

Central Planning Authority

Minutes of a meeting of the Central Planning Authority held on August 04, 2021 at 10:00Am, in Conference Room 1038, 1st Floor, Government Administration Building, Elgin Avenue.

16th Meeting of the Year

CPA/16/21

Mr. Ian Pairaudeau (Chair) (via Zoom) (left at 3:25)

Mr. Handel Whittaker (Acting Chair)

Mr. Joshua Bernard (via Zoom)

Mr. Gillard McLaughlin (arrived at 12:30)

Mr. Charles Russell Jr.

Mr. Windel Scott

Mr. Peter Campbell

Mr. Kenneth Ebanks

Ms. Danette McLaughlin (left at 4:20)

Ms. Shakina Bush (apologies)

Ms. Christine Maltman, MCIP, AICP

Ms. Celecia Bancroft

Mr. Ashton Bodden

Mr. Haroon Pandohie (Executive Secretary)

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

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

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APPLICANTS ATTENDING THE AUTHORITY'S MEETING

APPLICANT NAME	TIME	ITEM	PAGE
Kyle Kilischuk	10:30	2.1	6
Oscar & Miriam Jennings	11:00	2.2	11
National Cement	11:30	2.3	19
Johnny Ebanks	1:00	2.4	24
Batta Apts	1:30	2.5	27
Big Dream Holdings	2:00	2.6	35

1.1 Confirmation of Minutes of CPA/15/21 held on July 21, 2021.

Moved: Kenneth Ebanks

Seconded: Celecia Bancroft

Confirmed

1.2 Declarations of Conflicts/Interests

ITEM	MEMBER
none	none

2.0 APPLICATIONS **APPEARANCES (Items 2.1 to 2.6)**

2.1 IRONSHORE CONTRACTORS & BUILDERS LTD (TAG Ltd) Block 4B Parcel 159 (P21-0386) (\$1.6 million) (JP)

Application for 10 townhouses, cabana and pool.

An appearance was scheduled at 10:30am. The objector advised prior to the meeting that they had chosen not to be in attendance. The applicant also advised prior to the meeting that they wished for the matter to be adjourned as they were trying to address the issue of legal access to the site.

FACTS

<i>Location</i>	Barnett Close, West Bay
<i>Zoning</i>	HDR
<i>Notification result</i>	Objectors
<i>Parcel size proposed</i>	0.57 ac. (24,847 sq. ft.)
<i>Parcel size required</i>	5,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	8,044 sq. ft.
<i>Total building site coverage</i>	16.47%
<i>Allowable units</i>	14
<i>Proposed units</i>	10
<i>Allowable bedrooms</i>	23
<i>Proposed bedrooms</i>	18
<i>Required parking</i>	15
<i>Proposed parking</i>	18

BACKGROUND

Site visit undertaken on 28th May following a complaint regarding land clearance and construction of boundary treatment. Applicant and agent advised retrospective applications required. To date the Department of Planning's requests have not been met.

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

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 the proposed development are as follows:

Wastewater Treatment and Disposal

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

- The proposed development requires Aerobic Treatment Unit(s) with NSF/ANSI Standard 40 (or equivalent) certification that, when operated and maintained per manufacturer's guidelines, the system achieves effluent quality of 30 mg/L Biochemical Oxygen Demand and 30 mg/L Total Suspended Solids. The proposed system shall have a treatment capacity of at least 2,100 US gallons per day (gpd), based on the following calculations.***

BUILDING	UNITS/BLDG	GPD/UNIT	GPD/BLDG	GPD
Building A	2 x 1-Bed Units	150gpd\1-Bed Unit	1,200	1,200
	4 x 2-Bed Units	225gpd\2-Bed Unit		
Building B	4 x 2-Bed Units	225gpd\2-Bed Unit	900	900
TOTAL				2,100

- Treated effluent from the ATU shall discharge to an effluent disposal well constructed by a licenced driller in strict accordance with the Authority's standards. Licenced drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.***
- To achieve gravity flow, treated effluent from the ATU must enter the disposal well at a minimum invert level of 4'9" above MSL. The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.***

Water Supply:

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

- The developer is required to notify the Cayman Water Company without delay, to be advised of the site-specific requirements for connection.***

- *The developer shall provide water supply infrastructure per CWC's specification and under CWC's supervision.*

National Roads Authority

No comments received.

Department of Environmental Health

This application is not recommended for the following reasons:

Solid Waste Facility:

1. The solid waste facility does not meet the requirements of DEH.

2. Location of enclosure

The location of all mechanically serviced containers shall be approved by the Department of Environmental Health. The applicant shall submit plans showing the proposed location of the enclosure. The enclosure shall be placed such that access to the enclosure can be kept clear at all times. The enclosure shall be centrally located, and so placed, as to allow easy access for servicing by the Department's vehicles. The enclosure shall be located so that the vehicle can access the container directly and have adequate room to lift it into the discharge position. The enclosure shall be located such that the vehicle will not impede normal vehicular flow or create potentially dangerous traffic situations while the container is being serviced.

3. Minimum vertical clearance

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

4. Access to enclosure

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

5. Angle of approach

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

6. Turning radius

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

Fire Department

Stamped approved drawings.

Department of Environment (NCC)

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

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

OBJECTION

As landowners and residents of 4B 401, we wish to record some concerns regarding the proposed plan for townhouses to be built on 4B 159 (P21-0386).

Clearing of the land began on February 5, 2021. We are now under the impression that this was not previously applied for, nor approved. Our chain link fence was damaged during this process earlier in early May. We have not been contacted with regard to the repair of our fence. Although it is understood this is not a planning matter, it raises concerns about how the property owner will handle any future issues. We wish to have the below questions and concerns considered before approving P21-0386.

- With the difference in elevation of the finished development compared to the surrounding area, how will flooding mitigate?*
- Is a perimeter wall or fence proposed along the site's boundaries? If so, how will it be constructed?*
- If built, what height will any walls or fences be on our side of the property? We do not see any plans for this included in the application, however, the construction of what appears to be a wall has begun so we are anxious to see the plans approved for that.*
- How is the overall construction of the project going to be managed? Where will construction workers park? Where will they take breaks? What about heavy machinery?*
- Barnett Close is a narrow street and a dead-end near our property which is also the proposed entrance. There is no room for cars or heavy equipment to park on our road.*
- Will any construction take place on the weekends?*
- What sort of vegetation or privacy is being put between the cabana/pool area and our back yard?*
- I understand there should be turning radii at a driveway's intersection with Barnett Close, but none are provided.*

This would further encroach on our property and possibly conflict with existing utilities.

PLANNING DEPARTMENT ANALYSIS

General

The application site is located in West Bay behind existing residential dwellings sited to the north. Neighbouring properties bound the site to the east and west with vacant land located to the south.

The application seeks Planning Permission for the construction of two 2 storey buildings containing 6 and 4 units, the proposal includes a pool and cabana.

Zoning

The property is zoned High Density Residential.

Specific Issues

1) Suitability

Regulation 9(6) permits apartments in suitable locations.

Members are invited to consider the character of the surrounding area and determine whether apartments are appropriate in this location.

2) Land register/legal access

A vehicular right-of-way does actually exist over 4B 401 in favour of the subject parcel. Typically, the Authority would want to see evidence that the owner of parcel 401 has agreed to grant a right-of-way before considering the application for approval.

3) Rear setback variance (17' 3" v 20')

Regulation 9(6)(h) requires a minimum setback of 20' from the rear.

The application proposes a rear setback of 17' 3", measured to the rear steps landing.

The applicant was requested to provide written reasons to explain the variance request, but it was not submitted.

4) Front setback variance (16' 3" v 20')

Regulation 9(6) requires a front setback of 20'

The application seeks a variance of 16' 3" to the cabana.

The applicant was requested to provide written reasons to explain the variance request, but it was not submitted.

5) Garbage enclosure location

The Department of Environmental Health has raised concerns in their consultation response. Members are also invited to consider the proximity of the garbage enclosure at 6' from the shared boundary with 4B 158.

2.2 OSCAR & MERIAM JENNINGS (Architectural Designs) Block 56C Parcel 19 (P20-1180) (\$780,000) (MW)

Application for 7 apartments.

Appearance at 11:00

FACTS

<i>Location</i>	Bodden Town Rd., Bodden Town
<i>Zoning</i>	Low Density Residential
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	0.5 ac. (21,780 sq. ft.)
<i>Parcel size required</i>	25,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	5,136 sq. ft.
<i>Total building site coverage</i>	23.6%
<i>Allowable units</i>	7
<i>Proposed units</i>	7
<i>Allowable bedrooms</i>	12
<i>Proposed bedrooms</i>	11
<i>Required parking</i>	11
<i>Proposed parking</i>	12

BACKGROUND

December 18, 2019 (CPA/26/19; Item 2.18) – previous application for 7 apartments approved.

June 23, 2021 (CPA/13/21; Item 2.7) - the current application was considered and it was resolved to adjourn it because of the aesthetic appearance of the buildings

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

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

- 1) If not already shown on the site plan, the applicant shall submit a site plan that shows the location, dimensions and **size** of the wastewater treatment system (including the disposal system).
- 2) If not already shown on the site plan, the applicant shall submit a site plan showing tire stops for the parking spaces and the parking area curbed and surfaced with asphalt or concrete.

- 3) The applicant shall submit a Stormwater Management plan designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority. **The applicant should liaise directly with the NRA in submitting the stormwater management plan.**
- 4) The applicant shall submit a landscape plan which shall be subject to review and approval by the Central Planning Authority. *It is suggested that the landscape plan be prepared following the recommendations of the Draft Cayman Islands Landscape Guidelines, found on the Planning Department's website (www.planning.ky) under Policy Development, Policy Drafts.*
- 5) The applicant shall submit a construction operations plan to the satisfaction of the Director of Planning indicating in sufficient detail how the development will be constructed without interfering with or obstructing adjacent roads, properties and fire lanes. At a minimum, the plan shall indicate the location of material storage, workers parking, site offices, portable toilets, construction fencing and where applicable, the stockpiling of material excavated from the site and material brought to the site for fill purposes

In addition to Building Permit requirements, condition (6) listed below shall be met before a Building Permit can be issued.

- 6) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 7) 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.
- 8) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 9) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s).**

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

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

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

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

Reasons for the decision:

- 1) Per Regulation 9(8) of the Development and Planning Regulations (2021 Revision), the Authority is satisfied that the site location is suitable for apartments as follows:

- There are no physical constraints on the site that would prevent the development of apartments.
 - There are several apartment developments in the surrounding area and the proposed apartments are consistent and compatible with the established building character of the area.
 - There is sufficient infrastructure at this site (e.g. public road, water line, electrical service) and in the area (commercial retail, grocery stores, etc.) to support the residents of the proposed apartments.
- 2) With the exception of the lot size, which is addressed below, the application complies with the Development and Planning Regulations (2021 Revision).
 - 3) The proposed application does not comply with the minimum required lot size per Regulation 9(8)(f) 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 as follows:
 - a) The characteristics of the proposed development are consistent with the character of the surrounding area; and
 - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare.
 - 4) The Authority is satisfied with the aesthetic appearance of the buildings.

AGENCY COMMENTS

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

Water Authority

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

Wastewater Treatment & Disposal

- *The developer shall provide a **septic tank(s)** with a capacity of at least (2,250) US gallons for the proposed, based on the following calculations:*

BUILDING	UNITS/BLDG	GPD/UNIT	GPD/BLDG	GPD
Building 1	1 x 1-Bed Unit	150gpd/1-Bed Unit	614.4gpd	614.4gpd
	2 x 2-Bed Units	225gpd/2-Bed Unit		
	1 x 96sqft Office	0.15gpd/sqft office space		
Building 2	2 x 1-Bed Unit	150gpd/1-Bed Unit	750gpd	750gpd
	2 x 2-Bed Units	225gpd/2-Bed Unit		
TOTAL				1,364.4gpd

- *The septic tank shall be constructed in strict accordance with the Authority's standards. Each compartment shall have a manhole to allow for inspection and service. Manholes shall extend to or above grade and be fitted with covers that provide a water-tight seal and that can be opened and closed by one person with standard tools. Where septic tanks are located in traffic areas, specifications for a traffic-rated tank and covers are required.*
- ***Treated effluent from the septic tank shall discharge to an effluent disposal well, constructed by a licenced driller in strict accordance with the Authority's standards.** Licenced drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.*
- ***To achieve gravity flow, treated effluent from the septic tank shall enter the disposal well at a minimum invert level of 4'6" above MSL.** The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.*

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.

