the wall is likely to reduce access along the foreshore. There may sometimes be sand in front of the

sea wall. However, it is more likely that the water will be directly in contact with the seawall. In the current configuration, people will choose to walk into the sea in order to get around the seawall, or to climb on top of the seawall to get across the property. If the seawall height is increased, it will not be possible for people to climb onto the seawall and they would therefore be required to walk into the sea or turn back.

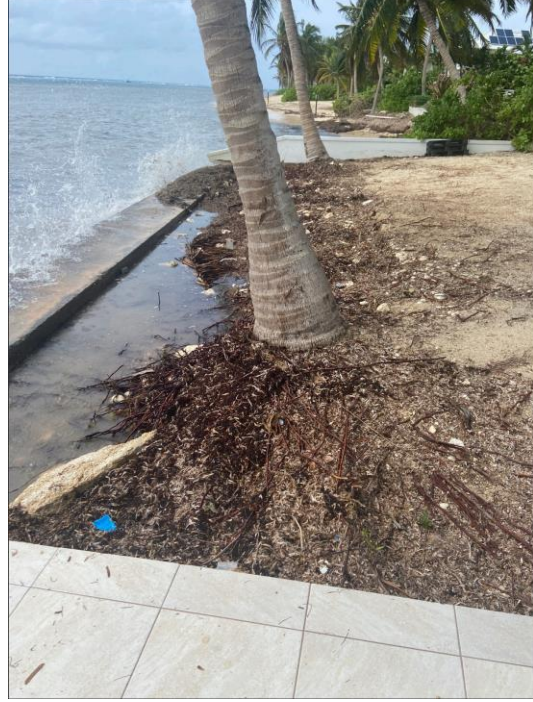
APPLICANT'S LETTER

Thank you for your email dated 11TH of February 2022.

- *The existing wall will remain.*
- *There will be no equipment needed. All work will be by manpower.*
- *We will use wood forms on top of existing seawall and dowel in steel into existing seawall and then poured with concrete.*
- *Nothing will go into the water.*

The applicant has provided the following photographs of the existing seawall & site conditions:





PLANNING DEPARTMENT ANALYSIS

General

The application is for a proposed 2'-6" concrete seawall extension to be located on South Sound Rd., George Town.

Zoning

The property is zoned Beach Resort Residential.

Specific Issues

1) HWM Variance

Regulation 8(10)(f) states “in a Beach Resort/Residential zone, all structures and buildings, including ancillary buildings, walls and structures, shall be setback a minimum of 75’ from the high water mark except in areas where the shoreline is iron shore; where the minimum setback shall be fifty feet from the high water mark” The existing seawall & height extension would be approximately 2’-3” at its closest point & 14’-1” at its furthest point from the HWM a difference of 72’-9” & 60’-11” respectively.

2.11 PAUL & EMMA DRAKE (Declan O’Brien) Block12C Parcel 451 3H10H7 (P21-0632) (\$3.0 million) (NP)

Application for proposed modification to CPA approval.

FACTS

<i>Location</i>	Road north of Ritz Carlton Drive (deckhouses)
<i>Zoning</i>	Hotel/Tourism
<i>Parcel size</i>	0.451 acres
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed Use</i>	House, Boathouse, Pool, Garage/Guesthouse
<i>Proposed building size</i>	12,333 sq. ft.
<i>Total building site coverage</i>	21.8%

BACKGROUND

April 12, 2017 (CPA/08/17; Item 2.14) – The Authority granted planning permission for a House, Detached Garage/Guest House, Dock, 6’ Fence, Cabana and Pool in the Neighbourhood Commercial Zone with the following variances:

- rear setback (garage) is 10’ whereas the required setback at the time was 20’
- canal setback to infinity edge of pool is 13’ whereas the required setback was 20’ at the time
- canal setback to ancillary storage/barbeque area is 3’ whereas the required setback at the time was 20’
- side setbacks of 5’ (outdoor shower), 9’ (hot tub), and 6’ (garage) whereas the required setback was subject to the CPA’s discretion

February 16, 2022 (CPA/05/22; item 2.12 – the current application was adjourned in order

for the applicant to provide written reasons for the requested variances

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 CPA/08/17; item 2.14 be modified to allow changes to the plans as shown on the plan set submitted on February 3, 2022.

All other conditions of CPA/08/17; item 2.14 remain applicable.

Reasons for the decision:

- 1) With the exception of the side, rear and canal setbacks, the application complies with the Development and Planning Regulations (2021 Revision). The reasons for allowing the lesser setbacks are the same as when planning permission was first granted at CPA/08/17; item 2.14.

APPLICANTS LETTER

We would like to request 3 variances for the above noted project due to the zoning changing to hotel tourism. This home was approved under Neighborhood Commercial and we were only requesting some modifications which did not require any variances if the land was still zoned Neighborhood Commercial. I would like to point out that all the existing "Deck Homes" have the same setbacks that we now require variances for.

Side Setbacks – 6' -Garage and 6' outdoor shower vs 20' *As noted above 6' sidebacks were the requirement under which this home was approved - Neighborhood Commercial. This only now requires a variance because of the zoning change.*

Road Setbacks – 13' vs 20' *A variance for a 12'-6'' setback was already approved under the previous planning approval which was Zoned Neighborhood Commercial. This only now requires a variance because of the zoning change.*

Canal Setbacks for Pool – 12'-5'' vs 20' *The pool setback from the canal boundary is 22'-5'' and was only required to be 6' under Neighborhood Commercial when this home got Planning Approval. If the measurement is now taken from the canal and not the property boundary which extends into the canal then we do need to request a variance for 12'-5'' vs 20'. This only now requires a variance because of the zoning change.*

Any modifications we requested would not have affected this project if the zoning had not changed. I refer to 8(13) of the planning regulations. We feel that this is a reasonable variance request and hope the board will find this acceptable.

AGENCY COMMENTS

Comments are provided by the Department of Environment as follows:

Department of Environment

This review is provided by the Director of the Department of Environment under delegated

authority from the National Conservation Council (section 3 (13) of the National Conservation Act, 2013).

The application site is man-modified and is of limited ecological value. It is recommended that the applicant incorporates native vegetation into the landscaping scheme; native species are best suited to the habitat conditions of the Cayman Islands, resulting in vegetation that requires less maintenance which makes it a very cost-effective choice.

Best management practices should be followed during the construction to reduce the impacts on water quality in the surrounding area. Should the CPA or Planning Department be minded to grant planning permission, we recommend the inclusion of the following conditions:

- *Any stockpiled materials should be kept away from the canal edge to reduce rainwater runoff washing material into the canal.*
- *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 shall be fully enclosed with silt screens with a 4-ft minimum skirt depth to contain turbidity caused by the installation of the pilings. The 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.*
- *There shall be no excavation of the seabed except for the installation of the pilings.*

PLANNING DEPARTMENT ANALYSIS

General

The subject property is located just north of Ritz Carlton Road in the deckhouse complex.

The property is currently vacant and is proposed to be developed with a house, pool, garage/guest house, and boathouse with a cabana above.

Zoning

The property is zoned Hotel/Tourism.

Specific Issues

1) Side setbacks

Regulation 10(1)(g) of the Hotel/Tourism zone requires a minimum 20 foot side setback for a three storey building.

The applicant is proposing a 5'9" setback on the west side and a 5'2" setback on the east side.

Previous side setbacks of 5' and 9' were granted previously by the Authority.

The Authority should determine whether the proposed variances are acceptable in this instance.

2) Rear setbacks

Regulation 10(1)(h) of the Hotel/Tourism zone requires a minimum 20 foot rear setback.

The applicant is proposing a 18'8" setback to the garage and a 11' setback to the generator.

A previous rear yard setback of 10' was granted by the previous Authority.

The Authority should determine whether the proposed variance is acceptable in this instance.

3) Canal setback

Regulation 8(10)(ea) requires a minimum 20 foot setback to a canal edge.

The applicant is proposing a 12'5" setback to the proposed pool from the canal edge.

A setback of 13 feet to the pool edge was granted by the Authority in the past.

The Authority should determine whether the proposed variance is acceptable in this instance.

SUPPLEMENTARY ANALYSIS

The application was adjourned at CPA/05/22; item 2.12 in order for the applicant to provide written reasons for the requested variances. The applicant has now provided the written reasons and the Authority needs to determine if they are sufficient for granting the variances.

2.12 DERICK SIMPSON (Architextura) Block 22D Parcel 379 (P21-0744) (\$875,000) (EJ)

Application for a house, pool & dock.

FACTS

Location	Hirst Road, Savannah
Zoning	LDR
Notification result	No objectors
Parcel size proposed	0.2318 ac. (10,097 sq. ft.)
Parcel size required	10,000 sq. ft.
Current use	Vacant
Proposed building size	4,555 sq. ft.
Total building site coverage	25.82%
Allowable units	1
Proposed units	1

Allowable bedrooms	NA
Proposed bedrooms	4
Required parking	1
Proposed parking	2

BACKGROUND

NA

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

In addition to Building Permit requirements, conditions (1-2) listed below shall be met before a Building Permit can be issued.

- 1) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 2) The construction drawings for the proposed swimming pool filtration system shall be submitted to the Department of Environmental Health. The applicant shall also submit to the Director of Planning the requisite signed certificate certifying that if the pool filtration system is constructed in accordance with the submitted plans it will conform to public health requirements.
- 3) Construction sites for in-ground swimming pools and spas shall be provided with construction fencing to surround the site from the time that any excavation occurs up to the time of completion. The fencing shall be not less than 4 feet in height.
- 4) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 5) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area.
- 6) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 7) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s)**.

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

Reasons for the decision:

- 1) With the exception of the canal setback for the pool, which is addressed below, the application complies with the Development and Planning Regulations (2021 Revision).

- 2) The proposed development does not comply with the minimum required canal setback per Regulation 8(10)(ea) of the Development and Planning Regulations (2021 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 pool that does not. The Authority is of the view that the canal wall provides sufficient protection for the pool 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 (DOE) are provided below.

Department of Environment

The site is man-modified and of low ecological value. However, 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 dock 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.*

APPLICANT'S LETTER

On behalf of the applicant, we hereby apply for a "Side & Canal Setback Variance" on the above property for the following reasons:

1. *A 12 ft setback from the canal edge for the swimming pool. This is compatible with swimming pool setbacks the development enjoys.*
2. *A 10 ft setback from the side boundary for the garage at ground level. The entire second floor is within the 15 ft side setback. The wedge shape lot calls for special design*

criteria due to its unusual shape. Consequently, it was necessary to utilize a small portion of the 10ft setback

We believe that the characteristics of the proposed development are consistent with the character of the surrounding area; and 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. Finally, the adjoining property owners have been notified of the application for lesser setbacks.

PLANNING DEPARTMENT ANALYSIS

General

The proposed three-storey four-bedroom house with swimming pool and dock does not meet the required canal setback variance location on Consort Quay and Catboat Quay.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Canal setback variance

Per regulations 8(10)(ea), the proposed swimming pool does not meet the required canal setback, proposed at (12' vs 20'); therefore, the applicant is seeking a variance from the Authority. The applicant has notified the adjacent parcels and the department is not in receipt of objections.

2.13 PAUL ANTHONY ROUSSEAU (Pioneer Construction) Block 45A Parcel 63 (P21-0963) (\$800,000) (BES)

Application for a house, pool and cabana.

FACTS

<i>Location</i>	Rum Point Road
<i>Zoning</i>	LDR
<i>Notification result</i>	No Objectors
<i>Parcel Size Proposed</i>	0.53 ac. (23,086.8 sq. ft.)
<i>Parcel Size Required</i>	10,000 sq. ft.
<i>Current Use</i>	House
<i>Building Size proposed</i>	2,434.26sq. ft.
<i>Building Site Coverage</i>	6.4%

BACKGROUND

December 12, 2018 (CPA/27/18; Item 2.17) – CPA granted planning permission for land clearing.

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

- 1) The applicant is required to submit a revised site plan showing all structures with a minimum 57' setback from the high water mark.

AGENCY COMMENTS

Comments from the Department of Environment are noted below.

Department of Environment

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

The application site has been almost entirely cleared since the last consultation (P18-0427) and as such is now man-modified and the terrestrial habitat is therefore of limited ecological value leaving limited opportunity for the retention of ecosystem services provided by the natural landcover. The area directly offshore is designated as a No Diving Zone Marine Protected Area.