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 January 4th, 2021 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

General Issue

Bodden Town Road is gazette under BP09 as a 50 foot wide public road. Please have applicant revised site plan to respect the Boundary Plan a 25 feet offset from the road centreline will satisfy.

Road Capacity Issues

The traffic demand to be generated by a residential development of a seven (7) multi-family units has been assessed in accordance with ITE Code 220. Thus, the assumed average trip rates per dwelling unit provided by ITE for estimating the daily, AM and PM peak hour trips are 6.63, 0.51 and 0.62 respectively. The anticipated traffic to be added onto Bodden Town Road is as follows:

<i>Expect ed Daily Trip</i>	<i>AM Peak Hour Total Traffic</i>	<i>AM Peak 16% In</i>	<i>AM Peak 84% Out</i>	<i>PM Peak Hour Total Traffic</i>	<i>PM Peak 67% In</i>	<i>PM Peak 33% Out</i>
47	4	1	3	5	3	2

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

Access and Traffic Management Issues

Two-way driveway aisles shall be a minimum of twenty-four (24) 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 Bodden Town Road, 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 Austin Conolly 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%20Details.pdf>)

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

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

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

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

Department of Environmental Health

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

1. *DEH has no objections to the proposed in principle.*
2. *This development will require a minimum of (7) 33 gallon bins within a 5ft W x 10ft L x 2.50ft H enclosure at the proposed location.*
 - a. *The enclosure should be located as closed to the curb as possible without impeding the flow of traffic.*
 - b. *The enclosure should be provided with a gate to allow removal of the bins without having to lift it over the enclosure.*

Department of Environment (NCC)

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

The site is a small fragment of primary habitat consisting of dry shrubland and dry forest. We recommend that native habitat is retained where possible. Retaining native habitat offers a cost-effective solution to landscaping because it is particularly suited to its current environment and therefore requires less maintenance.

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

Fire Department

Please note, this project requires a fire Hydrant (20-Jan-21)

APPLICANT'S LETTER

On behalf of our client, we wish to apply for a variance, in regards to proposed Apartments on Block:56C Parcel:19 . We would note that the parcel does not meet the minimum lot size of 25,000 sq ft for apartments in LDR area. Nevertheless, we have met all set back requirements and still maintain a site coverage of less than 30% as required. Please further note that at the present, there are currently apartments in the area on lots of a similar size, that do not meet the 25,000 sq ft. required. Also we have an approval of apartments on this parcel which is still valid.

In reference to section 8(13) of the Development and Planning Regulations. Our proposal characteristics are consistent with that of the surrounding area. Based on the variances we are applying for, all the surrounding neighbours have been notified, and have no objections to our proposal. Which is clearly an enhancement to the area.

We hope that the CPA will favourably consider our proposal.

PLANNING DEPARTMENT ANALYSIS

General

The application is for 7 apartments with lot size variance to be located on Bodden Town Rd., Bodden Town.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Suitability

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

- Detached & semi-detached houses.
- Duplexes
- In locations considered as suitable by the Authority guest houses and apartments.

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

- 56C 18:- P13-0819 (Duplex) Approved CPA/02/14; Item 2.13
- 56C 106:- Duplex
- 56C 17:- Proposed Two by Three Bedroom Duplex (Approved 10-16-09)

2) Lot Size

Regulation 9(8)(f) of the Development & Planning Regulations (2021) states the minimum lot size for Apartments is 25,000 sq. ft. The proposed parcel would only be 21,780 sq. ft. (0.5 Ac.) a difference of 3,220 sq. ft.

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

SUPPLEMENTARY ANALYSIS

The Authority is reminded that a similar application for (7) Apartments with Office as one building was approved on December 18, 2019 (CPA/26/19; Item 2.18). A revised application was then submitted and was heard by the Authority on June 23, 2021 (CPA/13/21; Item 2.7) where it was adjourned to invite the applicant to appear before the Authority to discuss concerns regarding the aesthetic appearance of the buildings.

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

- Mr. Welcome asked if the Authority was made aware that 7 apartments were previously approved on this site. He noted that there have been changes as there are two buildings now with the parking in the middle. He noted that he feels aesthetically it is better and the parking design is better.

- The Authority advised that they were aware of the previous approval. The Authority noted that the NRA has recommended that the plan respect the Boundary Plan that is in place and Mr. Welcome replied that they have addressed that issue.
- The Authority clarified the issue and asked if the property line is 25' from the centre line of the road and Mr. Welcome replied that it is.

2.3 **NATIONAL CEMENT LTD (APEC Consulting Engineers Ltd) Block 19E Parcels 186, 187 and 458 (P21-0425) (\$5,000) (JP)**

Application for modification of planning permission to relocate the fuel dispensing tank, water tanks and cabana.

Appearance at 11:30

FACTS

<i>Location</i>	Seymour Road, George Town
<i>Zoning</i>	HI
<i>Notification result</i>	Objectors
<i>Parcel size proposed</i>	5.13 ac. (223,462.8 sq. ft.)
<i>Current use</i>	Cement manufacturing

BACKGROUND

March 9, 2020 (**Administrative Approval**) – modification to height of building #4 and addition of vertical platform lift permitted (P20-0171)

December 18, 2019 (**CPA/26/19; Item 2.34**) - Workshop and personnel facilities, area reduction and overall height increase approved (P19-1127)

March 20, 2019 (**CPA/06/19; Item 2.2**) – Application for an industrial building, concrete batch plant, silos, cabana and a 5,000 gallon diesel tank with generator approved (P18-1212)

(**CPA/07/19; item 5.8**) – amended conditions 1 and 3 of CPA/06/19; item 2.2

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/06/19; item 2.2 be modified to relocate the fuel dispensing tank, water tanks and cabana.

All other conditions of CPA/06/19; item 2.2 remain applicable.

Reasons for the decision:

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

- 2) The Authority determined that the letters that had been presented in the Agenda as objections did not have legal standing as follows:
- a) The pertinent provisions in the Development and Planning Regulations (2021 Revision) and the Development and Planning Act (2021 Revision) are as follows:
 - i) Section 15(4) of the Act states that an applicant for planning permission must provide notice of the application served in accordance with regulations made under the Act.
 - ii) Regulation 8(12A)(c) states that owners at a minimum radius of three hundred feet from the perimeter of the subject site must be served notice of the application.
 - iii) Regulation 8(12E) states that per the notifications required by Regulation 8(12A)(c), an owner of full legal capacity may lodge an objection with the Authority.
 - iv) Section 2(1) of the Act provided a definition for “owner”.
 - b) The letters in Appendix B indicate that the Etienne Blake Attorneys-at-Law act on behalf of four companies, ITC Ltd., C.I. Precast, Tony’s Toys Ltd. And Mac & Sons Ltd., which own property adjacent to the subject application site. The letters do not identify the specific properties owned by the companies. The Authority reviewed the list of owners within the required 300’ notification radius supplied by the Lands and Survey Department which is based on the land register data and found it did not include any properties owned by any of the four identified companies. As such, the four companies cannot be considered owners per the relevant statutes identified above in item a) and therefore have no legal standing to lodge an objection to the application.
 - c) At the meeting, several individuals appeared presenting themselves as objectors to the application. From the meeting attendance record these individuals are noted as: Alpha Kozaily, Elie Kozaily, Gilles Langlois, Janelle Langlois, Tony Williams and Doorly McLaughlin. Some of these individuals made representation that they should be considered objectors as they are owners of the companies listed in the objection letters. The Authority determined that in order for these individual owners to be considered valid objectors they were required to file objections on their own behalf within the 21 day notification period per the statutes noted above in item a), they did not. As such, the Authority determined that these individuals did not have legal standing to be considered objectors to the application.

AGENCY COMMENTS

Comments from the Fire Department, Department of Environmental Health and Petroleum Inspectorate are noted below.

Fire Department

Stamped approved drawings

Department of Environmental Health

DEH has no objections to the proposed in principle.

1. The applicant must submit the following for review:

- a. Specifications for the double walled fuel dispensing tanks*
- b. Specifications for the generator.*

Petroleum Inspectorate

8000 gallon installation approval is subject to the attached guidelines

APPLICANT'S LETTER

Letter #1

Please find enclosed a modification application to planning approval P18-1212. The previous approval was for the construction of a new batching plant and control building.

This modification application seeks to relocate the previously approved fuel dispensing tank, water tanks, cabana and some concrete batching equipment. The change has come about to ensure full access is preserved during the construction phase of the works. The equipment needs to be operational in advance of completion of the overall project.

We have also enclosed a construction operations plan outlining where temporary fencing will be installed. Again, this is purely to maintain safe access as the works progress. The temporary fencing will be removed prior to completion of the project.

Please advise if notifications are required given there are not new ancillary structures; they are being relocated on the site within the site setbacks.

Letter #2

See Appendix A

OBJECTIONS

See Appendix B

Note: Please see Reasons for the Decision above, item 2. The letters in Appendix B were presented to the Authority in the Agenda as objections, but the Authority determined that they could not be valid objections and have simply been retained in these Minutes to retain the completeness of the record, but the Authority only considers them as letters of representation, not objections.

PLANNING DEPARTMENT ANALYSIS

General

The application site is located in the George Town area within a designated Heavy Industrial area.

The application seeks Planning Permission to relocate the following:

- Proposed cabana (sited adjacent to the southern boundary);
- Two water tanks (sited adjacent to the southern boundary);
- 8,000 gallon fuel dispensing tank (sited adjacent to the southern boundary);

Zoning

The property is zoned Heavy Industrial.

At 11:30am, J. Samuel Jackson, Carol Kirkconnell, Bridgette Shaughness, Patrick Shaughness and Genson Henriquez appeared on behalf of the applicant. Alpha Kozaily, Elie Kozaily, Gilles Langlois, Janelle Langlois, Tony Williams and Doorly McLaughlin were also present.

Summary notes are provided as follows:

- Mr. Jackson raised two preliminary matters. The first was in regard to his views that there were defects in the Agenda as there is reference to matters that are not subject to the application. The Authority noted that the submitted plans make reference to several elements that are labelled as proposed so there is some confusion and suggested that someone from the applicant team approach the display screen to clarify which elements shown on the plans are subject to the application. Mr. Shaughness approached the screen and proceeded to explain that the only elements subject to the application are the relocation of the fuel dispensing tank, the relocation of the water tanks and the relocation of the cabana. He noted that all other elements shown on the plans are either existing or were approved through previous applications for planning permission.
- Mr. Jackson re-iterated that the application is for only the three items noted by Mr. Shaughness. He then noted that the second preliminary point is that the Authority must determine if the objectors have legal standing, that is, do they have the right to object. He proceeded to provide comments pertaining to this issue:
 - the objectors have been clearly identified as four companies
 - corporate entities are separate and apart from their owners and directors
 - none of the companies own land in the area, but they are aware that they operate businesses in the area
 - it is a matter of settled law that companies have separate legal personalities and they are separate and apart from the people that own them
 - he referenced a case, Paul Ramoon vs the Queen, where Mr. Ramoon owned a company called Plynlmmon Ltd. and the Grand Court found that Mr. Ramoon could not be charged on a personal basis for a breach of planning control, it had to have been the company
 - the term owner is defined in the Development and Planning Act and he proceeded to read it
 - none of the parties that objected are listed on the land registers

- the Registered Land Act also addresses this issue
 - The Development and Planning Act determines who must be notified of an application and who can object and he read the provisions of Section 15(4)
 - Section 40 of the Act is clear on who is to be served by registered mail and it is the owner on the land register
 - he referred to Regulation 8(12A) regarding notice being served on owners and the notification radius is 300' per Regulation 8(12C)
 - Regulation 8(12E) says within 21 days adjacent owners of full legal capacity can object
 - the persons here today did not object in their personal capacity and the 21 days has expired
 - the Authority should not allow people without legal standing to intervene with this application
 - he was shown some document pertaining to the pond being LPP, but the veracity of that letter has yet to be determined
 - there is valid planning permission and it was not challenged
 - the essence of the issue is a revocation of planning permission under Section 17, but that cannot be done if it causes damage to the application
 - the people with no standing are asking the Authority to revoke a previous planning permission that has nothing to do with the elements of the current application
 - his clients have spent millions of dollars preparing the development of this site
- The Authority asked the people present to address the issue of whether or not they have legal standing to object.
 - Ms. Kozaily thanked the members for their service. She advised that their lawyer is sick in the hospital so it is unfair for these legal points to be raised, but Mr. Jackson's case is irrelevant as it dealt with enforcement. She noted that they are the owners that were served and that is why they have the right to be here today. She explained that they are asking for a deferral until Mr. Jackson does what he is supposed to under Section 96 of the Registered Land Law regarding the removal of the LPP and the right-of-ways. She noted that they bought land with certain rights, one of which is a circular right-of-way. She noted that in 1993 a decision was that the lake must be LPP. She raised a concern that the Director of Planning told the Registrar to put LPP on the land register and then one month later to take it off, something is afoot.
 - The Authority asked Ms. Kozaily to stay on the point of whether they have standing.
 - Ms. Kozaily noted that she feels the Authority needs to get more legal input, not just from Mr. Jackson.