The Department of Environment is concerned regarding the proposed reduced coastal setbacks of 50ft for this development given the clearing of the parcel and the lack of design features (such as a wash through ground floor or positioning of the building on elevated pilings) to help mitigate against the effects of sea inundation. It is important that minimum coastal setbacks of 75ft are met or properties are appropriately designed to reduce potential impacts particularly given climate change predictions for the region and the increasing prevalence of coastal erosion associated with inappropriately sited development. Figure 1 below shows sand deposits on the subject parcel from in aerial imagery from 1958 which are likely storm derived and indicate potential impact from storms even landward of the 75ft setback.

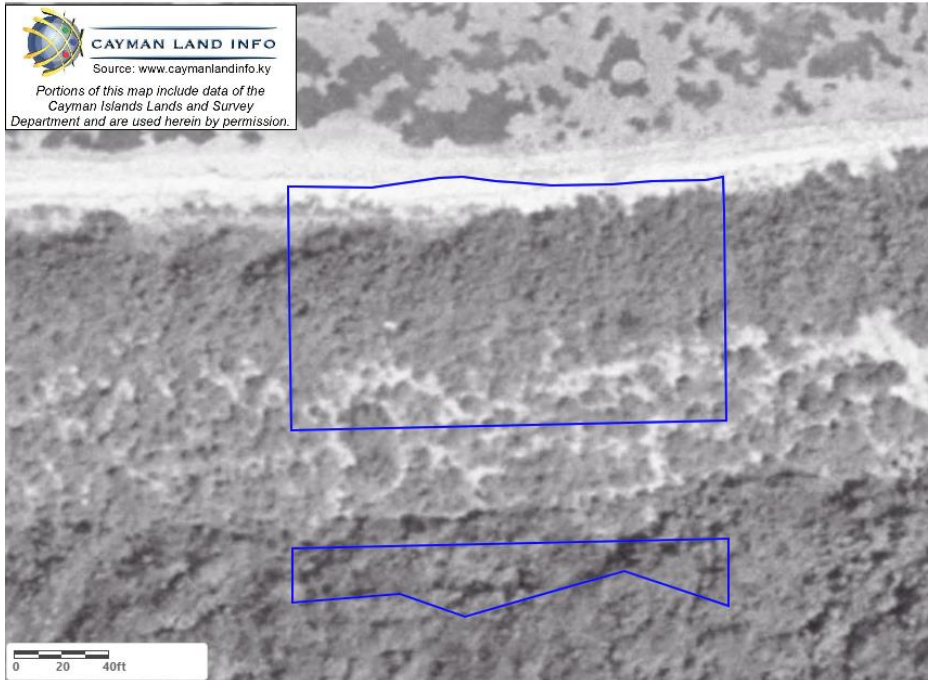


Figure 1: Aerial imagery from 1958 showing the subject parcel outlined in blue (LIS 1958).

It is recommended that the following conditions be imposed should planning permission be granted:

4. *The septic system and deep water disposal well should be moved as far landward as possible to reduce the risk of impacts to the marine environment;*
5. *The plans for the proposed house should be revised to take into account the threat of sea inundation by including design features, such as a wash through ground floor or positioning of the building on elevated pilings;*
6. *Any sand excavated during the works shall remain on the site and any beach quality sand shall be placed on the active beach area; and*
7. *Vegetation should be replanted on the seaward side of the property between the house and the mean high water mark to help to provide stabilization to the beach system.*

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

2. *All construction materials shall be stockpiled a minimum of 50ft from the Mean High Water Mark.*

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

A person aggrieved by a decision of the National Conservation Council to impose a condition of approval may, within 21 days of the date on which the decision is received from the Central Planning Authority/Department of Planning, appeal against the decision of the Council to the Cabinet by serving on the Cabinet notice in writing of the intention to appeal and the grounds of the appeal (Section 39 of the National Conservation Act, 2013).

APPLICANT'S LETTER

With reference to section 8(11) regulation, kindly requesting variance as per regulations of 75ft setback from HWM as minimum required, kindly please approve the Lot 45A 63 for a single-family residential 2 story house, with pool and cabana and which is having a rear set back of 50'-3" to the deck and 54'-3" to the external wall of the house from HWM, which is less than the minimum required 75'-0". As per section 8(11) of the Planning Regulations, the adjoining property owners have been notified of the request for planning application of the house with pool and cabana and having a rear set back of 50'-3" to the deck and 54'-3" to the house external wall.

PLANNING DEPARTMENT ANALYSIS

General

The applicant is for a dwelling house (2,388.3sq ft), cabana (113.86 sq ft) and swimming pool at the above-caption property. The site is located on Rum Point Road

Zoning

The property is zoned Low Density Residential.

Specific Issue

2) HWM Setback

The proposed house setback from the High-Water-Mark is 49'-11", whereas the minimum required HWM setback is 75'-0" per regulation 8(10(b) of the Development and Planning Regulations (2021 Revision).

For the Authority's information, the CPA granted planning permission on March 17, 2021 (CPA06/21; Item 5.4) for a duplex on Block 45A Parcel 62. That duplex is setback 56'-11" from the HWM.

2.14 JBCO (APEC Consulting Engineers Ltd.) Block 14D Parcels 297REM1 (P22-0055) (\$350,000) (MW)

Application for land clearing & filling of 5 acres.

Appearance at 10:30

FACTS

<i>Location</i>	Bobby Thompson Way., George Town
<i>Zoning</i>	Medium Density Residential
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	36 ac. (1,568,160 sq. ft.)
<i>Current use</i>	Vacant

BACKGROUND

March 1, 2022 (CPA/06/22; item 2.23) – the current application was adjourned as the Authority did not want to consider the land clearing application in the absence of the primary application to develop the site

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

- 1) The Authority is of the view that it is premature to allow the clearing/filling of the land in the absence of an approval for an application for the primary development of the site.

AGENCY COMMENTS

Comments from the Department of Environment are noted below.

Department of Environment

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

*The majority of the site is occupied by semi-permanently flooded grassland (Figure 1). These freshwater grasslands are a diminishing habitat type in Cayman. According to the National Biodiversity Action Plan 2.T3.2, this habitat type is dominated by Bullrush (Typha) *Typha domingensis*.*

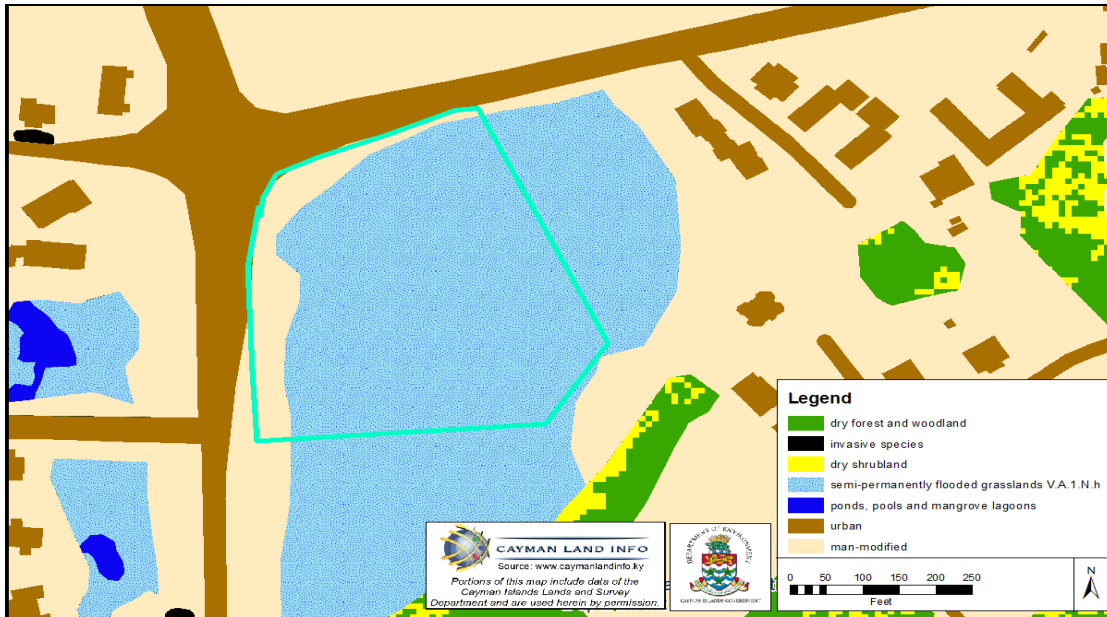


Figure 1. The habitat at the site (blue) is semi-permanently flooded grasslands.

Whilst the title of the plans refers to a 'Pickleball Club,' the planning application solely relates to land clearing and filling of 5 acres of land. There are no pickleball courts or supporting infrastructure included as part of this application. Whilst the intended purpose of the land clearing may be for a pickleball club in the future, the actual construction of the club could be many years away or may not come to fruition. The Department does not support the speculative clearing and filling of land in the absence of planning approval for development. There are numerous instances of land that has been cleared and then remains undeveloped for years. Land clearing before development is ready to proceed means that the vital ecosystem services provided by the vegetation and the habitat is lost, without any positive social benefit to offset the loss. This is particularly concerning for primary habitat. For example, the area could provide habitat for birds and collect rainwater to prevent flooding while the plans are being full developed for the club itself.

The Department recommends that this application is held in abeyance until plans for the Pickleball Club itself are received, reviewed and granted planning permission. In addition, the Department recommends that clearing and filling only takes place when the development is imminent.

PLANNING DEPARTMENT ANALYSIS

General

The application is for a Land Clearing & Filling; 5 ac. (217,800 sq. ft.) to be located on Bobby Thompson Way., George Town.

Zoning

The property is zoned Medium Density Residential.

Specific Issues

1) Timing of Request

As mentioned the applicant requests to clear & fill 5 acres of land prior to submitting a Planning application for a new Pickleball development. In speaking with the applicant they are currently working on plans and will be submitting in the near future. In the meantime, the client wishes to start clearing and filling a section of the area for the future development.

SUPPLEMENTARY ANALYSIS

No changes have been made to the plans as the applicant requested to appear before the Authority to discuss the application.

At 10:30am, Jeremy Beck appeared as the applicant. Summary notes are provided as follows:

- The Authority noted that they are made to understand that he wanted an audience with the Authority.
- Mr. Beck replied that is correct and then provided several comments:
 - he is going to build pickleball courts
 - it is the fastest growing sport in North America and may make the Olympics
 - there are 500 regular players on Island
 - he built 2 courts at his house
 - it's easy to play and very accessible
 - there are 2 courts at the Ritz and 2 at Camana Bay
 - there is a huge demand and nowhere to play
 - he has leased this piece of land
 - they won't take long to build and the application has been submitted, but it is 6 weeks away from being heard
 - he wants this to be open by the start of the new school year
 - the timing is why Apec advised him to submit the cut and fill application as quite a lot of fill is required
 - DOE doesn't want clearing to be speculative, but this isn't speculative
 - The application is in and because he is leasing the land also shows this is not speculative because who would spend this kind of money when they don't own the land
 - The main application will be in 2 phases so they will only clear and fill what they need
 - CPA does allow cut and fill applications so if there is a new policy not to

allow it then that option needs to be removed

- They have notified over 200 people
- He just wants to get started asap
- The Authority asked if the application is just for phase 1. Mr. Beck replied the application is for up to 5 acres, but he would be happy to limit it to phase 1 only for now.
- The Authority noted that they are not looking at the substantive application now so the land clearing is speculative. They can't consider a future application, they can only consider the application to clear and fill 5 acres. Whether a future application is approved is not for consideration.
- Mr. Beck noted that Dart got approval to cut and fill for the hospital site when that application wasn't even submitted, it is precedent.
- The Authority asked if he has a long term lease and Mr. Beck replied it is for 10 years.
- The Authority asked if he would be willing to reduce it to 2 acres and Mr. Beck replied he would.
- The Authority asked what his timing is and Mr. Beck replied that the clear and fill will take 6 to 8 weeks; he has Island Paving lined up for mid-May and that will take 2 months so that will be mid-July. He noted that the fencing and lighting will take another month so that is mid-August so everything is achievable to be open for the school year.
- The Authority asked if NRA had commented and Mr. Beck replied they were consulted, but hadn't provided any comments.

3.0 DEVELOPMENT PLAN MATTERS

4.0 PLANNING APPEAL MATTERS

5.0 MATTERS FROM THE DIRECTOR OF PLANNING

5.1 ISWMS Block 13E Parcel 25 (HP)

The Authority was reminded that on September 15, 2021 (CPA/19/21; item 5.3) the Authority determined that planning permission would not be required to place a 20' container at the site to undertake air quality monitoring testing for the Integrated Solid Waste Management Strategy project. The applicant acquired a permit for the container which was approved for 6 months only which expires on April 13, 2022. The applicant now wishes the permit to be extended until November 30, 2022 which will allow for a full 12 months of air quality monitoring. The Authority considered the request and determined that the permit could be extended until November 30, 2022.