- Mr. Langlois explained that he has been going to work here for 23 years, his name is on the land register and he is the sole owner of CI Precast. He stated that he feels he has the right to air out a few things. He read the content of a notice for an application that was sent to him in 2018. He noted that he doesn't object to people for the sake of objecting and he has no issue with National Cement. He explained that on March 20, 2019, the CPA approved the removal of the LPP designation and transferred it to another site and allowed the pond to be filled and he asks how is that decision remotely related to the notice he received. They wrote to the Director of Planning asking about the CPA's decision and they received a response that the original file contained no documentation regarding the pond being LPP so staff were directed to remove the designation, but when he came to the office in 15 minutes they found the other letter saying the pond was LPP. He noted that the lake serves a purpose as a drainage retention pond and it works well.
- Mr. Langlois explained that he had photographs that he wished to provide, but the Authority advised that was new evidence and couldn't be accepted. The Authority asked Mr. Langlois to get back to the point of whether or not he has legal standing.
- Mr. Langlois noted that he has two more points to make. The Authority interjected and explained that they would ask that everyone present step outside while the Authority considers the point of whether or not the persons present have legal standing as objectors.
- The Authority discussed the matter for about 10 minutes and then invited everyone back into the room and advised that the decision is that the companies that filed the objection did not have legal standing and the persons present also did not have legal standing to object. The Authority asked if the applicant had anything further to discuss and Mr. Jackson replied they did not, but if the Authority wishes they can provided revised plans to clarify the three elements subject to the application.

2.4 **JOHNNY EBANKS (Caribbean Home Planners) Block 57E Parcel 100 (P21-0391) (BES)**

Application for land clearing/filling.

An appearance was scheduled at 1:00, but the applicant was not in attendance.

FACTS

<i>Location</i>	Sailors Way, North Side
<i>Zoning</i>	MDR
<i>Notification result</i>	No objections
<i>Parcel Size</i>	0.37 ac (16,117.2 sq ft)

BACKGROUND

June 23, 2021 (CPA/13/21; Item 2.15) – CPA adjourned the application to invite the applicant to appear before the Authority to discuss concerns regarding clearing the land in the absence of an application to develop the site.

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

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

Reason for the decision:

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

AGENCY COMMENTS

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

DOE/NCC

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

*The subject parcel consists of primary habitat classified as seasonally flooded mangrove forest on the Department's habitat mapping layer. We note that the applicant is proposing to clear and fill the entire 0.37-acre lot. The Department does **not** support the speculative clearing of land and we encourage applicants to submit proposals for land clearing along with their proposals for development as there may be varying recommendations for vegetation retention depending on the form and nature of the development being proposed. For example, we often recommend the retention of any wetland vegetation located outside of the development footprint to assist with on-site drainage.*

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

Another important function of mangrove wetlands is that they are extremely effective at sequestering carbon from the atmosphere and serve as carbon sinks. The large scale removal of significant tracts of mangrove habitat reduces the island's natural carbon sequestration potential and the removal of mature vegetation and de-mucking of the site has the potential to release captured carbon back into the atmosphere.

For these reasons, the DoE recommends that the application is held in abeyance until planning permission is granted for development on the site to allow this primary habitat to provide its ecosystem functions until development is imminent.

PLANNING DEPARTMENT ANALYSIS

General

The application is for land clearing/filling at the above-captioned property. The site is located on Sailors Way, North Side. The property is 0.37 acre, and is approximately 2' above mean sea level according to Cayman Land Info Map.

As indicated on the site plan, the applicant is proposing to clear the property for future residential development.

Zoning

The property is zoned Medium Density Residential.

Specific Issues

1) Land Clearing

As noted above, the applicant would be clearing/filling the above-mentioned parcel. The Authority needs to determine if the proposed clearing of the property land (mangrove) is premature until an associated application to develop the site has been determined.

SUPPLEMENTAL ANALYSIS

As noted above, the CPA adjourned the application to invite the applicant to appear before the Authority to discuss concerns regarding clearing the land in the absence of an application to develop the site.

No additional information is submitted.

**2.5 BATTAPARTMENTS (Architectural Designs & Cayman Contemporary Style)
Block 24E Parcel 185 (P21-0098) (\$985,000) (BES)**

Application for 4 apartments.

Appearance at 1:30

FACTS

<i>Location</i>	Morningside Drive
<i>Zoning</i>	LDR
<i>Notification result</i>	No Objectors
<i>Parcel Size proposed</i>	0.25 ac. (10,890 sq. ft.)
<i>Parcel Size required</i>	25,000 sq. ft.
<i>Current Use</i>	vacant
<i>Proposed Use</i>	4-apartments
<i>Proposed building Size</i>	5,332 sq. ft.
<i>Total building site coverage</i>	26.1%
<i>Allowable units</i>	3
<i>Proposed units</i>	4
<i>Allowable bedrooms</i>	6
<i>Proposed bedrooms</i>	6
<i>Required Parking</i>	6
<i>Proposed Parking</i>	6

BACKGROUND

June 23, 2021 (**CPA/13/21; Item 2.12**) – It was resolved to adjourn the application to invite the applicant to appear before the Authority to discuss concerns regarding suitability, lot size and density.

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

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

- 1) If not already shown on the site plan, the applicant shall submit a site plan that shows the location, dimensions and **size** of the wastewater treatment system (including the disposal system).
- 2) If not already shown on the site plan, the applicant shall submit a site plan showing tire stops for the parking spaces and the parking area curbed and surfaced with asphalt or concrete.

- 3) The applicant shall submit a Stormwater Management plan designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority. **The applicant should liaise directly with the NRA in submitting the stormwater management plan.**
- 4) The applicant shall submit a landscape plan which shall be subject to review and approval by the Central Planning Authority. *It is suggested that the landscape plan be prepared following the recommendations of the Draft Cayman Islands Landscape Guidelines, found on the Planning Department's website (www.planning.ky) under Policy Development, Policy Drafts.*
- 5) The applicant shall submit a construction operations plan to the satisfaction of the Director of Planning indicating in sufficient detail how the development will be constructed without interfering with or obstructing adjacent roads, properties and fire lanes. At a minimum, the plan shall indicate the location of material storage, workers parking, site offices, portable toilets, construction fencing and where applicable, the stockpiling of material excavated from the site and material brought to the site for fill purposes.

In addition to Building Permit requirements, condition (6) listed below shall be met before a Building Permit can be issued.

- 6) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 7) 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.
- 8) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 9) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s).**

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

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

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

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

Reasons for the decision:

- 1) Per Regulation 9(8) of the Development and Planning Regulations (2021 Revision), the Authority is satisfied that the site location is suitable for apartments as follows:

- There are no physical constraints on the site that would prevent the development of apartments.
 - There are several apartment developments in the surrounding area and the proposed apartments are consistent and compatible with the established building character of the area.
 - There is sufficient infrastructure at this site (e.g. public road, water line, electrical service) and in the area (commercial retail, grocery stores, etc.) to support the residents of the proposed apartments.
- 2) With the exception of the lot size, lot width and number of apartments, which are addressed below, the application complies with the Development and Planning Regulations (2021 Revision).
- 3) The proposed application does not comply with the maximum allowable number of apartments and the minimum required lot size and lot width per Regulations 9(8)(c)(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 additional density and lesser lot size and lot width as follows:
- a) The characteristics of the proposed development are consistent with the character of the surrounding area as the Authority notes there are other apartments on the same or similar size lots in the immediate area (e.g. 24E 190, 181, 241 and 618);
 - b) The allowable number of units calculates at 3.75 so the additional .25 unit is minimal and it is reasonable to round up the allowable density to 4; and
 - c) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare.

AGENCY COMMENTS

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

Department of Environment (NCC)

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

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

National Roads Authority

As per your memo dated February 11th, 2021 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

Road Capacity Issues

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

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

Based on these estimates, the impact of the proposed development onto Morningside 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 Morningside 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 Morningside 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%20Details.pdf>)

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

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

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

Department of Environmental Health

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

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

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 **(1,750) US gallons** for the proposed, based on the following calculations:*

<i>BUILDING</i>	<i>UNITS/BLDG</i>	<i>GPD/UNIT</i>	<i>GPD/BLDG</i>	<i>GPD</i>
<i>Batta Apartments</i>	<i>2 x 2-Bed Unit's</i>	<i>225gpd/2-Bed Unit</i>	<i>1,050</i>	<i>1,050</i>
	<i>2 x 3-Bed Unit's</i>	<i>300gpd/3-Bed Unit</i>		
<i>TOTAL</i>				<i>1,050</i>

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

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

- 1. If the proposed septic tank will be site-built or precast. (You may use the Water Authority drawing for site-built tanks available from the Authorities website or a Precast septic tank drawing if you intend to use a Precast Tank).*
- 2. All dimensions and materials shall be provided for any site-built tanks.*
- 3. Manhole extensions are permitted up to a maximum of 24" below finished grade.*
- 4. Detailed specifications including make and model for (H-20) traffic-rated covers for septic tanks proposed to be located within traffic areas.*
- 5. A detailed profile cross-section of the wastewater system clearly showing the plumbing*

from building stub out to the effluent disposal well achieving the minimum invert connection specified above. (Alternatively details of proposed lift station shall be required)

6. *The Water Authorities updated 2020 effluent disposal well specifications.*
7. *A 30ft horizontal separation between the effluent disposal well and any stormwater drainage wells.*

Water Supply

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

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

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

Fire Service

The CFO approved the site layout.

APPLICANT'S LETTER

On behalf of our client, we wish to apply for a variance, in regards to proposed Apartments on Block 24E Parcel 185.

This request for a variance pertains to the density, lot size and width of the parcel. The proposed apartments consist of 4 units and 6 bedrooms, where the allowable is 3.75 units and 6 bedrooms (as the lot size is 0.25 acre). Therefore, we are asking for 4 units versus the allowed 3.75 units. Which we have provided the required parking spaces for.

We would note that the parcel does not meet the minimum width and lot size of 25,000 sq ft for apartments in LDR area. Nevertheless, we have met all set back requirements and still maintain a site coverage of less than 30% as required.

Please further note that at present, there are currently apartments in the area on lots of a similar size that do not meet the 25,000 sq ft. required. With one such example existing on the lot (24E 191), two lots away from our proposal.

In reference to section 8(13) of the Development and Planning Regulations. Our proposal characteristics are consistent with that of the surrounding area. Based on the variances we are applying for, all the surrounding neighbours have been notified, and have no objections to our proposal. Which is clearly an enhancement to the area.

PLANNING DEPARTMENT ANALYSIS

General

The applicant is for four (4) apartments (5,332 sq ft) at the above-caption property. The site is located on Morningside Drive, Spotts.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Suitability

In Low-Density areas, detached and semi-detached houses, duplexes and, in suitable locations, guest houses and apartments are permissible per regulation 9(8) of the Development and Planning Regulations (2020 Revision).

The surrounding land uses are apartments (24E190, 191, 618,), duplexes (24E184, 525), single-family dwelling houses and vacant properties on Holly Drive and Morningside Drive.

2) Density Requirements

Per Regulations 9(8)(c), the maximum allowable apartments is 3, whereas the applicant is proposing 4-units.

3) Lot Size

The proposed lot size is 10,890 sq. ft. or a shortfall of 14,110 sq ft, whereas the minimum required lots is 25,000 sq ft under regulation 9(8)(f). It should be pointed out that 3-apartments (24E190) were granted planning permission with the same lot size of the subject property.

4) Lot Width

The proposed lot width is 98', and the minimum required lot width is 100' according to regulation 9(8)(g).

SUPPLEMENTAL ANALYSIS

As noted above, the CPA adjourned the application to invite the applicant to appear before the Authority to discuss concerns regarding suitability, lot size and density.

No additional information is submitted.

At 1:30pm, Jay Welcome appeared on behalf of the applicant. Summary notes are provided as follows:

- Mr. Welcome noted that the lot size is under the required, but that Regulation came into being in 1997 when people were objecting to apartments on smaller lots so Government brought in the larger lot size so there would be more property. He noted that he feels that lot size is too large for today given the current housing problems being experienced. He noted that the allowable density calculates to 3.75 apartments and they are asking for 4. He explained that the Regulations can allow

less than 25,000 sq ft if the development is in character with the area. He noted that there are apartments all around the site and those are on lots less than 25,000 sq ft. He also noted that they notified the adjacent land owners and there were no objections.

2.6 DREAM BIG HOLDINGS LTD (Design Cayman Ltd) Block 1E Parcel 17 (P21-0340) (\$20,000) (JP)

Application for modification to site design to create a pathway over the ironshore to the sea.

Appearance at 2:00

FACTS

<i>Location</i>	North West Point Road, West Bay
<i>Zoning</i>	BRR
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.83 ac. (36,154.8 sq. ft.)
<i>Current use</i>	Vacant/under construction

BACKGROUND

June 23, 2021 (**CPA/13/21; item 2.13**) – application to modify site and create a pathway over ironshore was adjourned to enable the applicant to be invited before CPA to explain the need for the pathway

May 8, 2019 (**CPA/09/19; item 2.5**) –application to modify buildings and relocated was approved

April 13, 2016 (**CPA/09/16; Item 2.3**) – Planning Permission granted for a dive resort

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/09/16; item 2.3 be modified to allow one concrete pathway over the ironshore leading from the central staircase to the sea subject to the following conditions:

- 1) The applicant shall submit a revised site plan showing the removal of the portion of the concrete pathway alongside the seawall.
- 2) A walkover survey shall be conducted, as agreed by the DoE, prior to the commencement of works on-site to check whether there are any sea urchins within the proposed footprint of the works. If there are urchins present, a Section 20 Permit issued by the National Conservation Council is required to relocate these Part 1 protected species under the National Conservation Law.

- 3) All construction materials shall be stockpiled away from the water's edge to prevent run-off and debris from entering the marine environment.
- 4) There shall be no excavation, filling, modification or concreting of the shoreline outside of the parcel boundary.
- 5) Any works proposed seaward of the High Water Mark shall be the subject of a Coastal Works application.

All other conditions of CPA/09/16; item 2.3 remain applicable.

Reason for the decision:

- 1) The Authority considered the application and determined that planning permission would be modified as the application complies with the Development and Planning Regulations (2021 Revision).
- 2) The Authority is of the view that in order to minimize the impact on the ironshore, only one pathway is necessary to gain access to the sea and the portion of the proposed pathway from the side of the building along the seawall needs to be removed to assist in reducing the impact on the ironshore.

AGENCY COMMENTS

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

Department of Environment (NCC)

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

The application site is predominately man-modified and is not located adjacent to a Marine Protected Area. It is however located on a high energy coastline, which has very deep water close to shore with no fringing reef. As a result, the site offers little natural protection from wave action during inclement weather (both during storms and hurricanes) with damage to some structures along this coastline experienced on a relatively regular basis. These effects will be only exacerbated in future years by a changing climate resulting in increased incidents of higher intensity storms.

The DoE prefers that ironshore is left in its natural state and not altered. Besides forming an important habitat, ironshore represents a unique and visually appealing vista. The placement of large concrete platforms or pads along the shoreline removes much of these important aesthetic characteristics.

*On 04 May 2021, DoE representatives met with the applicant on-site to discuss the proposal. The Department understands that the intention of the concrete path is to gain water access and that the applicant is no longer pursuing a dock on the site for which they had previously been granted Coastal Works approval for in October 2016. The applicant confirmed that they intend to use a removable ladder at the terminal end of the proposed concrete pathway to gain water access and that **no excavation or smoothing of the ironshore outside of their property boundary** would be required to gain entry. The DoE*

advised the applicant during our meeting that any works seaward of the High Water Mark would require a Coastal Works Permit.

The DoE does not object to the walkway provided that the concrete pathway is confined to the ironshore areas identified in the applicant's site plan. However, the Department does query the feasibility and safety of the area proposed for water entry, particularly for guests equipped with dive gear, given the rock formations present in the proposed area for the ladder (see Figure 1 below). Should the applicant need to modify the coastline beyond its property boundary or install a ladder that extends into the sea, these works must be the subject of a Coastal Works Permit (section 21 of the National Conservation Law, 2013). Any works carried out seaward of the applicant's property boundary, without the necessary Coastal Works Permit, would be in breach of the National Conservation Law (2013).



Figure 1: DoE site visit photo from meeting with the applicant on 04 May 2021 showing the proposed location of the ladder at the terminal end of the proposed concrete pathway and the intended point of water entry.

We are encouraged to see that the applicant has also indicated on their plans their intention to carefully remove any sea urchins within the footprint of the works and relocate them outside of the footprint of the works. All sea urchins species are protected under Schedule 1 Part 1 of the National Conservation Law, 2013.

Should the Central Planning Authority be minded to grant planning permission for the proposal we recommend the inclusion of the following conditions.

- *A walkover survey shall be conducted, as agreed by the DoE, prior to the commencement of works on-site to check whether there are any sea urchins within*

the proposed footprint of the works. If there are urchins present, a Section 20 Permit issued by the National Conservation Council is required to relocate these Part 1 protected species under the National Conservation Law.

- *All construction materials shall be stockpiled away from the water's edge to prevent run-off and debris from entering the marine environment.*
- *There shall be no excavation, filling, modification or concreting of the shoreline outside of the parcel boundary.*
- *Any works proposed seaward of the High Water Mark shall be the subject of a Coastal Works application.*

Should the applicant wish to pursue works seaward of the High Water Mark, they should contact the Ministry of Sustainability and Climate Resiliency to obtain the relevant application forms.

PLANNING DEPARTMENT ANALYSIS

General

The application site is located in West Bay and served by North West Point Road from the east and bound to the west by the Caribbean Sea. Vacant land is sited to the north and south.

Zoning

The property is zoned Beach Bay Residential.

SUPPLEMENTARY ANALYSIS

No changes have been made to the plans as the applicant was invited to appear before the Authority.

At 2:00pm, Elizabeth Oliver, Gary Frost, Mariska Peel and Alex Mena-Hebbert appeared on behalf of the applicant. Summary notes are provided as follows:

- Mr. Mena-Hebbert explained that past experience has shown that using wood for a pathway doesn't work well as it gets destroyed and the material can end up on other properties and then there is the cost to re-build.
- He noted that they won't just pour concrete on the ironshore, they will fill the low areas with stone and put concrete on top of that. He noted that they are trying to minimize the impact on the ironshore.
- He explained that this is a dive resort and they need access to the water.
- The Authority asked what the width would be and Mr. Mena-Hebbert replied it would be 4' as 3' is too narrow and 5' is too much.
- The Authority asked why they needed two stair access points and Mr. Mena-Hebbert replied that there are multiple buildings so it is convenient to have two access points. He also noted that the existing seawall has a small slab portion which they will widen by 2'.

- The Authority asked if the stairs were already approved and Mr. Mena-Hebbert replied they were.
- The Authority asked if the ironshore would be removed by hand or machine and Mr. Mena-Hebbert replied it would be by hand preferably as they want to remove any sea urchins and barnacles.

2.0 APPLICATIONS

REGULAR AGENDA (Items 2.7 to 2.37)

2.7 RANSFORD ANDERSON (CS Design) Block 31A Parcel 44 (P21-0546) (\$4,000,000) (MW)

Application for 16 apartments with 4' wall (4'-8" – 5'-8" columns).

FACTS

<i>Location</i>	Will T Rd., Bodden Town
<i>Zoning</i>	Low Density Residential
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	1.04 ac. (45,302.4 sq. ft.)
<i>Parcel size required</i>	25,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	26,368 sq. ft.
<i>Total building site coverage</i>	29.1%
<i>Allowable units</i>	15
<i>Proposed units</i>	16
<i>Allowable bedrooms</i>	24
<i>Proposed bedrooms</i>	32
<i>Required parking</i>	24
<i>Proposed parking</i>	32

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

- 1) The applicant is required to submit revised plans showing:
 - a) compliance with maximum allowable apartment and bedroom densities;
 - b) compliance with all minimum required setbacks; and
 - c) the driveway access gates swinging inward to the site.
- 2) The applicant shall obtain comments from the Department of Environmental Health regarding the location of the garbage dumpster and the site plan must be revised if needed to address those comments.

AGENCY COMMENTS

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

Water Authority

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

Wastewater Treatment and Disposal

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

- The proposed development requires Aerobic Treatment Unit(s) with NSF/ANSI Standard 40 (or equivalent) certification that, when operated and maintained per manufacturer's guidelines, the system achieves effluent quality of 30 mg/L Biochemical Oxygen Demand and 30 mg/L Total Suspended Solids. The proposed system shall have a treatment capacity of at least 3,600 US gallons per day (gpd), based on the following calculations.***

BUILDING	UNITS/BLDG	GPD/UNIT	GPD/BLDG	GPD
<i>Building A</i>	<i>4 x 2-Bed Units</i>	<i>225gpd/2-Bed Unit</i>	<i>900gpd</i>	<i>900gpd</i>
<i>Building B</i>	<i>4 x 2-Bed Units</i>	<i>225gpd/2-Bed Unit</i>	<i>900gpd</i>	<i>900gpd</i>
<i>Building C</i>	<i>4 x 2-Bed Units</i>	<i>225gpd/2-Bed Unit</i>	<i>900gpd</i>	<i>900gpd</i>
<i>Building D</i>	<i>4 x 2-Bed Units</i>	<i>225gpd/2-Bed Unit</i>	<i>900gpd</i>	<i>900gpd</i>
TOTAL				3,600gpd

- Treated effluent from the ATU shall discharge to an effluent disposal well constructed by a licenced driller in strict accordance with the Authority's standards. Licenced drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.***
- To achieve gravity flow, treated effluent from the ATU must enter the disposal well at a minimum invert level of 5'0" above MSL. The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.***

Water Supply:

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

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

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

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

Stormwater Management

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

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

National Roads Authority

None received at this time.

Department of Environmental Health

None received at this time.

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 Department notes that the majority of the subject parcel is man-modified, as shown in figure 1 below. However, the western-most area of the site is wetland with some vegetation regrowth. Therefore it is recommended that mature vegetation should be retained where possible in accordance with the phasing scheme for the development and incorporated into the landscaping scheme. It is also recommended that the planting of native species is incorporated. Native species are best suited for the habitat conditions of the site, requiring less maintenance and making them a very cost-effective choice. In addition, most of the parcel and surrounding area to the west are low lying and therefore susceptible to storm water flooding. All stormwater drainage for the site should be dealt with within the site and should not impact surrounding parcels.



Figure 1: Aerial Imagery showing the subject parcel (LIS 2018).

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

Fire Department

Approved for Planning Permit Only (08 Jul 21)

APPLICANT'S LETTER

On behalf of our client, Ransford Anderson, we are requesting the following variances for the Proposed Townhouses on the above-mentioned property.

- *Number of units proposed = 16 (max. allowed is 15.6)*
- *Number of bedrooms proposed = 32 (max. allowed is 25)*
- *Encroachment of the 20-foot rear setback:*
 - *Building D- Encroaching by approximately 3'-3" (16'-9" from rear boundary*
 - *Sewage Treatment Plant- encroaching by approximately 11'-2" (8'-10" from the rear boundary)*

As per Development and Planning Regulations 2021, Sections 8 (13)(B)(ii) & (iii), we would like to note that the size and shape of the land (long, narrow and tapered at the end), limits the development's potential and therefore minimal encroachment of the rear setback

was necessary. We also note that overage in unit and bedroom densities are only less than 1% and 3%, respectively, with ample parking spaces provided to sustain the extra bedrooms. Therefore, we do not foresee the proposed development being materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare.

Given the above, we ask that you consider our request. Should you need further information, please do not hesitate to contact us.

PLANNING DEPARTMENT ANALYSIS

General

The application is for a (16) Unit Apartment Complex (4 Buildings) with 4' Wall with 4' - 8" – 5'-8" Columns with Setback, Unit & Bedroom Density Variances to be located on Will T Rd., Bodden Town.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Suitability

Regulation 9(8) states the following development is permitted in a Low Density Residential Zone.

- Detached & semi-detached houses.
- Duplexes
- In locations considered as suitable by the Authority guest houses and apartments.

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

- 31A62 :- Valley Villas (Appvd 03-19-2008 CPA/10/08; Item 2.32)
- 31A59:- Bougainvillea Homes (Appvd 10-23-02 CPA/25/02; Item 3.09)
- 31A61:- Proposed 8, 2 Bedroom Apartments (Appvd 10-25-06 CPA/33/06; Item 2.11)
- 31A65:- ATF Apartments (Appvd 7-6-11 CPA/14/11; Item 2.3)
- 37E199:- Duplex
- 37E200:- Duplex

2) Apartment Density

Regulations 9(8)(c) states “*the maximum number of apartments is 15 per acre with a maximum of 24 bedrooms.*” The proposed development is proposing a total of 16 units which is 1 unit over the maximum allowed 15 units.