5.2 ELIO RAMOS Block 38B Parcel 332 (B10-0655) (HP)

The Authority reviewed the approved site plan for 4 apartments and photographs taken of the site showing the parking surface and layout. The Authority determined to accept the as-built parking/driveway layout and surfacing.

5.3 WATERMARK (HP)

The Authority determined that there was no objection to sand being relocated from the apartment site to public beach in order to re-surface the volleyball courts.

6.0 CPA MEMBERS INFORMATION/DISCUSSION

The meeting adjourned at 4:05pm. The next regular meeting of the Central Planning Authority is scheduled for *Wednesday, March 30, 2022 at 10:00 a.m.* in Conference Room 1038, 1st floor, Government Administration Building.



Ian Pairaudeau
Chairman



Haroon L. Pandohie
Executive Secretary

c.c. All members of the Central Planning Authority

Appendix A

Writer's email: cflanagan@nelsonslegal.com/
ndixey@nelsonslegal.com
Our Ref: 8600-0001

1 March 2022

For the Attention of Nicholas Popovich

The Department of Planning
Cayman Islands Government
PO Box 113
Grand Cayman KY1-9000

By Email Only: Nicholas.Popovich@gov.ky

Dear Mr Popovich,

**Re: Application Made by Roger Freeman - Application number: P21-1163
Balcony with Parking and Setback Variance at Block 14BJ Parcel 19 –**

**FOR HEARING BEFORE The Central Planning Committee “the CPA”–
16 March 2022**

We act for the Proprietors of Proprietors of Strata Plan No. 741 (“Oceana”) and have been instructed to appear before the CPA at the hearing of the Application at caption on 16 March 2022. Please find, for inclusion as an appendix to the agenda for the hearing:

1. Our Written Submissions;
2. The Decision of the CPA dated 12 December 2019 (FA84-0257) (P19-0874) (CS); and
3. The plans submitted previously in support of the December 2019 application.

We would be grateful to receive confirmation of receipt, and that our submissions and materials will be included in the agenda.

Yours sincerely,



NELSONS

Enc

cc: Ron Sanderson, Deputy Director of Planning (by email only: Ron.Sanderson@gov.ky)

BEFORE THE CENTRAL PLANNING AUTHORITY
IN THE MATTER OF AN APPLICATION MADE BY ROGER FREEMAN FOR A BALCONY ADDITION
TO SILVERSIDE BAR / RESTAURANT

BALCONY WITH PARKING AND SETBACK VARIANCE AT BLOCK 14BJ PARCEL 19 –
APPLICATION NUMBER: P21-1163

(“**THE APPLICATION**”)

FOR HEARING: 16 MARCH 2022

Submissions

On behalf of the Proprietors of Strata Plan No. 741

“Oceana”

1. These submissions are in addition to (and where necessary expand upon) the matters raised in the letter of objection filed on behalf of Oceana and those submitted by individual proprietors (“**the Objection Letters**”).

Non-Compliance with Applicable Regulations

Waterfront Property/Setbacks

2. The Application relates to the development of a bar balcony at Block 14BJ, Parcel 19 (“**the Property**”) which is zoned as Beach Resort/Residential pursuant to the Development and Planning Regulations (2022 Revision) (“**the Regulations**”).

3. In respect of waterfront property, the Regulations set out specific requirements at regulation 8 (10). It is to be noted at 8 (10) (a) that in considering the applicability of certain provisions, Eden Rock (which is in fact the location of the Property) is specifically referenced:

“(10) The following provisions apply to waterfront property -

*(a) in Central George Town, within the area enclosed from a point on the waterfront map reference MM593 331 (Eden Rock), thence in a northerly direction... new buildings or additions to existing buildings may be permitted but any such buildings (including ancillary buildings, structures and walls) **shall not at any point be closer than seventy-five feet to high water mark...**”*

4. It is evident from the plans submitted with the Application that the high-water mark at the Property is demarcated by the seawall and that the proposed balcony extends almost to the seawall, and certainly well within 75 feet. Accordingly, it is in clear breach of the Regulations which are mandatory. There clearly has been a minor modification to the previous application in December 2019 where the proposed balcony extended to directly above the wall, but the adjustments is wholly immaterial given the mandatory setback of 75 feet.

Parking

5. Regulation 8 (1) sets out the general requirements for parking and provides at (iii) that clubs, restaurants, recreation halls and bars must have one car parking space per 200 square feet. The Application, if successful, would create a total floor area of 4,626

sq. ft for the building, or 5,479 sq ft if one includes the additional 853 sq ft. floor area below the balcony.

6. It may be argued that only the second floor and the balcony square footage should be used for the calculation, as this is the area of the restaurant and bar. The applicable square footage on this approach would be 2,252 sq ft, or 3,105 sq ft (if one includes the area below the balcony). This would require 12 parking spaces (or 16 if the area below the balcony is included).
7. It may be argued that the ground floor is a dive shop which would fall under regulation 8 (1) (iv) which allows for one parking space per 300 square feet. The square footage of the ground floor is 1,425 sq ft, which would require 5 parking spaces.
8. The total spaces required on the parcel, therefore, is 17 (or 21 if one includes the area under the balcony in the calculation). The number of spaces on the parcel is 11, and is therefore insufficient.
9. We would also add that the south side set-back has been contravened by the cabana on the side of the building. The square footage of the cabana, which is itself a building, does not appear to have been included in the calculations, which when added would increase the number of parking spaces required still further.
10. It may be suggested that parking to be provided on another parcel on 14E 681 would allow for an additional 9 spaces. Whilst it is unclear if planning permission for the off-site parking area remains valid, it is submitted that in any event this would still be insufficient where the area beneath the balcony is included in the calculation, and in any event off-site parking is not permitted outside an OPY block in George Town. There is no easement on the register of 14E 681, and nothing to stop the adjacent land being

sold, which would remove the availability of the parcel for parking. This is to say nothing of the obvious and irremediable hazard of parking on the other side of the busy South Church Street upon the return of cruise ship tourism, which is an obvious danger in the absence of a crossing (which it is most unlikely to be created given the inevitable effect upon traffic flow).

The Relationship Between the Development and Planning Act (2021 Revision) (“The Act”) The Regulations, and the Development Plan 1997 (“The Development Plan”).

11. It is demonstrable, for the reasons set out above, that the Application is not compliant with the Regulations. However, in any event, it is trite law that mere compliance with minimum regulatory requirements does not automatically lead to the approval of an application. Rather, it is merely the first step that must be satisfied before an application can be properly considered at all. Upon minimum regulatory requirements being satisfied, the next step is to consider whether the application is consistent with the Development Plan.

12. Section 13 (1) at Part III of the Act confirms the position. It provides:

“Subject to this Law or any regulations made under this Law, permission shall be required under this Part for any development of land that is carried out after the 17th day of January 1972. Except where otherwise provided for by this Law, permission shall not be given which would result in a development at variance with a development plan...”

13. Section 48 (1) (d) of the Act further expressly provides for a specific ground of appeal where an application has been approved that it is at variance with the Development Plan. It follows that even if the Application were revised so as to be compliant with the Regulations, to grant the application merely on the basis that the proposal is in the correct zone and meets minimum regulatory standards would be an abrogation of the duties of the CPA and would be wrong in law. The CPA is obliged to consider the application, and the objections to it, alongside the relevant provisions of the Development Plan.

Application Incompatible with the Development Plan

14. From the outset it is to be observed that the general aim of the Development Plan is to maintain and advance 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. In respect of strategy there is an emphasis on the need to have regard to the quality of life and wellbeing of the people and their individual requirements¹.

15. The CPA will have specific regard to Section 2.6 of the Development Plan which speaks to setbacks and provides:

¹ See Sections 1.2 and 1.3 of the Development Plan

"The provisions for development setbacks are for achieving the following purposes:

(a) to provide adequate natural light, ventilation and privacy to all buildings;

(b) to provide amenity space and to facilitate landscaping around buildings;

(c) to maintain and enhance the quality and character of development fronting a road;

(d) to provide a buffer between buildings on neighbouring lots; and,

(e) to avoid or minimise any negative impact the development or use of one lot may have on the occupants of a neighbouring lot."

16. It is clear, in the context of this Application that non-compliance with the setback requirements would also be in breach of the Development Plan where the effect of permitting a balcony will be to generate noise and disturbance to neighbouring residential properties and have negative impact on their quality of life.

17. The fact that regard must be had to the impact on the neighbouring lot owners is again evident in section 3.03 of the Development Plan. Section 3.03 (b) provides that developments should be best calculated to ensure that they are harmonious and compatible with adjacent properties and their zones are achieved. What is proposed here is an outdoor bar with a balcony which will open until late into the evening and inevitably will disturb the peace and tranquility of this residential neighbourhood in a manner incompatible with the Development Plan.

18. The application for a balcony as an extension to the bar must not be viewed in isolation.

A holistic review is required where the Property is host to a dive shop business which

is connected and overlaps. The presence of a balcony will no doubt be a facility used by patrons and families of dive shop which will only serve to exacerbate the already unacceptable levels of noise and general inconvenience as set out in the Objection Letters.

19. The inadequacy of parking facilities to service the two complimentary businesses will inevitably lead to parking on the side of the road causing an obstruction both to pedestrians and traffic in an area which is already congested at peak times.

20. It may be said that the proximity of the Paradise Bar and other restaurants and licensed premises render the Application in keeping with the existing development. However, this is misconceived where those establishments are either in the commercial zone or neighborhood commercial zone and this application would offend against a necessary buffer or transition zone between residential areas and commercial activity as contemplated by regulation 15(1).

Application no different in substance to that which was refused by the CPA by decision dated 12 December 2019 (Application No (FA84-0257 (P19-0874) (CS)).

21. Appended to these submissions is the Decision of the CPA dated 12 December 2019, and a copy of the plans submitted in support of that application.

22. There no material difference between the December 2019 application and this application. The only difference is that whereas the balcony previously was planned to extend to the seawall, the updated proposal is that the balcony will fall a few feet short of it.

23. It is submitted that this is an irrelevant amendment. The Regulations and the Development Plan remain the same, and the reasons for the refusal are equally applicable to this application. Indeed, there could be no basis whatsoever for the CPA to arrive upon a different conclusion, which would necessarily be inconsistent with the previous determination which was not appealed.

Conclusion

24. For all the reasons advanced above, and those as set out in the Objection Letters and other correspondence, a fair assessment of this proposed project must result in the conclusion that the Application does not meet the high standards required, and the Application should be dismissed as it stands in clear breach of the regulatory requirement for setbacks and parking and is at odds with Development Plan, observance of which is mandatory under the Act.

25. This is a reheated version of an application that has already been rejected, and the minor amendment does not address any of the reasons given for that refusal.

Colm Flanagan

Nicholas Dixey

Nelsons



Govt. Admin. Bldg. Box 113
133 Elgin Ave.
Grand Cayman KY1-9000
CAYMAN ISLANDS

December 12, 2019

CENTRAL PLANNING AUTHORITY

By Registered Mail

Roger Freeman
P.O. Box 1907
Grand Cayman KY1-1110
CAYMAN ISLANDS

Dear Sir:

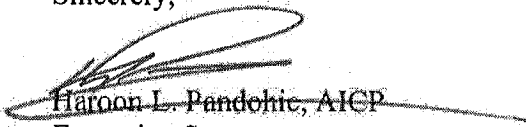
**Subject: Application for a Bar/Restaurant Balcony Extension on Block 14BJ
Parcel 19 (FA84-0257) (P19-0874) (CS)**

At a meeting of the Central Planning Authority held on December 4, 2019 your application was considered and it was resolved to refuse planning permission, **for the following reasons:**

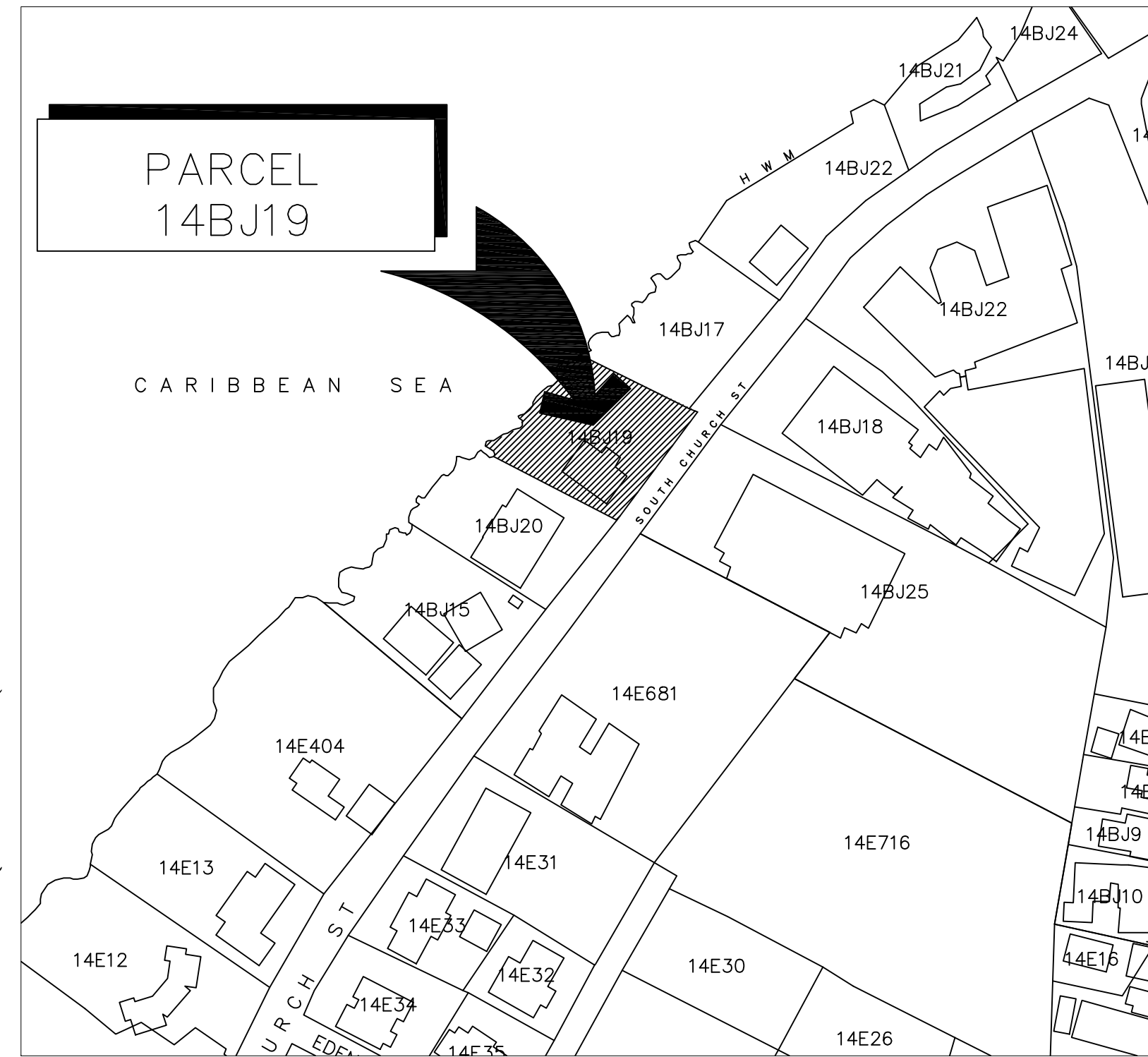
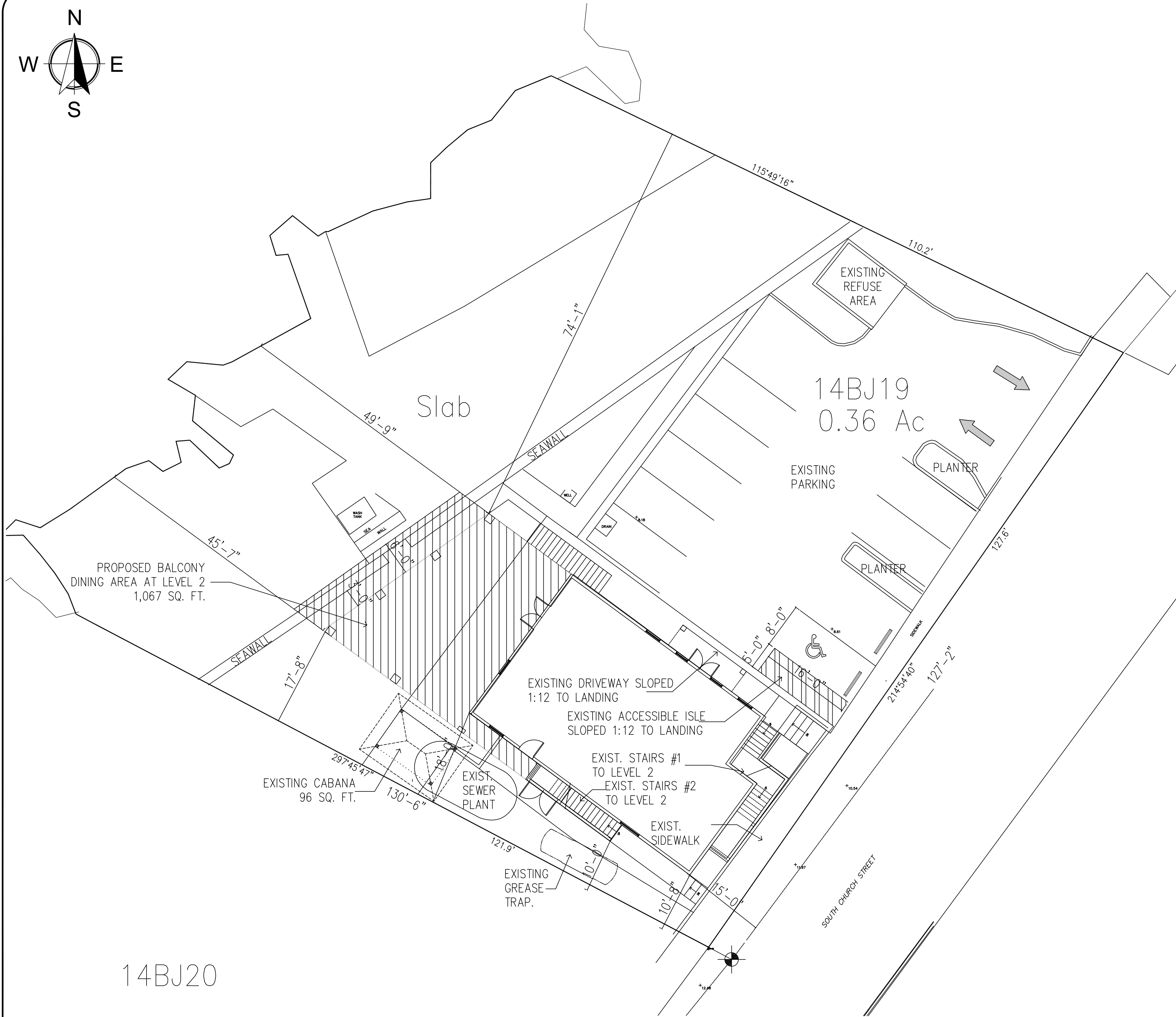
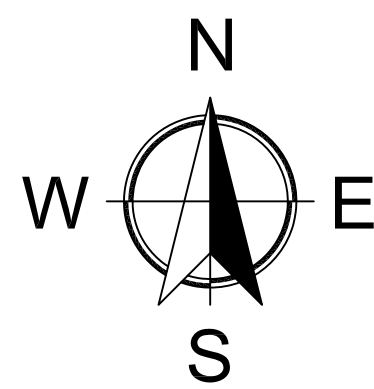
- 1) The applicant failed to provide sufficient reasons per Regulation 8(11) why a high water setback less than what is prescribed in regulation 8(10(a)) should be allowed.
- 2) The Authority is of the view that the balcony can only physically exist if a deficient high water mark setback is allowed and that would not be consistent with Section 2.06 (e) of The Development Plan 1997 in that the resultant noise from the proposed balcony that is intended for outside seating associated with a bar/restaurant would cause a negative impact on the occupants of the neighbouring residential lots.
- 3) Per Section 3.03 (b) of The Development Plan 1997, the Authority is of the view that the resultant noise from the proposed balcony that is intended for outside seating associated with a bar/restaurant will not be harmonious or compatible with the adjacent residential developments.

If you have any questions, please contact the Department of Planning at 244-6501.

Sincerely,


Haroon L. Pandolfic, AICP
Executive Secretary

HP/nm



DATE: 17.MAY.'19
 8 Capt. Osmond Plc. Crewe Rd.
 P.O. Box 347 KY1-1501
 Grand Cayman, C.I.
 Ph: (345)947-7020 / 916-5054
 Fx: (345)-947-7021
 Email: gmj@canow.ky

NOTES:

PLANNING

PROPOSED BALCONY FOR
 SILVERSIDE RESTAURANT & BAR
 ON BLOCK 14BJ PARCEL 19

THESE DRAWINGS ARE THE PROPERTY OF GEORGE MANDERSON JR. ANY USE AND/OR REPRODUCTION OF THESE DRAWINGS WITHOUT THE WRITTEN PERMISSION OF GEORGE MANDERSON JR. IS STRICTLY PROHIBITED. MECHANICAL, ELECTRICAL, PLUMBING, AND STRUCTURAL DRAWINGS MUST BE VERIFIED BY THE CONTRACTOR BEFORE AND DURING CONSTRUCTION AND ANY DISCREPANCIES NOTED ARE TO BE REPORTED TO GEORGE MANDERSON JR. DIMENSIONS SHOWN TAKE PRECEDENCE OVER SCALED DIMENSIONS.

NOTES

x0.0' DENOTES EXISTING LEVEL ABOVE M.S.L.
 +0.0' DENOTES FINISH GRADE ABOVE M.S.L.
 F.F.L = FINISH FLOOR LEVEL
 M.S.L = MEAN SEA LEVEL

SITE PLAN DATA

DEVELOPMENT TYPE=	BALCONY
EXISTING GROUND FLOOR AREA=	1,425 SQ.FT.
EXISTING SECOND FLOOR AREA=	1,399 SQ.FT.
PROPOSED BALCONY FLOOR AREA=	853 SQ.FT.
PROPOSED OPEN AREA= (BELOW BALCONY)	853 SQ.FT.
CABANA FLOOR AREA=	96 SQ.FT.
TOTAL FLOOR AREA=	4,626 SQ.FT.
TOTAL FOOTPRINT=	1,521 SQ.FT.
LOT SIZE =	16,246 SQ.FT.
SITE COVERAGE =	9.36 %

1 SITE LAYOUT
 A100 1" = 10'

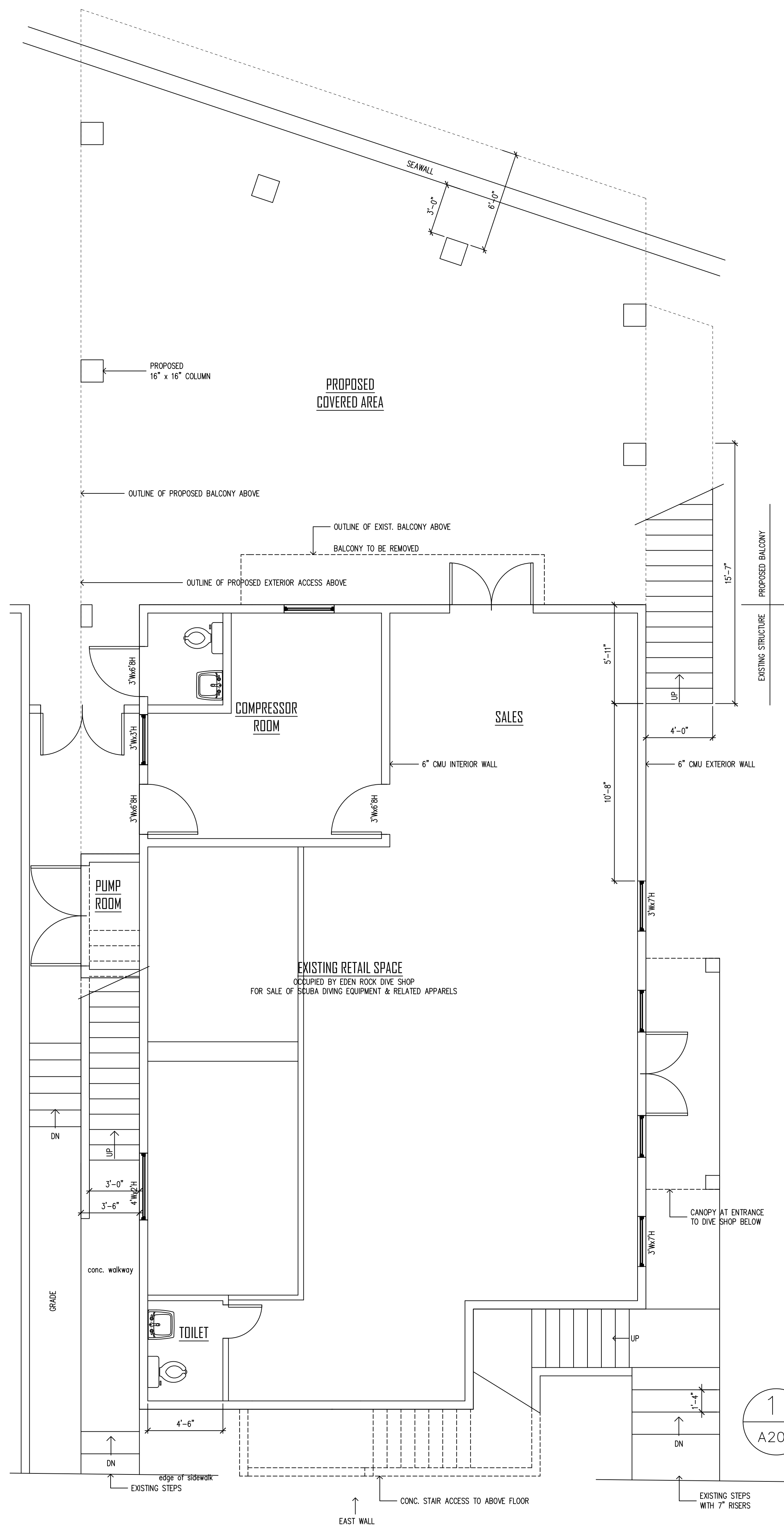
- BOUNDARIES, STRUCTURES & LEVELS BASED OFF L.I.S. DATA / EXISTING CONDITION SURVEY & SURVEYOR'S DRAWING.