3) Bedroom Density

Regulations 9(8)(c) states “*the maximum number of apartments is 15 per acre with a maximum of 24 bedrooms*”. The proposed development is proposing a total of 32 bedrooms which is a difference of 8 bedrooms more than the maximum allowable of 24 bedrooms.

4) Rear Setback

Regulation 9(8)(i) states “*the minimum front and rear setbacks are 20 feet*”. The proposed WWTP, Building D & Garbage Enclosure would be 8’-9 ½”, 15’-5” & 5’-4” from the rear property boundary a difference of 11’-2 ½”, 4’-7” & 14’-8”.

5) Gate design

The proposed entrance gate is setback 20’, which is typically supported by the Authority to allow for vehicle stacking. In this instance, the gates will swing outward thereby reducing the stacking area by half. The Authority should consider whether the gates should be redesigned to swing inward.

6) Wall column height

The applicant has proposed a 4’ fronting road fence with columns varying in height from 4’-8” to 5’-8”. The Authority should determine if the height is acceptable.

2.8 KEL THOMPSON (TAG Ltd) Block 9A Parcel 16 (P21-0625) (JP)

Application for a duplex, 24 townhouses, cabana and pool.

FACTS

<i>Location</i>	Adonis Drive, West Bay
<i>Zoning</i>	LDR
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	3.555 ac. (154,855.80 sq. ft.)
<i>Parcel size required</i>	35,000 sq. ft.
<i>Current use</i>	12 apartments
<i>Proposed building size</i>	36,116 sq. ft.
<i>Total building site coverage</i>	19.86%
<i>Allowable units</i>	53
<i>Proposed units</i>	38 (existing and proposed)
<i>Allowable bedrooms</i>	85
<i>Proposed bedrooms</i>	64 (existing and proposed)
<i>Required parking</i>	56
<i>Proposed parking</i>	63

BACKGROUND

July 25, 2007 (CPA/23/07; Item 2.12) – The Authority granted Planning Permission for 12 apartments

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

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

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

In addition to Building Permit requirements, 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 shall be submitted to the Department of Environmental Health. The applicant shall also submit to the Director

of Planning the requisite signed certificate certifying that if the pool is constructed in accordance with the submitted plans it will conform to public health requirements.

- 9) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 10) 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) 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 (12) shall be complied with before a final Certificate of Occupancy can be issued.

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

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

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

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

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

Reasons for the decision:

- 1) 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). This determination includes the specific assessment that per Regulation 9(8) of the Development and Planning Regulations (2021 Revision), the Authority is satisfied that the site location is suitable for apartments as follows:
 - There are no physical constraints on the site that would prevent the development of apartments.
 - There are several apartment developments in the surrounding area and the proposed apartments are consistent and compatible with the established building character of the area.
 - There is sufficient infrastructure at this site (e.g. public road, water line, electrical

service) and in the area (commercial retail, grocery stores, etc.) to support the residents of the proposed apartments.

- 2) The Authority notes that the applicant has designed the proposal such that the portion of the parcel that is in Vulgunners Pond has not been used for the purpose of calculating density, essentially forfeiting the development potential of that acreage of the parcel. Additionally, the design ensures all buildings are at least 50' from the edge of the pond. Given these design parameters, the Authority is of the view that to require a redesign of the proposal to require the driveway and parking to be setback 50' from the edge of the pond would cause an undue hardship to the applicant's proposal.

AGENCY COMMENTS

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

Water Authority

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

Wastewater Treatment and Disposal

The existing buildings are currently served by two JET treatment systems. Our records indicate that no maintenance has been carried out on these systems for some time. Prior to CO for the proposed Mizpah development the existing treatment plants must be serviced and be fully operational as per the manufacturers and WAC guidelines.

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

- *The proposed development requires Aerobic Treatment Unit(s) with NSF/ANSI Standard 40 (or equivalent) certification that, when operated and maintained per manufacturer's guidelines, the system achieves effluent quality of 30 mg/L Biochemical Oxygen Demand and 30 mg/L Total Suspended Solids. The proposed system shall have a treatment capacity of at least 5,580 US gallons per day (gpd), based on the following calculations.*

BUILDING	UNITS/BLDG	GPD/UNIT	GPD/BLDG	GPD
Duplex #1	2 x 2-Bed Units	225gpd/2-Bed Unit	450gpd	450gpd
Townhouse #1	4 x 2-Bed Units	225gpd/2-Bed Unit	900gpd	900gpd
Townhouse #2	4 x 2-Bed Units	225gpd/2-Bed Unit	900gpd	900gpd
Townhouse #3	4 x 2-Bed Units	225gpd/2-Bed Unit	900gpd	900gpd

Townhouse #4	4 x 2-Bed Units	225gpd/2-Bed Unit	900gpd	900gpd
Townhouse #5	4 x 2-Bed Units	225gpd/2-Bed Unit	900gpd	900gpd
Townhouse #6	4 x 2-Bed Units	225gpd/2-Bed Unit	900gpd	900gpd
TOTAL				5,850gpd

- *Treated effluent from the ATU 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 ATU must enter the disposal well at a minimum invert level of 4' 5" above MSL. The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.*

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

8. *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)*
9. *The Water Authorities updated 2020 effluent disposal well specifications.*
10. *A 30ft horizontal separation between the effluent disposal well and any stormwater drainage wells.*

Water Supply:

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

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

National Roads Authority

No comments received

Department of Environmental Health

No comments received

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 site is man-modified except for the part of the site within Vulgunner's Pond and approximately 120 feet of tidally flooded mangrove forest adjacent to the pond (Figure 1). Vulgunner's Pond is a natural pond. It has been impacted by development in the area, but is habitat for birds and waterfowl (Part 1 Schedule 1 species under the National Conservation Act).

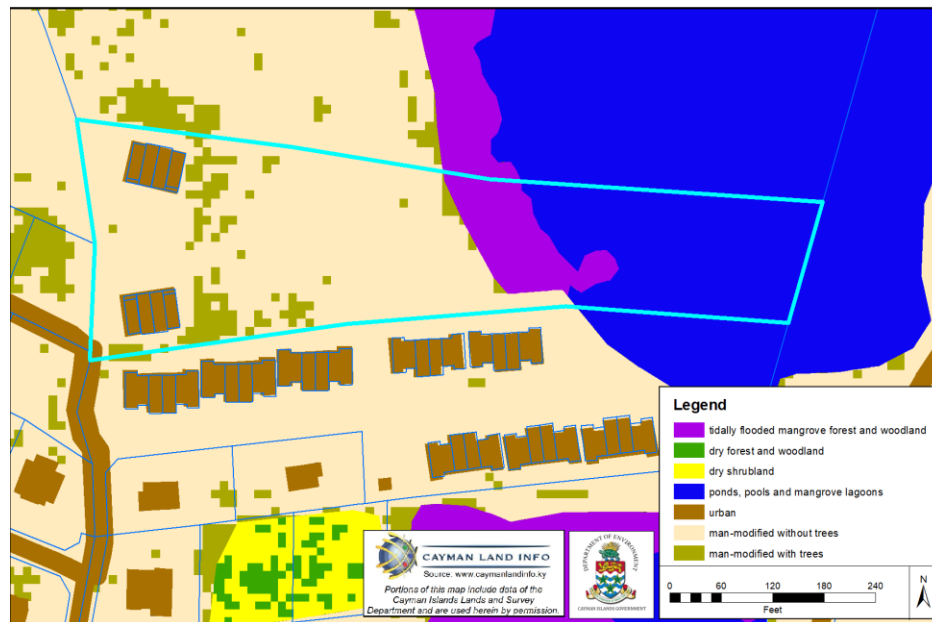


Figure 1. The purple band shows the area of mangroves and the blue shows Vulgunner's Pond.

When the development adjacent to the south was constructed, a 50 ft buffer of mangroves next to Vulgunner's Pond was retained (Figure 2).

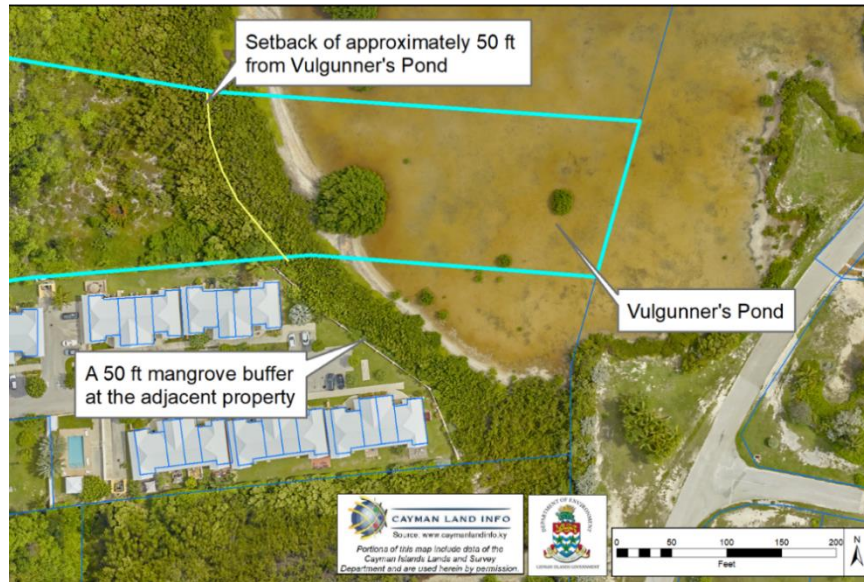


Figure 2. A 50 ft mangrove buffer was retained at the property to the south.

We recommend that this development also retains a 50 ft buffer of mangroves to separate it from Vulgunner's Pond. Figure 3 shows an excerpt of the planning application drawings and an approximately 50 ft buffer.

Retaining a 50 ft buffer of mangroves would help to prevent runoff from the development going into Vulgunner's Pond, which can affect water quality. It would also aid in protection against flooding. It would provide habitat along the water's edge for birds and other wildlife.

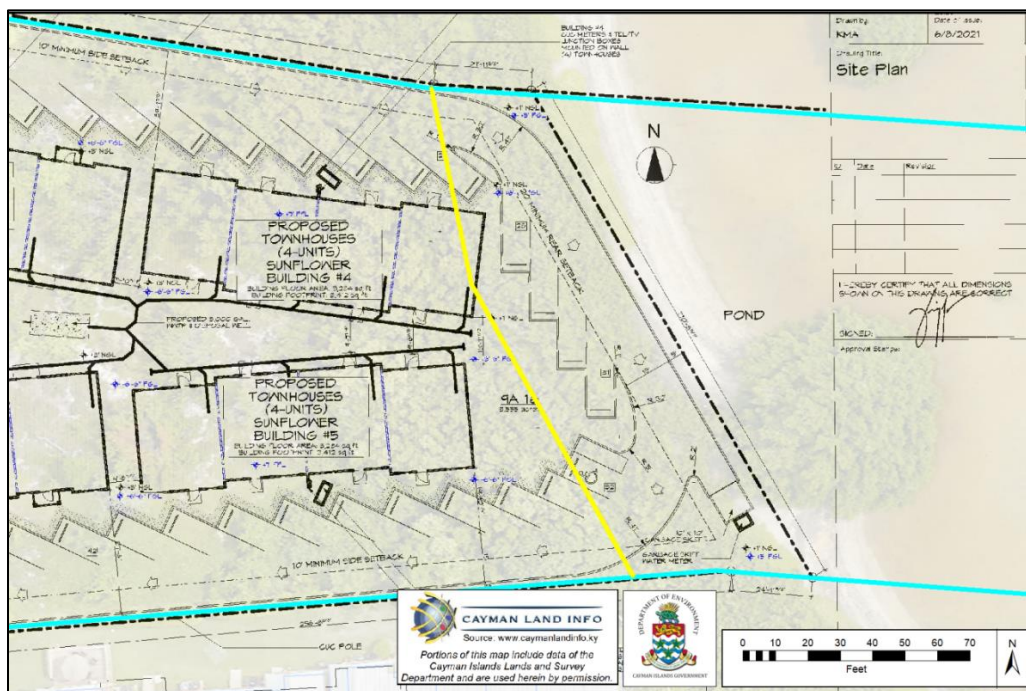


Figure 3. An excerpt of the planning application and an approximately 50 ft mangrove buffer (yellow).

Fire Department

Stamped approve plans.

PLANNING DEPARTMENT ANALYSIS

General

The application site is located in West Bay with Vulgunner's Pond forming the eastern boundary and vacant land to the north. An existing apartment development shares the southern boundary. To the west the adjacent parcel forms part of the Adonis Drive with the application site, beyond this existing dwellings are sited.

The application seeks Planning Permission for the construction of a duplex and 24 townhouses.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Suitability

Regulation 9(8) permits apartments in suitable locations.

Members are invited to consider the surrounding neighbourhood and determine whether townhouses/apartments are appropriate on the application site.

2) Parking (56 v 53)

The existing and proposed apartments total 36 units requiring 1.5 spaces and the proposed duplex attracts an additional 2 spaces. This provides a total parking demand of 56 spaces.

The submitted site plan details 53 parking spaces.

Members are invited to note parking spaces are currently provided in front of the existing 12 units. However, these spaces have since been omitted from the submitted plan. The reasons for this omission are unknown whether due to the proximity to the entrances or constrained driveway aisle.

If the two islands are reduced in size adequate parking and manoeuvring can be achieved.

2.9 DAVENPORT LTD (Davenport Ltd) Block 32C Parcel 78 (P21-0611) (\$712,000) (JP)

Application to add a second floor to 5 approved apartments.

FACTS

<i>Location</i>	Starapple Road, Savannah
<i>Zoning</i>	LDR
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.4137 ac. (18,020.80 sq. ft.)
<i>Parcel size required</i>	25,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	8,138.4 sq. ft.
<i>Total building site coverage</i>	26.33%
<i>Allowable units</i>	6
<i>Proposed units</i>	5
<i>Allowable bedrooms</i>	9
<i>Proposed bedrooms</i>	13
<i>Required parking</i>	10
<i>Proposed parking</i>	10

BACKGROUND

July 11, 2018 (**CPA/16/18; item 2.4**) – application for 5 apartments approved (P18-0444)

August 24, 2018 (**Administrative Approval**) – modification to add floor area to a single apartment (P18-0744)

Decision: It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss concerns regarding the proposed number of bedrooms.

AGENCY COMMENTS

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

Water Authority

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 **(2,500) US gallons** for the proposed townhouses.*

- *The septic tank shall be constructed in strict accordance with the Authority's standards. Each compartment shall have a manhole to allow for inspection and service. Manholes shall extend to or above grade and be fitted with covers that provide a water-tight seal and that can be opened and closed by one person with standard tools. Where septic tanks are located in traffic areas, specifications for a traffic-rated tank and covers are required.*
- ***Treated effluent from the septic tank shall discharge to an effluent disposal well constructed by a licenced driller in strict accordance with the Authority's standards.** Licenced drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.*
- ***To achieve gravity flow, treated effluent from the septic tank shall enter the disposal well at a minimum invert level of 5'2" above MSL.** The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.*

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

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

Water Supply

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

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

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

Department of Environmental Health

DEH has no objections to the proposed in principle.

Solid Waste Facility:

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

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

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

APPLICANT'S LETTER

Further to the application submitted in relation to the above referenced Project, we hereby request for a density variance which requires (24) bedrooms per acre per Planning Regulation 9 (8)(c) in a Low Density Residential Zone.

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

(1) Under Regulation 8 (13)(b)(i), the characteristics of the proposed development are consistent with the character of the surrounding area: The total area of the project site 0.4137 acres, which Planning Regulation 9 (8)(c) allows up to a maximum of (10) bedrooms. The project was originally approved with (7) Bedrooms, but now that a 2nd floor has been added in each dwelling unit, the total number is now (13) Bedrooms. While we have exceeded the number of bedrooms by (3) more, the number of dwelling units and the building footprint remain the same. In addition to this, there are other similar developments within the vicinity of the project site and around the island that have been allowed to exceed maximum bedroom density.

We look forward to the CPA board's favorable consideration to this request for variances. If you require additional information or further clarification, please don't hesitate to contact us at the numbers & e-mail below. Thank you and God bless.

PLANNING DEPARTMENT ANALYSIS

General

The application site occupies a corner lot with Starapple Road to the east, which serves the development site, and Shamrock Road to the west. The application seeks Planning Permission to add a second storey for a previously approved scheme.

The addition will add six bedrooms to the scheme whilst maintaining the number of previously approved apartments.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Bedroom density (13 vs 9)

Regulation 9(8)(c) permits a maximum of nine bedrooms in relation to the lot size of the development site.

The applications seeks Planning Permission to increase the number of bedrooms to 13.

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

2.10 INTERNATIONAL WAREHOUSE (Heritage Holdings) Block 19E Parcel 40 (P21-0446) (\$1.6M) (NP)

Application for proposed warehouses.

FACTS

<i>Location</i>	George Town
<i>Zoning</i>	Marine Commercial
<i>Parcel size</i>	5.5 acres.
<i>Parcel size required</i>	CPA Discretion
<i>Current use</i>	Vacant
<i>Proposed use</i>	Warehouses
<i>Buildings Footprint</i>	25,000 sq. ft.
<i>Buildings Area</i>	32,500 sq. ft.
<i>Site Coverage</i>	75.0%
<i>Parking Required</i>	33
<i>Parking Proposed</i>	53
<i>Notification Results</i>	No Objections

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

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

- 1) If not already shown on the site plan, the applicant shall submit a site plan that shows the location, dimensions and **size** of the wastewater treatment system (including the disposal system).
- 2) If not already shown on the site plan, the applicant shall submit a site plan showing tire stops for the parking spaces and the parking area curbed and surfaced with asphalt or concrete.
- 3) The applicant shall submit a Stormwater Management plan designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the

Central Planning Authority. **The applicant should liaise directly with the NRA in submitting the stormwater management plan.**

- 4) The applicant shall submit a landscape plan which shall be subject to review and approval by the Central Planning Authority. *It is suggested that the landscape plan be prepared following the recommendations of the Draft Cayman Islands Landscape Guidelines, found on the Planning Department's website (www.planning.ky) under Policy Development, Policy Drafts.*
- 5) The applicant shall submit a construction operations plan to the satisfaction of the Director of Planning indicating in sufficient detail how the development will be constructed without interfering with or obstructing adjacent roads, properties and fire lanes. At a minimum, the plan shall indicate the location of material storage, workers parking, site offices, portable toilets, construction fencing and where applicable, the stockpiling of material excavated from the site and material brought to the site for fill purposes.

In addition to Building Permit requirements, condition (6) listed below shall be met before a Building Permit can be issued.

- 6) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 7) 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.
- 8) 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 (9 and 10) shall be complied with before a final Certificate of Occupancy can be issued.

- 9) The portion of BP 588 from North Sound Road to the common boundary between 19E 40 and 41 shall be constructed with asphalt and the applicant shall liaise with the Managing Director, National Roads Authority (NRA), at predetermined stages of road construction to ensure compliance with the requisite standards. Failure to do so may render the project unacceptable. Please be advised that the road base shall be constructed to National Roads Authority (NRA) minimum design and construction specifications. The NRA shall inspect and certify road base construction prior to road surfacing activities.
- 10) The portion of the subject parcel on the sea side of BP 588 shall not be cleared or filled without submission and approval of a separate application for planning permission.
- 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.

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

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

construction stage.

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

Reasons for the decision:

- 1) 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). The Authority gave specific consideration to the provisions of the Marine Commercial zone and determined that warehousing has previously been accepted in the General Commercial and Neighbourhood Commercial zones and therefore is viewed as being acceptable in the Marine Commercial zone.
- 2) A condition of approval will be included requiring the construction of the access road (BP588).

AGENCY COMMENTS

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

Department of Environment (NCC)

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

The area of the site west of the under-construction Airport Connector Road is man-modified. The area of the site to the east of the road contains healthy mangroves. While we have no objection to the proposed warehouses east of the Airport Connector Road, the mangroves east of the road should not be cleared.

Department Of Environmental Health (DEH)

This application is recommended for approval.

1. *The applicant has satisfied the onsite solid waste requirements.*

National Roads Authority

Please be advised that Heritage Holdings Ltd (HHL) is currently negotiating with the Cayman Islands Government the final details for entering into a Public-Private Partnership (PPP) agreement to design and build road access to the above-noted subject parcel along the future Airport Connector Road (ACR).

The ACR was gazetted as Boundary Plan 588 and was published in the Cayman Islands

Gazette on December 7th 2016 (Extraordinary Gazette Issue 97 of 2016) pursuant to Section 3 of the Roads Law (2005 Revision). A Section 6 gazette notice (Power to Take Land) pursuant to the Roads Law for Boundary Plan 588 will be published in the very near future.

The PPP agreement between HHL and the Cayman Island Government is necessary because funding for this section of the ACR project has not been appropriated in the 2021 Fiscal Year. The PPP agreement will allow for an earlier start of construction for the ACR from North Sound Road for a distance of about 750 feet and as far as the shared boundary line between 19E40 and 19E41.

I trust that this memorandum is sufficient to alert the Planning Department and the Central Planning Authority of this on-going development between the developer and CIG to process the application once it has been submitted.

PLANNING DEPARTMENT ANALYSIS

General

The subject property is located in George Town, approximately 450 feet north of North Sound Road.

There is no existing road access to the parcel but an extension of David Foster Drive (Airport Connector Road) is contemplated in the near future (see NRA comments above).

The property is currently vacant.

Zoning

The property is zoned Marine Commercial.

Specific Issues

1) Proposed Use

Regulation 13(1)(c) states that Marine Commercial zones are zones in which the primary use is that permitted in a General Commercial zone but in which, in addition, commercial uses related to marine activities are permitted, including, but not limited to docks, marinas and boat moorings, handling and storing cargo, the maintenance, repair and fuelling of maritime vessels, boat chartering and watersports operations, and fishing and fish processing.

In this instance the proposed use is four separate but identical warehouse buildings. Typically warehouse developments similar to the one proposed are most appropriate in a Light Industrial or Heavy Industrial zone.

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

2) Timing of Planning Permission versus Road Construction

As noted earlier, the subject parcel has no road access and is presently landlocked. However, provision has been made to extend David Foster Drive north of North Sound Road and sufficient land has been devoted to this future use on the subject property.

The proposed site design has addressed the location of the proposed road however the

Authority should discuss whether any planning permission granted should be linked to the physical presence of the proposed roadway.

For instance a condition could state that a Building Permit would not be available until the construction of the proposed road has been completed.

2.11 KIM LUND (Trio Design) Block 20B Parcel 236 (P21-0261) (\$800,000) (BES)

Application for 10,800 sq ft, 3-storey warehouse storage addition.

FACTS

<i>Location</i>	MacLendon Drive and Owen Roberts Drive, George Town
<i>Zoning</i>	G.COM
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size Proposed</i>	0.80 ac (34,848 sq ft)
<i>Parcel Size Required</i>	20,000 sq. ft.
<i>Current Use</i>	Warehouse/commercial building
<i>Proposed Use</i>	Warehouse storage
<i>Building Size</i>	10,800 sq. ft.
<i>Building Coverage</i>	54.5%
<i>Proposed Parking</i>	18 spaces
<i>Required Parking</i>	26 space

BACKGROUND

In 1983, planning permission was granted for retail shop (Hampstead Ltd).

Decision: It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss concerns regarding the deficient number of parking spaces and the proposed off-site parking being located more than 500' from the proposed building.

AGENCY COMMENTS

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

Department of Environment/NCC

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

Fire Service

The CFO approved the site layout.

Chief Environmental Health Officer

The Department of Environmental Health (DEH) acknowledges receipt of your correspondence regarding the above subject.

Approval is granted under the Public Health (Garbage and Refuse) Regulation 2011 Revision, Clause 4 for the use of private garbage service at the above location for one (1) year in accordance with this law. The expiry date of this approval will be the 25th May 2022.

Please note that you will need to make a further request prior to the expiration for an extension of this arrangement.

National Roads Authority

As per your memo dated April 16th, 2021 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

Access and On-Site Circulation Issues

Please have applicant elaborate on the means of access to the rear of the subject site. Additionally, the rear of the property is currently used for parking as illustrated on the applicant's site location map (see below)



The NRA is concerned that the proposed addition will displace the current parking allocation. Additionally, when a container is being loaded or unloaded on the south loading bay of the existing building, the proposed parking will not be accessible. Sheet SP-2 clearly illustrates NRA's concern.

Road Capacity Issues

The traffic demand to be generated by the above proposed development of 3,600 sq. ft. has been assessed in accordance with ITE Code 150 - Warehousing. The anticipated traffic to be added onto Dorcy 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>
<i>13</i>	<i>1</i>	<i>1</i>	<i>0</i>	<i>1</i>	<i>0</i>	<i>1</i>

Based on these estimates, the impact of the proposed development onto Dorcy Drive 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.