THESE DRAWINGS ARE THE PROPERTY OF GEORGE MANDERSON JR. ANY USE AND/OR REPRODUCTION OF THESE DRAWINGS WITHOUT THE WRITTEN PERMISSION OF GEORGE MANDERSON JR. IS STRICTLY PROHIBITED.
 G. Manderson Jr.

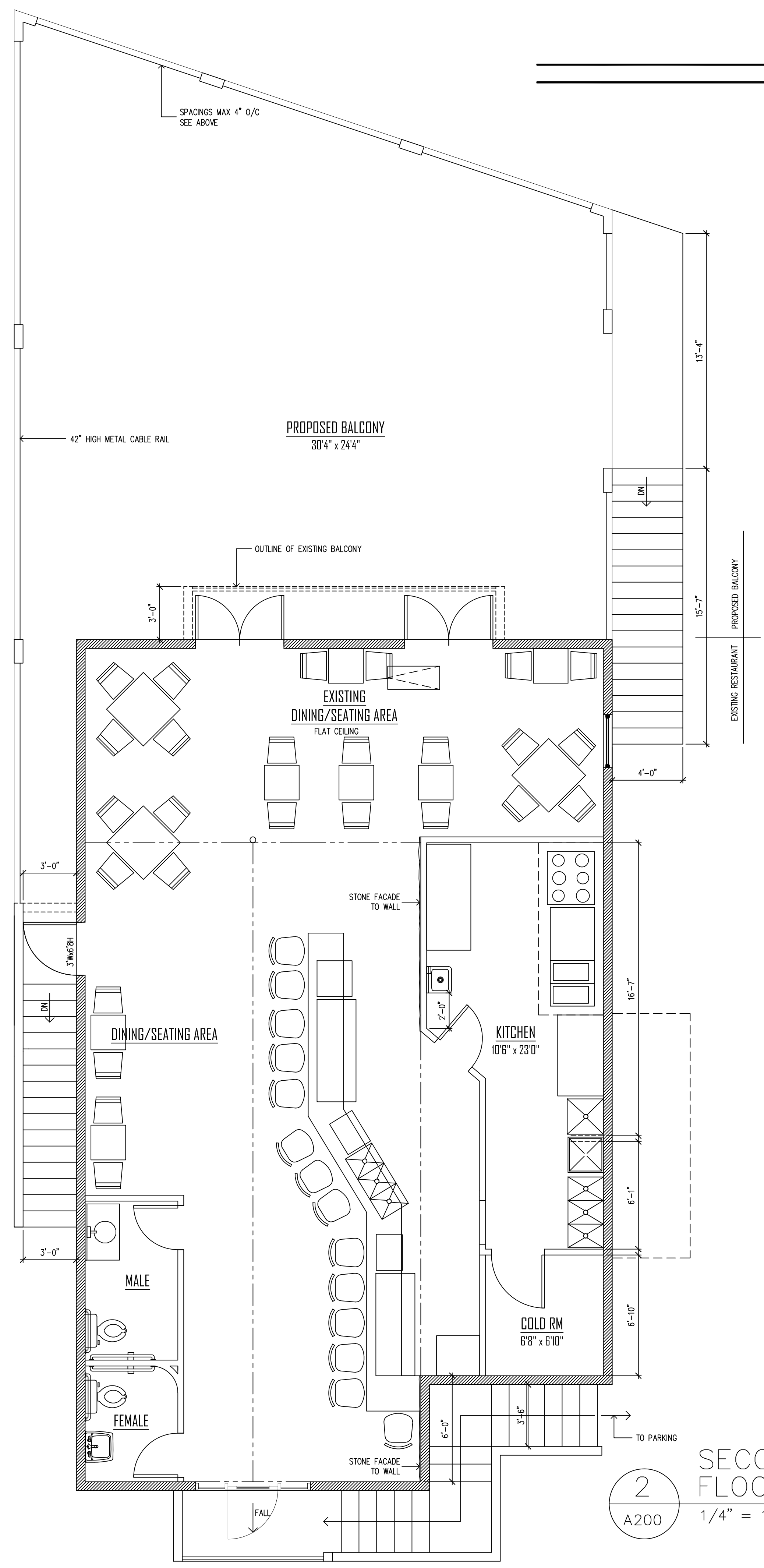
STAMPS

PROJECT NO: 19-187
 DRAWN BY: GMJR
 CHECKED BY: GMJR
 SHEET # A100

DESCRIPTION: SITE LAYOUT



1
A200
GROUND FLOOR PLAN
1/4" = 1'-0"



2
A200
SECOND FLOOR PLAN
1/4" = 1'-0"



DATE:
17.MAY.19

NOTES:

PLANNING

PROPOSED BALCONY FOR
SILVERSIDE RESTAURANT & BAR
ON BLOCK 14BJ PARCEL 19

PROJECT N:
19-187

DRAWN BY:
GMJR

CHECKED BY:
GMJR

SHEET #
A200

DESCRIPTION:
FLOOR PLANS

THESE DRAWINGS ARE THE PROPERTY OF GEORGE MANDERSON JR. ANY USE AND/OR REPRODUCTION OF THESE DRAWINGS WITHOUT HIS WRITTEN PERMISSION IS STRICTLY PROHIBITED. ALL ELECTRICAL AND OTHER CONSULTANTS DRAWINGS AS THEY BE APPLIED TO THIS PROJECT MUST BE VERIFIED BY THE CONTRACTOR BEFORE ANY CONSTRUCTION AND ANY DISCREPANCIES NOTED ARE TO BE REPORTED TO GEORGE MANDERSON JR. DIMENSIONS SHOWN TAKE PRECEDENCE OVER SCALED DIMENSIONS.



DATE:
17.MAY.19

NOTES:

PLANNING

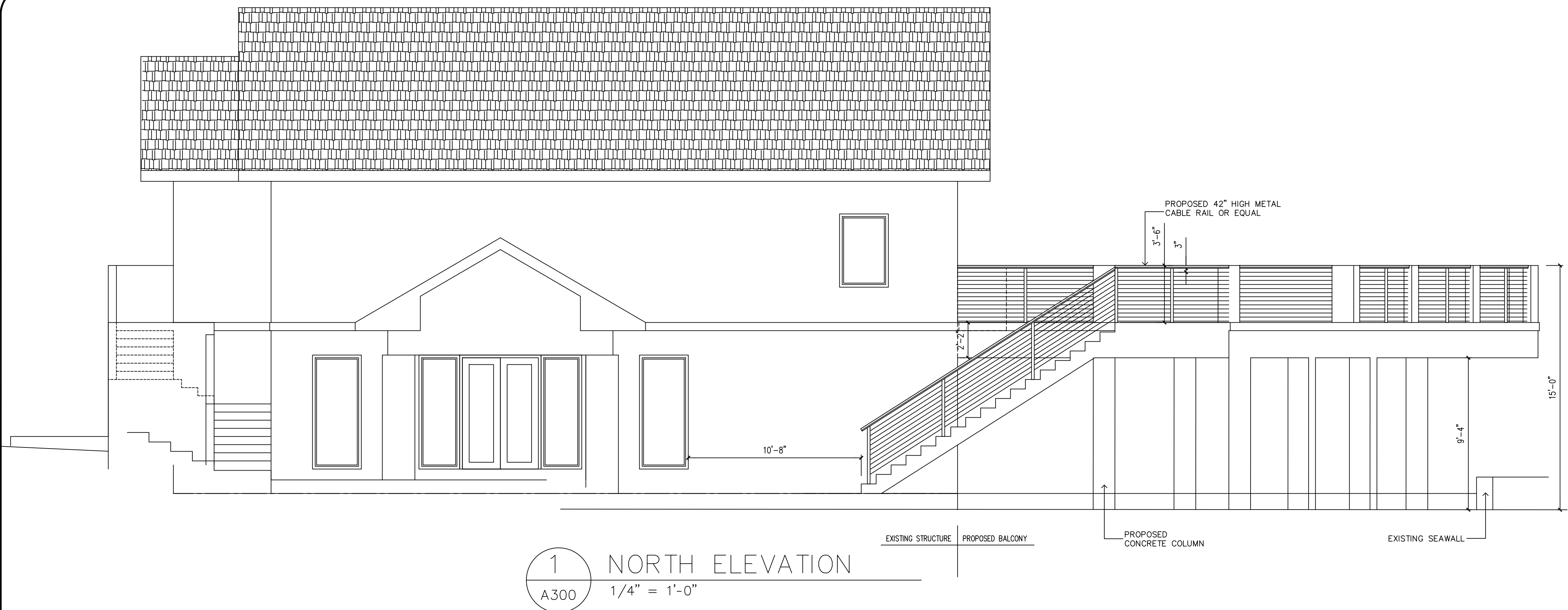
THESE DRAWINGS ARE THE PROPERTY OF GEORGE MANDERSON JR. ANY USE AND/OR REPRODUCTION OF THESE DRAWINGS WITHOUT THE WRITTEN PERMISSION OF GEORGE MANDERSON JR. IS STRICTLY PROHIBITED. MECHANICAL, ELECTRICAL, AND OTHER CONSULTANTS' DRAWINGS, IF ANY, ARE TO BE READ IN CONJUNCTION WITH THESE DRAWINGS. ANY DISCREPANCIES NOTED ARE TO BE REPORTED TO GEORGE MANDERSON JR. DIMENSIONS SHOWN TAKE PRECEDENCE OVER SCALED DIMENSIONS.