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.

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 Dorcy 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%20Details.pdf>)

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

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

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

Water Authority

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

Existing Septic Tank

- The existing warehouse building is currently served by an existing (1,000) US gallon septic tank. The developer's agent has provided the Water Authority with confirmation of a completed septic tank service and an inspection report form. Prior to the BCU/CO stage the developer shall rectify the suggested repairs as per the inspection report, these include water tight covers and access to existing effluent well.

Wastewater Treatment & Disposal for The Proposed

- The developer shall provide septic tank with a capacity of at least (1,500) US gallons for the proposed warehouse.
- The septic tank shall be constructed in strict accordance with the Authority's standards.

Each compartment shall have a manhole to allow for inspection and service. Manholes shall extend to or above grade and be fitted with covers that provide a water-tight seal and that can be opened and closed by one person with standard tools. Where septic tanks are located in traffic areas, specifications for a traffic-rated tank and covers are required.

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

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

- 1. If the proposed septic tank will be site-built or precast. (You may use the Water Authority drawing for site-built tanks available from the Authorities website or a Precast septic tank drawing if you intend to use a Precast Tank).*
- 2. All dimensions and materials shall be provided for any site-built tanks.*
- 3. Manhole's 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.*

In the absence of detail on prospective retail tenants, the requirements set out are based on basic retail/office use; i.e., low-water use tenants. Any change-of-use to allow for a high-water use tenant; e.g., food service, or hairdresser, will require an upgrade of the wastewater treatment system. Required upgrades depend on the type of tenant and may include the installation of an in-the-ground grease interceptor and/or an increase in the capacity and/or type of treatment system installed. Given that after-the-fact upgrades can be disruptive and costly, the developer is advised to build in the flexibility for their range of desired tenants at this stage. Contact development.control@waterauthority.ky to discuss requirements to accommodate potential high-water use tenants.

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.

CIAA

Awaiting comments

APPLICANT'S LETTER

As the registered owner[s] of Block 20B Parcel 265 and 266,1 [we] do hereby give consent to the registered owner of Block 20B Parcel 236 to utilize [5] spaces on our Parcel as [Spillover] parking for the proposed Warehouse should the need arise.

PLANNING DEPARTMENT ANALYSIS

General

The application is for 10,800 sq ft 3-storeys warehouse storage addition to IDG building (commercial and warehouse storage mixed-use) the above-captioned property. The site is located adjoining Woods Furniture Building and opposite warehouses (20B263 and 259) on MacLendon Drive and Owen Roberts Drive, George Town.

Zoning

The property is zoned General Commercial.

Specific Issue

1) Parking Requirements

A total of 26 parking spaces are required for the existing and proposed development. The applicant is proposing 18 spaces on site and 5 spaces off-site. Per regulation 8(1)(a) of the Development and Planning Regulations, (2021 revision), *50% of parking spaces may be provided on land located not more than 500-feet from the respective building.* As noted in the applicant's letter, the 5 off-site parking spaces would be located on Block 20B Parcel 266, approximately 620 ft from the subject building which exceeds the aforementioned 500' limit.

The applicant has provided a copy of a signed lease for the off-site parking – see Appendix C

Should the Authority accept the off-site parking, there is still a shortfall of 3 parking spaces which the applicant has not addressed.

2.12 NEIL MORRIS (CS Design) Block 43E Parcel 319 (P20-0852) (\$550,000) (JP)

Application for duplex.

FACTS

<i>Location</i>	Promenade Road, Bodden Town
<i>Zoning</i>	LDR
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.2358 ac. (10,271.45 sq. ft.)
<i>Parcel size required</i>	12,500 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	4734 sq. ft.
<i>Total building site coverage</i>	28.09%
<i>Required parking</i>	2
<i>Proposed parking</i>	2

BACKGROUND

No Planning history

Decision: It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss concerns regarding the deficient lot size for a duplex.

APPLICANT'S LETTER

On behalf of our client, Mr. Eitel Morris, we are requesting for a lot size variance for the Proposed Duplex on the above-mentioned property.

The proposed lot is 10,271.448 sq.ft. - 18% less than the minimum allowed lot size for each duplex in a Low-Density Residential area (12,500 sq.ft.)

As per Development and Planning Regulations 2021, Sections 8 (13)(B) (iii), we do not foresee the proposed development being materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or to the public welfare. We also note that although the land is undersized for this type of development, the proposed structure sits within the required setbacks, with adequate spaces for parking, landscape and utilities.

PLANNING DEPARTMENT ANALYSIS

General

The application site is located in an undeveloped subdivision and accessed from the north. Vacant neighbouring lots surrounding the application site.

The application seeks Planning Permission for the construction of a duplex.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Lot size (10,271.45 sf v 12,500 sf)

Regulation 9(8)(e) requires a minimum lot size of 12,500 sq ft for duplexes.

The application site measures 10,271.45 sf and Planning Permission for a duplex is being sought.

Members are invited to consider the content of the variance letter as part of their determination regarding acceptability of the proposal.

2.13 PARAKLETOS (Eric Cronier) Block 31A Parcel 27 (P21-0543) (\$2,000) (NP)

Application for proposed change of use – residential to commercial.

FACTS

<i>Location</i>	Bodden Town
<i>Zoning</i>	Low Density Residential
<i>Notification result</i>	No Objections
<i>Parcel size</i>	2.419 acres.
<i>Parcel size required</i>	32,500 sq ft
<i>Current use</i>	Duplex under construction
<i>Proposed use</i>	Ground Floor Medical Clinic
<i>Buildings Footprint</i>	3,723 sq. ft.
<i>Buildings Area</i>	3,723 sq. ft.
<i>Site Coverage</i>	3.5%
<i>Parking Required</i>	13
<i>Parking Proposed</i>	13

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

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

- 1) The applicant shall submit a revised site plan showing the driveway and parking areas surfaced with asphaltic concrete or an equivalent material as approved by the Director of Planning.
- 2) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 3) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 4) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to the occupying the building(s)**.

Reason for the decision:

The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2021 Revision). The Authority gave specific consideration to Regulation 9(3) and determined that the location was suitable for the proposed commercial use and there were no objections to the application that raised grounds for refusing permission. The Authority was also of the view that a condition of approval needed to be included to require the parking and driveway areas to be surfaced with asphaltic concrete or equivalent with the latter option to be approved by the Director of Planning.

APPLICANT LETTER

The following letter had been submitted, but was not included in the Agenda. The Authority considered the letter before making a decision.

The above building comprises three floors, all with current planning permission for use as private residential accommodation.

This application seeks a change of use for the ground floor to be used as a health care facility. The other two floors remain unchanged as residential accommodation.

The licensed user is planned to be Pensum Regenerative Medicine [“PRM”] that already has a health care facility in George Town at the Belmont Building, 14 Belmont Drive, Crewe Road.

PRM holds a medical tourism licence and it is intended to make use of the larger premises in Newlands [a total of 55 acres] to create a high-end private location that will attract Medical Tourism, once completed and the borders open up.

The building is in a very peaceful setting. The area around the building will be landscaped, with ponds and footpaths around the property for those wishing to walk and take in the flora and fauna. The property includes woodland, fields and a lake with perimeter footpath set in a mangrove area populated by many birds.

This change of use is fully in line with declared public policy to expand medical tourism.

There will be no noise or other disturbance to neighbouring properties. The nearest property is about 400 ft. away.

Please do not hesitate to contact me if you have additional questions.

PLANNING DEPARTMENT ANALYSIS

General

The subject property is located in Bodden Town, just north and east of Kimberley Street.

The property has been granted planning permission for a three story duplex (P16-0651) and the owner now proposes to change the use of the ground floor only to a medical clinic.

The second and third floors would remain residential.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Proposed Use

Regulation 9(1) states that in a Residential Zone, the primary uses are residential and horticultural.

Regulation 9 (3) directs that commercial, hotel, tourism-related, agricultural, religious, social and educational development may be permitted in suitable locations and if the proposal has been advertised twice in a newspaper.

The applicant has notified landowners within 500 feet of the property boundaries and has placed advertisements in a local newspaper on two occasions.

There have been no objections filed to date but the Authority should determine if the proposed medical use on the ground floor is suitable for this neighbourhood.

2) Gravel parking area and driveway versus Paved parking area and driveway

The proposed site plan indicates that the proposed parking area and driveway are to remain gravel.

The Authority should determine whether a paved parking area and driveway is required in this instance and setting within a residential neighbourhood.

2.14 GREG SWART (OA & D) Block 23C Parcel 227 (P21-0574) (\$2,074,800) (NP)

Application for proposed house, guest house, pool house, two garages & pool

FACTS

<i>Location</i>	Prospect Point Road
<i>Zoning</i>	BRR
<i>Parcel size</i>	2.04 acres
<i>Parcel size required</i>	20,000 sq. ft.
<i>Current use</i>	House & Pool to be demolished
<i>Proposed building size</i>	6,892 sq. ft.
<i>Total building site coverage</i>	7.3%
<i>Parking required</i>	2
<i>Proposed parking</i>	3

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

In addition to Building Permit requirements, conditions (1-3) listed below shall be met before a Building Permit can be issued.

- 1) The applicant shall submit a revised site plan showing a minimum 12' wide public access to the sea along the southern property boundary in accordance with Regulation 15(6) of the Development and Planning Regulations (2021 Revision). The revised site plan must also show the two gates with minimum 16' front setbacks.
- 2) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 3) The construction drawings for the proposed swimming pool shall be submitted to the Department of Environmental Health. The applicant shall also submit to the Director of Planning the requisite signed certificate certifying that if the pool is constructed in accordance with the submitted plans it will conform to public health requirements.
- 4) 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.
- 5) 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.
- 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.

Additionally, once construction has started, conditions (7-9) shall be complied with before a final Certificate of Occupancy can be issued.

- 7) The public right-of-way required in condition 1) shall be registered.

- 8) The existing mangroves on site shall be retained in their natural state.
- 9) All construction materials shall be stockpiled a minimum of 75ft from the Mean High Water Mark.
- 10) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s)**.

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

Reasons for the decision:

The Authority considered the application and determined that planning permission would be granted as with the inclusion of a condition requiring 12' wide public access to the sea, the application complies with the Development and Planning Regulations (2021 Revision). The Authority also determined that the gates needed a minimum 16' setback to allow for vehicle stacking and that the existing mangroves needed to be retained.

AGENCY COMMENTS

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

Department of Environment (NCC)

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

The Department notes that the majority of the subject parcel is man-modified, previously cleared habitat however there is an area of mangroves as shown outlined in orange in figure 1 below. The site is adjacent to a Marine Protected Area – a Marine Reserve.

Mangroves provide a natural buffer which helps to intercept storm impacts to land, reduce surface water run-off impacts to the marine environment and provide ecosystem services such as habitat for birds and other organisms. Therefore it is recommended that the mangroves be retained on the site in accordance with the Species Conservation Plan for Mangroves (2020) under the National Conservation Act (2013). With guidance, mangroves can be trimmed to create views without causing severe injury to or killing mangroves. Should the applicant wish to trim the mangroves to give a view of the coastline, we recommend this is done in accordance with the Department of Environment's Mangrove Trimming Guidelines (doe.ky/sustainable-development/best-practices-guides/mangrove-trimming-guidance/).

In order to prevent impacts to the Marine Protected Area, 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 stipulates that the following condition be imposed by the CPA or Department of Planning, as part of any agreed proposed action for planning approval:

1) All construction materials shall be stockpiled a minimum of 75ft 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.

Additionally, any beach quality sand excavated during the works should remain on the beach and be spread across the shore above the high water mark. Should there be an excessive quantity of sand, any proposal to relocate the sand should be the subject of a separate consultation with the NCC.



Figure 1: Aerial Imagery showing the subject parcel with the existing mangroves outlined in orange (LIS 2018).

APPLICANT'S LETTER

On behalf of our client Mr. Greg Swart, we are requesting approval of his residence on this Block 23C Parcel 227 as designed without any Right of Way over to the sea. This request is made under Regulation 8(13)(b) of the Development and Planning Regulations (2021 Revision).

In our opinion no Right of Way is required at this time in this area. Currently the road frontage serving this beach area is about 895 feet long and it has 4 (four) existing Right of Ways. We refer to the attached map detailing existing public access in immediate proximity to the property and would note the following:

- 1. A 12ft right of way already exists on the north boundary of the property located on the shared boundary with Block 23C80REM1*
- 2. A 50 ft wide public park and beach access at Prospect Fort is about 173 yards from the*

south boundary of the property. Three private residential homes are located between the property and Prospect Fort.