PROJECT: PROPOSED BALCONY FOR SILVERSIDE RESTAURANT & BAR ON BLOCK 14BJ PARCEL 19

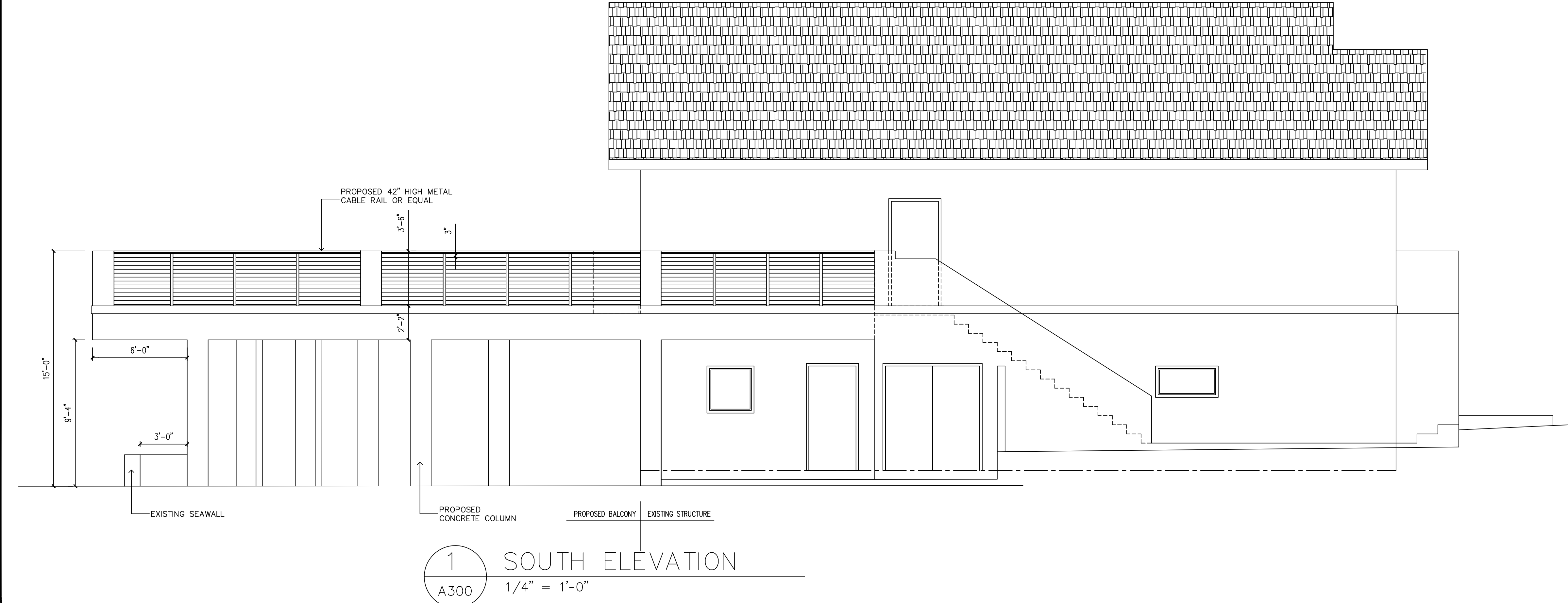
PROJECT No: 19-187

DRAWN BY: GMJR
CHECKED BY: GMJR
SHEET # A300

DESCRIPTION: ELEVATIONS



1 NORTH ELEVATION
A300 1/4" = 1'-0"



1 SOUTH ELEVATION
A300 1/4" = 1'-0"



The Director of Planning
P.O. Box 113
Grand Cayman
KY1-9000
Cayman Islands

9th December 2021

Dear Sirs,

IMPERIUM TRUST COMPANY LIMITED AS TRUSTEE OF THE HAMMOND FAMILY TRUST – 101 OCEANA

We, Imperium Trust Company Limited as Trustee of The Hammond Family Trust are writing as owner of the property namely, 101 Oceana, George Town, Grand Cayman KY1-1002, Cayman Islands. Please accept this letter as our instruction to oppose the application for planning permission for the purpose of balcony addition with parking, sea side and setback variances less than required on Block and Parcel 14BJ19 and owned by Roger Freeman. The reasoning behind the opposition is that the additional outside area to the bar will lead to a disturbance to the peace until late into the evening at 1:00am when the bar closes.

Should you require any assistance, please do not hesitate to contact Denise Cull by telephone on +44 (0)1481 728380 or by email on Denise.Cull@Imperiumtrust.com.

Yours faithfully,

Authorised Signatories
Imperium Trust Company Limited

Imperium Trust Company Limited
PO Box 635, St Peter's House, Le Bordage, St Peter Port, Guernsey, GY1 3DS
T: +44 (0)1481 728380 E: Info@Imperiumtrust.com
www.imperiumtrust.com

Department of Planning

From: Roni Murray <ronimurray8@yahoo.com>
Sent: Monday, December 13, 2021 5:06 PM
To: Department of Planning
Subject: [EXTERNAL] Proposed Works to Block 14BJ Parcel 19

Dear Sirs,

I own #102 at Oceana and I am informed and believe to be true that there were prior disturbances derived from this restaurant/bar two buildings away from me. If this business is allowed to protrude more on iron shore, we would experience constant noise due to fact that most of the time wind is blowing from east and that would surely bring all noise to our condo unit. For this reason, please accept my objection in reference to any proposed development.

Yours truly,

Melko Dobroslavic

Director of planning
Planning Dept

Dear Sirs,

We write to you today, on behalf of the **Proprietors of Strata Plan No.741 - OCEANA**, regarding the proposed works to **Block 14BJ Parcel 19** – BALCONY ADDITION WITH PARKING.

To echo the concerns of the ownership, this is a quiet residential area, which was previously spoilt by the loud music which came from this bar until the early hours when they had previously applied for an extension balcony. At that time police were called to stop the noise.

The further concern would also be the effects of an extension built over the Iron-shore, where any unwelcomed sounds/noise from the new area would surely be amplified and carried over to the neighboring residents. Thereby making them unwilling participants in each day & night's activity, and in direct disregard of the valued peace in their homes.

This does not yet include mention of the intent to further encroach on the indigenous beauty of the island by adding yet more building materials on top of the signature Iron-shore coastline that makes this area so picturesque and unique as well as eliminating the varied eco-systems therein.

The Corporation would look forward to expressing and further articulating these views as well as additional concerns at any hearing held regarding these works and would like to respectfully request notification of any such meeting once all objections have been received.

Thank you very much for your consideration in this matter and for your ongoing vigilance of the Natural Treasure that is Grand Cayman.

Regards,

The Executive Committee

The Proprietors of Strata Plan No.741 - OCEANA

Sept 27, 2019

172 South Church Street
George Town,
Grand Cayman
Apt 303
Tel: 917 714-8710

Via email – planning.dept@gov.ky

Mr H. Pandhoie
Director Planning
Planning Dept
PO BOX 113
Grand CAYMAN KY-1-9000
Cayman Islands
BLOCK AND PARCEL 14BJ19

Dear Mr Pandhoie,

My husband and I are neighbors to the Silverside Bar and the floating orange Plastic Park, run by the same proprietor. We urge you, beg you, to please not allow what once paradise to be further destroyed. This one neighbor has caused so much noise and disturbance that he has brought down property values for all nearby residents.

We would have never bought our apartment on the water, if we knew we would be overlooking an orange floating plastic park with children screaming on it all day long. Now this same proprietor wants to build a large outdoor deck to add to his bar. There are several outdoor bars a few blocks away – there is no benefit to adding another one in a residential zone. We fear that just as the Plastic Park closes for the day, the bar deck will open for the night – and an incessant stream of noise will flood our apartment day and night.

We're speaking up now because we never imagined a scenario where an enormous plastic heap would be allowed to permanently block water views. Now we're deeply concerned about what is happening in Cayman. How can we encourage residents and tourists to fight for plastic free waters when Cayman appears to support an orange Plastic Park floating in her waters. The environmental and commercial impact of this one neighbor is out of proportion, and not in keeping with the nature, serenity and beauty we love about Cayman.

Many thanks for your consideration,



Batya Colman

172 South Church Street
George Town,
Grand Cayman
Tel: 917 355 7203

Via email – planning.dept@gov.ky

Mr H. Pandhoie
Director Planning
Planning Dept.
PO BOX 113
Grand CAYMAN KY-1-9000
Cayman Islands

BLOCK AND PARCEL 14BJ19

Dear folks at the Planning Dept,

I write regarding in objection to the planning request for the proposed bar-balcony extension made by the Silverside Bar, who are our neighbors.

My wife and I own and live in an apartment (#303) at 172 Church Street. Our apartment faces the water on the third floor. We have a direct line of sight towards the proposed bar extension.

This bar extension was proposed before, in 2019. Planning permission was not granted because the proposed extension is not set back from the high-water mark. The setback provisions of 75 feet are mandatory 8 (10)(a) and (f). This same plan fails for the same reason as the last one, and it should be rejected out of hand.

Furthermore,

We are very concerned about this proposal.

1. Eden Rock is not in an area zoned for Commercial use. It is zoned as Residential/Beach Front. Therefore, this application needs a much higher level of scrutiny; the proposal imposes a bar that wishes to stay open late at night right into a Residential zoned area of which it forms a part.
2. Our worry is also about the noise of a bar, which bounces across the water on a still night like a wooden spoon on a tin pan. How do we enjoy a peaceful evening with kids or friends at home, when our neighbors are drinking it up next door? Outdoor music is placed almost literally in our faces. And we think of the casual tossing of cigarettes, crisp packets and ash into the reef-water.

And the impossible challenge it sets us of teaching our children that drinking, smoking and partying is not a healthy way to spend their lives.

3. We're also concerned about the increased number of cars to Silverside, which already are frequently parked all over the pavement and messily in South Church street. The parking lot is shared with the dive shop – there is simply insufficient parking for increase in square footage planned. The parking area handles 8 spaces. It would be impossible to park the incremental 2 in the existing space. And in any event, space for twenty would be required which they can not handle.
4. We are concerned about the setback variances that have been proposed and will object firmly to any requests for exemptions that compromise planning rules, which in the Residential zone are mandatory.
5. Lack of need: It's not as if there is a shortage of outdoor balcony bars nearby. Cayman surely does not need yet another waterfront bar? There is the Paradise Bar, adjacent to Silverside just 50M to the NE and Bar Crudo/Guy Harvey's another 50M away. Then both these bars are in a clearly defined Commercial zone (which Eden Rock is not) and set back from us as neighbors. Unlike the parking of the applicants, the cars of their patrons are carefully parked. Add to that, within walking distance there is Sharkeez, Margaritaville, Sand Bar, Rackhams, Cayman Cabana—all in Commercial zones. Must we now extend bar balconies into Residential zones because we don't have enough space in commercial zones? Or because we don't have enough bars nearby?

The Relevant and Related History

The Department of Planning may hear 'assurances' from the applicant that there are some safeguards that could mitigate the negative consequences of variances, noise, parking infractions and trash for neighbors.

But this application for Silverside Bar comes from the same applicant with whom, regrettably, we have experienced a history.

Silverside and Freeman imposed on Cayman the Oasis Orange Plastic water park which fell afoul of the Dept of Environment; breached its contracts multiple times, and failed to pay tens of thousands of dollars in its obligations to the government. While the waterpark slunk away because it could not pay its bills, Silverside had further breached planning permission by brazenly concreting the iron shore (which regardless of post-breach planning consent, now remains concreted so we must live with the consequences for decades). Silverside also frequently allows patrons to park cars illegally. Silverside has done nothing in the community to ingratiate itself.

Summary

If there is to be a public hearing, please could we be informed so we have a full opportunity to share with you the issues that concern us as neighbors—and there are many of us.

In short, please do not allow a noisy bar-balcony to further spoil this residential area, or to further degrade Eden Rock, our peaceful Cayman treasures.

We trust you will understand these issues, and we urge you to reject this application.

Best,

A handwritten signature in black ink, appearing to read "John P. Colman". The signature is written in a cursive, flowing style with a large initial "J".

John P Colman

Department of Planning

From: Alida Ali <alidaali2@gmail.com>
Sent: Saturday, December 11, 2021 7:08 PM
To: Department of Planning
Cc: Daniel(NCB , Property Manger /Group/ Oceana) Bishop; Allan (NCB Group / Oceana) Wight
Subject: [EXTERNAL] Oceana notice objection

To planning department :

Our names are Munir and Alida Ali.

We have signed a contract to purchase unit #304/ 305 Oceana on January 15th, 2022 as new owners.

We have been informed of an application for development in our residential neighbourhood . We object to this development as it will disrupt the peace and tranquillity of the ocean life and human life.

Please do not allow a noisy bar-balcony to further spoil this residential area, or to further degrade Eden Rock, our special Cayman treasure.

We have faith that you will understand these issues, and we urge you to reject this application.

Many thanks

Alida Ali and Munir Ali

Andrew N. Miller
202 Oceana, 172 South Church Street
PO Box 458, Grand Cayman, KY1-9006
Cayman Islands

13th December 2021

By email: planning.dept@gov.ky
F.A.O. Mr H. Pandhole
Director of Planning
Planning Department
PO Box 113
Grand Cayman, KY1-9000
Cayman Islands

Dear Sirs

BLOCK AND PARCEL 14BJ19

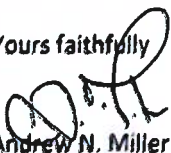
I am writing to object (strongly) to the proposed bar/balcony extension to Silverside Bar. I own an apartment next door where I have lived for the last six years with my wife and teenage son. My son and I have Caymanian status and my wife has permanent residency.

The reasons for my objection are as follows:

- 1. Essentially the same application was made and refused as recently as 2019. As I understand it, one of the many reasons it was refused is that it would have resulted in a breach of the mandatory 75 feet set-back from the high-tide mark rules. It would continue to do so must again mandatorily fail.**
- 2. Simply waiting a couple of years and then making a "hope for the best" essentially the same application is an abuse of process.**
- 3. 14BJ19 is zoned residential. Accordingly, the views of local residents to any increased non-residential activity need to be given a great deal of weight.**
- 4. The bar is well known for being noisy late into the night as it is. Permitting that noise to occur on an outside seaside bar in a quiet residential community would be fundamentally wrong and objectionable.**
- 5. Likewise, the bar is already well known for having insufficient parking often resulting in numerous cars parked in what is already a dangerously narrow road.**
- 6. There are already plenty of open-air seaside bars in George Town. There really is no need for an extra-one in a residential outskirt.**

Please keep me informed of any developments in the application including, of course, of any hearing date.

Yours faithfully


Andrew N. Miller

Department of Planning

From: Joyce Hammond <jjckhammond@yahoo.co.uk>
Sent: Tuesday, September 24, 2019 4:55 PM
To: Department of Planning
Subject: [EXTERNAL] Planning on Block and parcel 14BJ19. For Balcony addition

Dear Sirs,

I wish to object to the planning for the decking area proposed to be built on to the Silverside Bar at Eden .

The noise of children screaming from the inflatable connected to Eden Rock has made the daytime bad enough, but to extend what they mean to have as an extension of a bar/grill come night club, open until 2 .00 a.m. will not only make what was a peaceful residential area into a noisy area.

I feel the value of our property is being reduced by turning what was a pleasant residential area which was peaceful and renowned for diving, snorkelling into a noisy playground area with a late night disco, as we have already at times heard from the existing bar.

Joyce Hammond

205 Oceana

Department of Planning

From: Joe Donald <joeydonaldo@yahoo.co.uk>
Sent: Sunday, December 12, 2021 12:52 PM
To: Department of Planning; dbishop@ncbgroup.ky
Cc: Tinz Binz
Subject: [EXTERNAL] Objection letter for silverside

From: Joseph and Tina Donald
172 S. Church St., unit 201
George Town
PO Box 2440 , KY1 1105

Dear Mr. H. Pandhoie and Panning Dept.,

I am writing on behalf of my wife and I to register our strong objection to the proposed bar-balcony extension for silverside.

My main objections are as follows:

1. Noise: Oceana is a quiet residential property and residents here would like to keep it peaceful. Outdoor music and loud parting is not what any of us want to be hearing all day and night.
2. Parking: Silverside shares eight parking spaces with Eden Rock diving shop. They already have a parking issue (not enough spaces). Where will their customers be parking if they have their bar deck approved?
3. Environmental issue: Eden rock is a famous diving/snorkelling spot. Why ruin it with a deck going into the sea? Also, with food being served and drunk patrons this means things (cigarettes, napkins, etc.) will occasionally be going into the sea and washing up on shore.

I hope you will take these objections into consideration and refuse silversides application.

Kind regards,

Joseph and Tina Donald

[Sent from Yahoo Mail on Android](#)

Jonathan & Judith Furer
(jon.furer@gmail.com)

10 Market Street#1186
Grand Cayman KY-1-9006
Cayman Islands

11 December 2021

Delivered Via Email

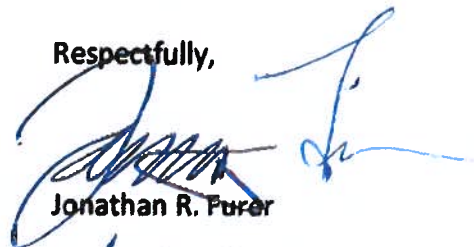
Director of Planning
P.O. Box 113
Grand Cayman KY-9000
Cayman Islands

Re: Roger Freeman, Block and Parcel 14BJ19

Ladies and Gentlemen:

This letter is in reference to the application made by owner, Roger Freeman, seeking parking and set back variances on the above-captioned property. I have attached a copy of the original notice we received for your reference. We, as joint owners of unit 105, at Oceana, 172 South Church Street, George Town, (Strata Plan No. 741), object to the application due to increased noise and traffic that will result from the proposed expansion of the subject property.

Respectfully,



Jonathan R. Furer



Judith E. Furer

Appendix B



Director of Planning
Government Administration Building
Grand Cayman, KY1-9000
Cayman Islands

December 15th, 2021

Dear Sir,

Re: Balcony addition with parking, seaside and setback variances less than required on Block and Parcel 14BJ19 and owned by Roger Freeman

I am writing on behalf of South Church Holdings Ltd, Ugland House (Cayman) Ltd and Harbour View Investment Limited, owners of the Ugland House, Queensgate House, Harbour Place and Grand Caymania buildings in George Town.

Please accept this letter in support of Mr. Freeman's balcony extension.

The balcony will no doubt be an attractive feature for the restaurant, which has been tastefully upgraded in recent times and serves popular local food.

Yours sincerely

A handwritten signature in black ink that reads 'Nickolai M. Ugland'. The signature is written in a cursive style and is positioned above a horizontal dotted line.

Nickolai M. Ugland, Director

103 South Church Street, Harbour Place, 5th Floor, P.O. Box 30464

George Town, KY1-1202, Cayman Islands

Appendix C

Dated this 7 day of 10 2021

SOUTH CHURCH HOLDINGS LTD

.....
As Landlord

and

FREEMAN ENTERPRISES LTD t/a Silverside Restaurant

.....
As Tenant

and

ROGER ALEXANDER FREEMAN

.....
As Guarantor

DEED OF LEASE

Boddens
P O Box 10335 APO
Grand Cayman, Cayman Islands

Tel: 345 943 0303 - Fax: 345 949 2335
Email: infor@bcsl.ky

Last updated: 10/02/2021 at 2:11 PM

This LEASE is made the 7 day of 10 2021.

BETWEEN: **SOUTH CHURCH HOLDINGS LTD**
PO Box 30464
Grand Cayman KY1-1203
Cayman Islands
(hereinafter called 'the Landlord')

AND: **FREEMAN ENTERPISES LTD**
PO Box 1907
Grand Cayman KY1-1
Cayman Islands
(hereinafter called 'the Tenant')

AND: **ROGER ALEXANDER FREEMAN**
PO Box 1907
Grand Cayman KY1-1
Cayman Islands
(hereinafter called 'the Guarantor')

WHEREBY:

1. **Demise**
- 1.1 In consideration of the sum of CI\$1.00 per month ("the Rent"), the Landlord agrees to let and the Tenant agrees to lease nine car parking spaces being part of the property more particularly described in the Land Registry of the Cayman Islands as Registration Section George Town South Block 14E Parcel 681 that shall be allocated by the Landlord to the Tenant from time to time at the Landlord's complete discretion (hereinafter called 'the Property') on a month to month tenancy ("the Term") commencing on the 1st day of October 2021 ("Commencement Date") and expiring on 30 days notice in writing by either party ("Expiry Date").
- 1.2 The payment of the Rent by the Tenant to the Landlord shall be made monthly in advance.
2. **Tenant's Covenants**
- 2.1 The Tenant hereby agrees with the Landlord as follows:
 - 2.1.1 Not to assign underlet or part with the possession of the Property or any part thereof without the prior written consent of the Landlord.
 - 2.1.2 Not to use the Property for any purpose other than for car parking without the prior written consent of the Landlord.
 - 2.1.3 Not to store or bring upon the Property any articles of a combustible or dangerous nature and not to do or permit or suffer to be done anything by reason whereof the present or any future policy of insurance may be rendered void or voidable or whereby the rate of premium thereon may be increased and to repay to the Landlord all sums paid by way of increased premium occasioned by any breach of the provisions of this clause and to indemnify the Landlord with respect to any breach of this covenant.

whether or not such would be allowed under rules of court or any taxation or other procedure carried out under such rules.

6. Guarantee

- 6.1 The Guarantor guarantees the performance of this Lease as if the Guarantor were the Tenant.
- 6.2 The Guarantor agrees that no waiver, amendment, assignment or release of the Tenant shall operate to release the Guarantor from its obligation as Guarantor of this Lease without the express written consent of the Landlord.

7. Notices

- 7.1 Any notice under this Lease shall be in writing. Any notice:
- 7.1.1 To the Tenant shall be sufficiently served if left at the first mentioned address above addressed to the Tenant.
- 7.1.2 To the Landlord shall be sufficiently served if delivered to the registered office of the Landlord or sent by registered post. Any notice sent by post be deemed to be given on the day following the date of posting.
- 7.1.3 To the Guarantor if personally served on him or left at the address first mentioned above.

8. Assignment

- 8.1 The Tenant may not assign this Lease without the prior written consent of the Landlord.
- 8.2 An assignment of this Lease does not release the Tenant from any future obligations under it unless specifically agreed otherwise by the Landlord in writing.

9. Stamp Duty

- 9.1 All stamp duty and registration fees payable in respect of this Lease shall be the responsibility of the Tenant.
- 9.2 The Tenant must register this Lease at the Land Registry and provide a copy of the Register for this Lease and the Property within 14 days of the completion of the registration.

10. Counterparts

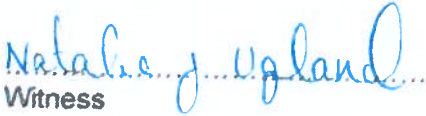
- 10.1 This Lease may be executed in two or more counterparts each executed by one or more party hereto and all such counterparts shall constitute one and the same original instrument.

11. Governing Law and Jurisdiction

- 11.1 This Lease shall be governed and construed in accordance with the laws of the Cayman Islands whose courts shall have exclusive jurisdiction to adjudicate all issues arising therefrom.

IN WITNESS whereof, this Deed has been executed by the parties hereto on the day and year first before written.

Signed by the Landlord
SOUTH CHURCH HOLDINGS LTD
in the presence of:


Witness


Director/Authorised Signatory

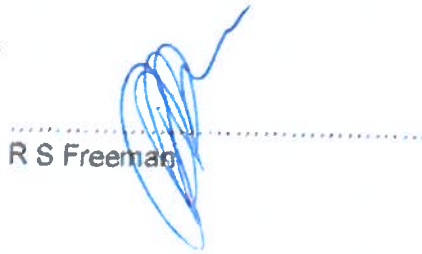
Signed by the Tenant
FREEMAN ENTERPRISES LTD
in the presence of:


Witness


Director/Authorised Signatory

Signed by the Guarantor
ROGER ALEXANDER FREEMAN
in the presence of:


Witness


R S Freeman

Appendix D



Dotcom Centre
342 Dorcy Drive
Airport Park
PO Box 10 004
Grand Cayman
KY1-1001
Cayman Islands

T: 345 946 3625
F: 345 946 3637
doak@johndoak.com

ARCHITECTURE

20th January 2022

Central Planning Authority
c/o Planning Department
Via OPS – 2022 2 11

Ladies and Gentlemen of the CPA,

Re: JEFF MAGNUSSEN – 4# DWELLINGS, 2# POOLS AND A CABANA

We refer to the above application and the 5th January 2022 postponement of the hearing of the application by the CPA to the applicant to be heard at the CPA meeting of **Wednesday 16th March 2022 at 2pm.**

We would be grateful if this letter and attached renderings can be included in the CPA agenda for the referred hearing, thank you and we also invite the members of the Central Planning Authority to view this link to a video of the proposals to be considered on 16th March 2022 CPA hearing:

<https://youtu.be/c1DxO452fy4>

The Planning Department have indicated that the CPA wish to discuss the application with the applicant in particular citing the setbacks and the driveway access.

In response we note the following background for this application:

OVERVIEW OF THE APPLICATION

1. The Land is zoned Beach Resort Residential and is 45,302 sqft or 1.04 acre in size which allows the property to be developed for 21# apartment units and up to 63# bedrooms.
2. The applicant's proposal is for 4# one bedroom units, hence 4 units with a total of 4 bedrooms.
3. The applicant's desire is to have four individual beach dwellings for themselves and three friends, the design arranged as arranged as two coupled pairs.
4. The architecture is arranged as two matching pairs with a shared plunge pool for each pair
5. Each unit has a footprint of 812 sqft and a total footprint of 3,248 sqft. Adding the yoga pavilion the entire site coverage is 3,504 sqft on a 45,302 sqft property.
6. The total coverage for this project is 7.73%. Beach Resort Residential zoning allows up to 30% site coverage.
7. Each unit has only one bedroom.
8. Each building is two storeys in height and the building cubic massing is approx. 25 ft x 25ft x 25 ft high.
9. The buildings are elevated on pilasters so they are clear above the ground and are set to offer little if any resistance to the ocean in the event of rising tides or storms or sea inundations
10. A blend of beach sand and Ironshore characterizes the shoreline, more predominantly Ironshore which the applicant observes to be the case during the last three or four years that they have owned the property.
11. The Planning Department have requested the applicant meet the more restrictive setback of 75ft rather than the 50ft setback for ironshore

12. Two of the buildings are set 80 ft and 88ft from the HWM. The third building is 75ft from the HWM while the fourth building is 67'5" from the HWM as currently drawn.
13. The ancillary beach yoga cabana is set astride the 75ft setback alignment.
14. No sea defence method, seawall nor other such restraints are envisaged nor proposed to be built.
15. The entire site is proposed to be untouched and the natural vegetation preserved to hold the natural profiles of the beach ridge. Most notably, the palm trees signature this property and are not to be moved nor relocated.
16. The site exceeds 200 feet on the road and a 12ft ROW is to be provided and will be fenced on the eastern boundary.
17. The applicant has attached a series of architect renderings of the proposals. Aerial views clearly explain the siting and the attention to detail that has been employed on this eco-sensitive proposal.

APPLICANT RESPONSE TO GOVERNMENT AGENCY COMMENTS:

In response to Government Agency comments the applicant has already agreed to provide or meet the following recommendations. All of the submitted drawings incorporate or accommodate the Government agency requests:

Dept of Tourism – No comments received.

Dept of Environmental Health – the applicant has met the requirements of DEH in terms of solid waste disposal. The swimming pools will be engineered in accordance with DEH standards and submitted at the time of the permit application

Fire Department – the applicant has met the Fire Department requirements

Water Authority – A septic tank has been requested and this is shown on the site plan. The applicant will meet the requirements of the Water Authority engineering and will be satisfied at the time of a permit application. Water will be provided via WA's piped water system.

National Road Authority – per the NRA advice, the applicant has shown a 12-14ft wide one way route through the property and has provided 7# parking spaces. At the NRA's request the applicant can provide a 6ft wide sidewalk if that is seen to be required for this low density residential solution. Tyre stops can also be provided in dedicated parking stalls if that is seen as desirable for this low density residential solution. Stormwater management solution will be engineered for the project in consultation with NRA, whilst noting the applicant's intent is not to use asphalt or suchlike driveway finish, but rather a self draining solution using pavers or similar.

Dept of Environment – the applicant has responded to all aspects of NCC reviews including design features that the applicant had already incorporated in the initial proposals. All issues concerning mitigations have already been met. As noted above there is no desire to modify the shoreline nor the natural topography of the coastline or the property. As noted by NCC the 75ft coastal setbacks are being met with a slight exception on the fourth building however its foundation and construction method are not likely to hinder nor negatively impact the dynamics of the shoreline. Regarding NCC's recommendations 1-3 and recommendations during the construction process, the applicant confirms these conditions would be met.

PLANNING DEPARTMENT COMMENTS:

The Dept of Planning have raised two matters to which the applicant responds as follows:

- Setbacks – see the applicant's setback variance request letter and references to Clause 8 (11)
- Driveway – as shown in the site plan, the driveway meets all requirements of the Planning Dept and the NRA's request for 12-14ft wide aisle and the 6ft sidewalk which the applicant notes is normally a requirement for high density apartment projects.

Thank you for your kind consideration. We look forward to meeting with the CPA in March 2022.

Yours Sincerely,

JOHN DOAK ARCHITECTURE



Dotcom Centre
342 Dorcy Drive
Airport Park
PO Box 10 004
Grand Cayman
KY1-1001
Cayman Islands

ARCHITECTURE

19th November 2021 (rev)

(updated for CPA hearing)

Central Planning Authority
Box 1036 GT
Grand Cayman

Dear Sirs,

RE: 4# PROPOSED BEACH HOUSES, 2# SWIMMING POOL AND YOGA CABANA – REQUEST FOR SETBACK VARIANCE – 57A 8

Having been notified of no objections to the original notifications issued to neighbouring properties in 150ft of the applicant's land, and having been notified by the Planning Dept of concerns expressed by the CPA regarding the setback from the HWM we have modified the location and orientation of the proposed structures and updated this application letter for variances to a singular issue which applies to only one of the four buildings, as follows:

With reference to our client's application for planning permission for 4# houses, 2# swimming pools and associated works, we request the Central Planning Authority's approval to vary the setbacks from the HWM as shown in the attached plans and as described below.

SIDE SETBACK VARIANCE

- To vary the 75ft ocean setback from HWM for the house #4 to be 67'-5" at the closest corner, whilst noting :
 - The proposal is for 4# individual houses and 2# pools which are allowable on this 1.04 acre (45,302.4 sqft) land
 - The property is zoned Beach Resort Residential being the transition zone between Hotel/Tourism and Low Density Residential.
 - The submitted proposal is a low density residential solution for the Owner and their houseguests and not at all intended as a resort nor hotel type usage
 - The proposed footprint of the buildings is only 7.73% which is extremely low in relation to the allowable max 30-40% coverage
 - The proposal complies with 20ft roadside boundary setbacks and exceeds 15ft residential side setbacks at the western edge
 - The land is tapered from west to east such that the narrowest part barely allows an ancillary cabana to be located 75ft from the HWM
 - With reference to the Development and Planning Regulations(2020 revisions) Clause 15(2)(d) we submit that this location is suitable for residential development that comprises 4# dwellings

T: 345 946 3625
F: 345 946 3637
doak@johndoak.com

- o The applicant has separately responded to the entirely favourable reviews received from Government Agencies including DEH, DoE(NCC), Fire Services and the Planning Department.
- o With reference to Clause 8 (11) regarding setbacks, waterfront property the Authority may grant permission for the setback having regard to:
 - (a) the elevation of the property and its environs – the proposals respect the shoreline, contours and levels of the existing conditions particularly in consideration of occasional storms and the property's topography
 - (b) the geology of the property – the geology of the land is suitable to the proposed use and method of construction. All existing vegetation is to be preserved and the shoreline untouched
 - (c) the storm/beach ridge – the proposals respect the location of the storm ridge and the natural and manmade topographical profiling of this coastline and subject property. The buildings are all elevated above the existing grounds to mitigate against sea inundation.
 - (d) the existence of a protective reef adjacent to the proposed development – the proposals will have no negative impact to the reef, shoreline or other adjacencies in the ocean.
 - (e) location of adjacent development – the proposal is respectful of neighbouring properties and does not and would not negatively impact adjacent development.
 - (f) any other material consideration which the Authority considers will affect the proposal – there is no other aspect nor material consideration that would affect the proposal.

The Applicant requests the CPA's favourable review of the above noted variance request.

If you have any queries or require further information prior to reviewing this application please do not hesitate to contact the writer.

We look forward to hearing from you in due course.

Yours sincerely,

JOHN DOAK ARCHITECTURE

A handwritten signature in black ink, appearing to read 'John Doak', with a stylized flourish at the end.

John CJ Doak,
Cert. Hon., ARB, RIAS, RIBA, ICIA













Appendix E

To: Director of Planning Cayman Islands, c/o Mr. Haroon Pandohie, AICP (sent by email)

From: “**Objector**” Gordon F. Scherer, 769 West Bay Road, Grand Cayman B/P 12C26H15

Regarding notice from Palm Sunshine Ltd re: Block / Parcel **12E93 (and regarding 12E88 also owned by Palm Sunshine)** Notice to adjacent property send by Cayman mail Nov 15th, 2021

On November 30, 2021; I am requesting to personally appear and present my objections to the Palm Sunshine Ltd “Deckers redevelopment plan” being presented to Planning for consideration.

Purpose of my objection:

Palm Sunshine appears to operate a group of related entities: Palm Heights Suites (52 Suites) at 747 West Bay road; Tillie’s restaurant, Coconut Club restaurant, Paradise Pizza, and a new SPA they are opening on West Bay road; and now this proposed redeveloped of Deckers.

At the September 15, 2021 Cayman Islands Planning meeting, an employee (or person who represented that they were employed by related companies to Palm Sunshine) disclosed that Palm Sunshine Ltd. has acquired the properties of Put-Put Miniature golf, Deckers restaurant and the parking lot south of the Deckers restaurant (part of the original Deckers property ?) and **all three associated properties were now part of the Hotel property.**

My objections are that Palm Sunshine Ltd is not presenting a parking plan to Cayman Planning sufficient to accommodate the parking required and needed to Operate the 52 suite Hotel and the on Hotel restaurants plus open air dining (no capacity restrictions on open air dining ?).

Palm Sunshine is presenting an application for Dechers to Planning that would remove a substantial portion of available property for parking needed for the Hotel and on Hotel restaurant guess and associated staff. This is the same “Deckers” property that is owned and associated with the Hotel.

I am asking Palm Sunshine Ltd to provide Cayman Planning with a Parking plan to provide for:
52 Suite Hotel, guests, staff and visitors
Tillies restaurant: Patrons and staff
Paradise Pizza: Patrons and staff
Open air walk around guests including open air dining
Future Deckers reopening (Palm Sunshine estimates 50 parking spaces needed per application)

On Monday between 3PM and 3:30PM November 29, 2021; I counted the parking spaces in the Palm Sunshine parking lot south of the old Deckers (low time of day, and almost no one staying at the Hotel).

61 parking spaces total. A container occupied 5; of the remaining 56 parking spaces 49 were occupied. (7 open)

When the Hotel is full and busy and when Tillies and Paradise Pizza are busy, where will all the patrons, visitors, guests and staff park ?

With very little effort, I easily added 38 parking spaces to the Deckers site plan (attached) and many more spaces could be added to the full site with improvements in traffic circulation.

I am requesting that the Deckers Application be **Denied** until the Applicant submits a unified parking plan that meets Cayman Planning standards for all the properties and facilities involved.

I am also requesting that the Deckers Application be **Denied** until the multiple parcels 12E88, 12E93 and the Hotel parcel are consolidated into one parcel by the Applicant. It appears that the Applicant has consolidated the Put-Put Parcel into Parcel 12E93, but has not also consolidated the 12E88 Parcel with 12E93. The Applicant also did not maximize the parking with this application (20 additional spaces were obvious as was a better traffic flow pattern). I am concerned that the Applicant could sell or transfer the ownership of 12E93 in the future; which would seriously impair or eliminate the Hotel from ever having sufficient parking. Lastly, a unified parking plan for the Hotel may require that the old Deckers restaurant is not feasible and that the whole site of parcels 12E88 and 12E93 are needed to provide the parking required for the Hotel with existing restaurants.

Currently, the applicant's overflow Customers are parking at The Grand Pavilion (802 West Bay Rd), The Colonial Club (769 West Bay Rd), Buckingham Square (720 West Bay Rd) and on the shoulders and sidewalks of West Bay Rd.

The surrounding neighborhood is suffering from the Applicant's current lack of capacity for parking and it will only get worse; as the applicant adds more enterprises (such as this request), restaurants and when the guests to the Hotel return.

For all the reasons stated above, until resolved; I am requesting that the Deckers Application be Denied.

Respectfully, Gordon Scherer (345) 548-0294
gordonscherer@outlook.com

7 attachments included

- 1) Google view Image
- 2) Applicants Deckers site plan
- 3) Deckers site plan with 38 parking spaces added – example by Gordon Scherer
- 4) Picture of parking entrance sign
- 5) Picture of Cars in lot 49 of 56 parking spaces in use – Monday 3:30 PM 11/29/21
- 6) Picture of walkway between SPA and PutPut
- 7) Picture of tent blocking existing road behind Deckers

120770
ONE STOREY SPA/Wellness CENTER

Add 20 additional parking places on west

PEDESTRIAN WALK

BRIDGE

FIRE WELL & FIRE HYDRANT

5.0

FIRE LANE 6.0

CB +5.0

50

+6.0

GARBAGE BIN DEH

45'-8"

TO WWR SEWAGE COLLECTOR

WEST BAY RD

LINE OF 20' SET BACK

FLAT ROOF +10'-0"

FLAT ROOF +11'-0"

DELIVERIES

CB +5.0

Public Insp

Back Parking Lots have a circulation and access pattern easier access and use

added 18 more parking spaces and a driveway connector to make parking more usable and accessible

FIRE LANE

+5.5

OF 6' SET BACK

CB +5.0

+6.0

ESTELLE TIBBETS HWY

Driveway connector to South Parking Lot also owned by Palm Sunshine Ltd

LEGEND

- C.B. CATCH BASIN
- FIRE WELL



STREET LIGHT



POWER CONNECTION FOR ELECTRIC CARS CHARGING

SITE DATA - 12E

PLOT AREA	1.019 ACRES
GROUND FLOOR	
SECOND FLOOR	
TOTAL RESTAURANT AREA	



tillie's

**COCONUT
CLUB**

PARADISE

P I Z Z A +

S H A W A R M A

PARKING ONLY



P | H