3. The property is located in a quiet residential community with limited beach sand and a very shallow shoreline with large areas of protected eel grass and mangrove.

In our Opinion additional public access points are unnecessary to provide reasonable public access to this sensitive area.

We look forward to your kind consideration

PLANNING DEPARTMENT ANALYSIS

General

The subject property is located on Prospect Point Road.

The property contains a dwelling and pool. Both structures are proposed to be demolished.

Zoning

The property is zoned Beach Resort Residential.

Specific Issues

1) Right-of-way to the Sea

Regulation 15(6) of the Beach Resort Residential zone states the following:

“Where planning permission is granted for a development in a Beach Resort Residential Zone which has a frontage of 200 feet or more, the Authority shall ensure that a public right of way from the road to the sea is set aside and dedicated; such right of way shall be a minimum of six feet wide for every two hundred feet of frontage or part thereof, and may be within an area set aside for setbacks.”

In this instance, the subject parcel has 207.5 feet of frontage on Prospect Point Road and would require a minimum 12 foot wide right of way to the sea.

The applicant is proposing to not provide a right of way to the sea due to the fact that there are other sea access points in the area (see letter from applicant).

Regulation 8(13)(b)(iii) permits the Authority to grant a variance if “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.”

2) Setback of gates

The applicant is proposing two gates at the entry/exits with 12’ setback. The Authority would typically require a setback of 16’ to 20’ to allow for vehicle stacking.

2.15 DUANE W. EBANKS (Dubadah Boldeau) Block 1D Parcel 522 (P21-0498) (\$430,200) (MW)

Application for 3 apartments with 4' wall.

FACTS

<i>Location</i>	Off Miss Daisy Ln., West Bay
<i>Zoning</i>	High Density Residential
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	0.37ac. (16,117.2 sq. ft.)
<i>Parcel size required</i>	5,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	2,151 sq. ft.
<i>Total building site coverage</i>	13.35 %
<i>Allowable units</i>	9
<i>Proposed units</i>	3
<i>Allowable bedrooms</i>	15
<i>Proposed bedrooms</i>	4
<i>Required parking</i>	5
<i>Proposed parking</i>	7

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

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

- 1) If not already shown on the site plan, the applicant shall submit a site plan that shows the location, dimensions and **size** of the wastewater treatment system (including the disposal system).
- 2) If not already shown on the site plan, the applicant shall submit a site plan showing tire stops for the parking spaces and the parking area curbed and surfaced with asphalt or concrete.
- 3) The applicant shall submit a Stormwater Management plan designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority. **The applicant should liaise directly with the NRA in submitting the stormwater management plan.**
- 4) The applicant shall submit a landscape plan which shall be subject to review and approval by the Central Planning Authority. *It is suggested that the landscape plan be prepared following the recommendations of the Draft Cayman Islands Landscape*

Guidelines, found on the Planning Department's website (www.planning.ky) under Policy Development, Policy Drafts.

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

In addition to Building Permit requirements, condition (6) listed below shall be met before a Building Permit can be issued.

- 6) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 7) 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.
- 8) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 9) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s)**.

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

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

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

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

Reasons for the decision:

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). This determination includes the specific assessment that per Regulation

9(6) of the Development and Planning Regulations (2021 Revision), the Authority is satisfied that the site location is suitable for apartments as follows:

- There are no physical constraints on the site that would prevent the development of apartments.
- There are several apartment developments in the surrounding area and the proposed apartments are consistent and compatible with the established building character of the area.
- There is sufficient infrastructure at this site (e.g. public road, water line, electrical service) and in the area (commercial retail, grocery stores, etc.) to support the residents of the proposed apartments.

AGENCY COMMENTS

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

Water Authority

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

Wastewater Treatment & Disposal

- *The developer shall provide a **septic tank(s)** with a capacity of at least **(1,000) US gallons** for the proposed, based on the following calculations.*

BUILDING	UNITS/BLDG	GPD/UNIT	GPD/BLDG	GPD
Apartment	2 x 1-Bed Units	150gpd/1-Bed Unit	525gpd	525gpd
Building	1 x 2-Bed Unit	225gpd/2-Bed Unit		
TOTAL				525gpd

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

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

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

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

Water Supply

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*](mailto:development.control@waterauthority.ky)

National Roads Authority

None received at this time.

Department of Environmental Health

Solid Waste Facility:

- 1. This development will require (3) 33 gallon bin with 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 over the enclosure.*

Table 1: Minimum Enclosure Dimensions

Number of Containers	Minimum Dimensions (feet)		
	Width	Length	Height
3	2.50	7.00	2.50

Department of Environment (NCC)

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

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

Fire Department

Approved for Planning Permit Only 03 Jun 21

PLANNING DEPARTMENT ANALYSIS

General

The application is for a 3 Unit Apartment Building with 4' high concrete fence to be located off Miss Daisy Ln., West Bay.

Zoning

The property is zoned High Density Residential.

Specific Issues

1) Suitability

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

- Detached & semi-detached houses.
- Duplexes
- In locations considered as suitable by the Authority guest houses and apartments.

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

- 1D 506:- Proposed Two Bedroom Addition to House to Create Duplex (Approved 03-27-1999) (CPA/07/99; Item 6.08)

- 1D 528:- Duplex
- 1D 599:- 6 Unit Apartment Complex
- 1D 515:- Medlock Villas

2.16 ST HOLDINGS LTD. (Abernethy & Associates) Block 68A Parcel 2 (P21-0520) (\$56,733) (NP)

Application for proposed 66 lot subdivision, 1 lpp, and one road parcel.

FACTS

<i>Location</i>	East End
<i>Zoning</i>	LDR
<i>Parcel size</i>	20 acres.
<i>Parcel size required</i>	10,000 sq. ft.
<i>Parcel width required</i>	80 feet.
<i>Current use</i>	Vacant
<i>Notification Results</i>	No objectors

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

- 1) Prior to the commencement of any site works such as road construction (with the exception of minor land clearing needed to establish site levels for the preparation of a stormwater management plan), the applicant shall submit:
 - a) Within 60 days of the date of this decision, a revised plan showing the subdivision road with connections to 68A 1 and 104 to the satisfaction of the Director of Planning.
 - b) Specifications of any proposed underground utilities; including location, type of utilities, and trench dimensions.
 - c) A stormwater management plan prepared in accordance with the requirements of the Managing Director, NRA and approved by the Central Planning Authority. The plan shall be designed to embrace storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and should include, but not be limited to, the location of all drainage facilities and general grading details of the parcels (roads included). In general, the entire site shall be graded in such a manner that stormwater runoff is no more than that which occurred during predevelopment conditions along private boundaries with any excess runoff directed to one central drainage facility or a series of facilities. ***The plan shall include proposed lot grading in order to facilitate the implementation of***

condition 2) b) below. Additionally, if the plan includes drainage swales then cross-sections of the swales must be provided.

- 2) Prior to the subdivision plan being finalized, the following conditions shall be satisfied:
 - a) All underground utilities shall be inspected and approved by the relevant agencies prior to the utilities being buried.
 - b) The approved stormwater management system shall be installed on site.
 - c) The final subdivision plan shall indicate a vehicular easement over the subdivision access road in favour of each lot. The final plan must be accompanied with the requisite grant of easement forms detailing the easements to be registered.
 - d) The access road (s) abutting the proposed lots shall have a minimum of a 30' wide demarcated road parcel and shall be constructed with asphalt and approved by the Central Planning Authority prior to the lots being registered. The applicant shall liaise with the Managing Director, National Roads Authority (NRA), at predetermined stages of road construction to ensure compliance with the requisite standards. Failure to do so may render the project unacceptable. Please be advised that the road base shall be constructed to National Roads Authority (NRA) minimum design and construction specifications for subdivision roads. The NRA shall inspect and certify road base construction prior to road surfacing activities.
 - e) The applicant shall provide water infrastructure for the entire sub-division. The developer shall submit plans for the water supply system for approval by the Water Authority. The water supply system shall be installed to the Authority's specifications, under the Authority's supervision. Copies of these specifications are available at the Water Authority's office on Red Gate Road.
 - f) The applicant shall request to have the sub-division connected to the Water Authority's public water system. This request will be acted upon after the pipelines on the sub-division have been installed in accordance with the WAC specifications and have passed all specified tests.
 - g) With the exception of clearing for survey work and clearing and filling for road construction, the lot shall not be cleared or filled until applications to develop the lots have been approved through separate applications for planning permission.
 - h) The surveyor's final drawing **shall include the surveyed dimensions of all lots** and shall be submitted to the Director of Planning for approval prior to the survey being registered.

Reasons for the decision:

- 1) With the exception of the width of several proposed lots, which is addressed below, the application complies with the Development and Planning Regulations (2021 Revision).
- 2) There are several lots that do not meet the minimum required lot width per Regulation 9(8)(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 widths as follows:

- a) The lots in question are generally corner lots where the lot width at the road is less than the required minimum, but widens throughout the depth of the lots to meet or exceed the required minimum. The Authority views these technical variances as being typical for most subdivisions where there are corner lots and considers this design acceptable to make the most efficient use of the land.
- b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare.
- 3) As the property elevation is generally well over 5' above sea level, a condition requiring the clearing and filling of the lots will not be included. Conversely, a condition will be included to restrict clearing to that needed for survey work and road construction.
- 4) The Authority is of the view that good planning requires the provision of future road connections to the lands to the east and west and a condition of approval will be included to address this issue.

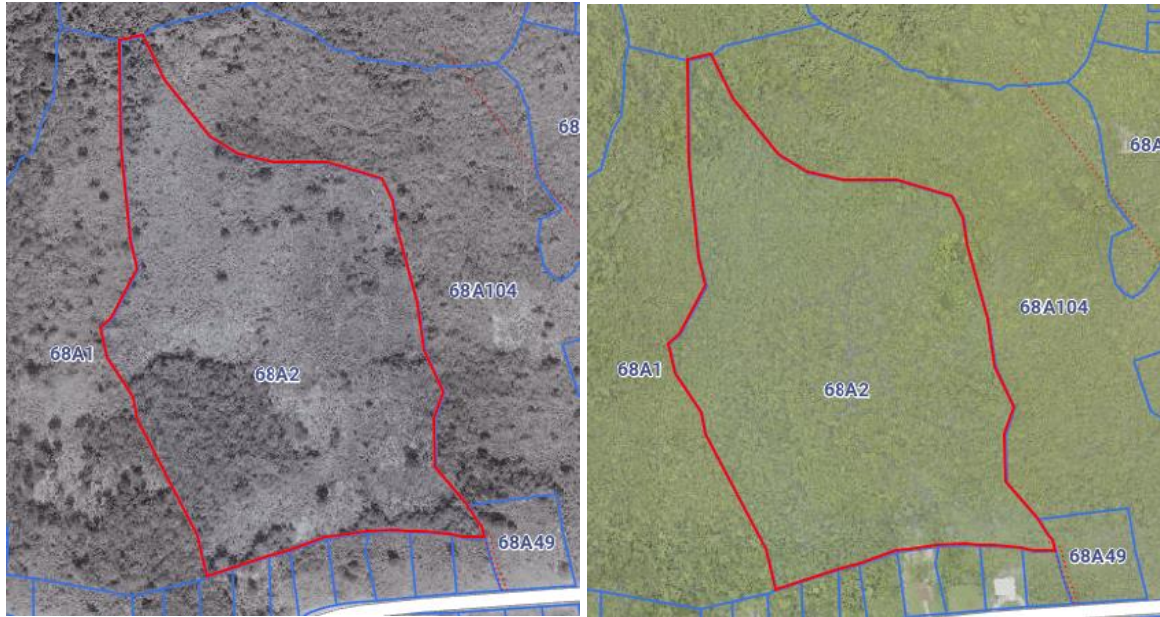
AGENCY COMMENTS

Comments from the Department of Environment (NCC), Water Authority Cayman and Cayman Islands Fire Department are noted below.

Department of Environment (NCC)

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

From a review of the historical aerial images of this site, it appears that in 1958 the land may have been partially used/cleared for agricultural purposes. There is an area along the western boundary which has been undisturbed and is primary habitat consisting of dry forest and shrubland (see Figure 1a and 1b). As you can see from Figure 1b, the site has re-vegetated over the years and currently consists of ecological valuable secondary growth, with areas of primary dry forest and shrubland habitat. The application site is immediately to the south of a Crown-owned parcel (67A19) that is of environmental significance. The Crown parcel has been identified as worthy of protection and is proposed as a protected area. The application site also has a natural elevated ridge, as shown in Figure 2.



Figures 1a & b: Showing application site outlined in red in 1958 (Left-Figure 1a) and in 2018 (Right-Figure 1b)

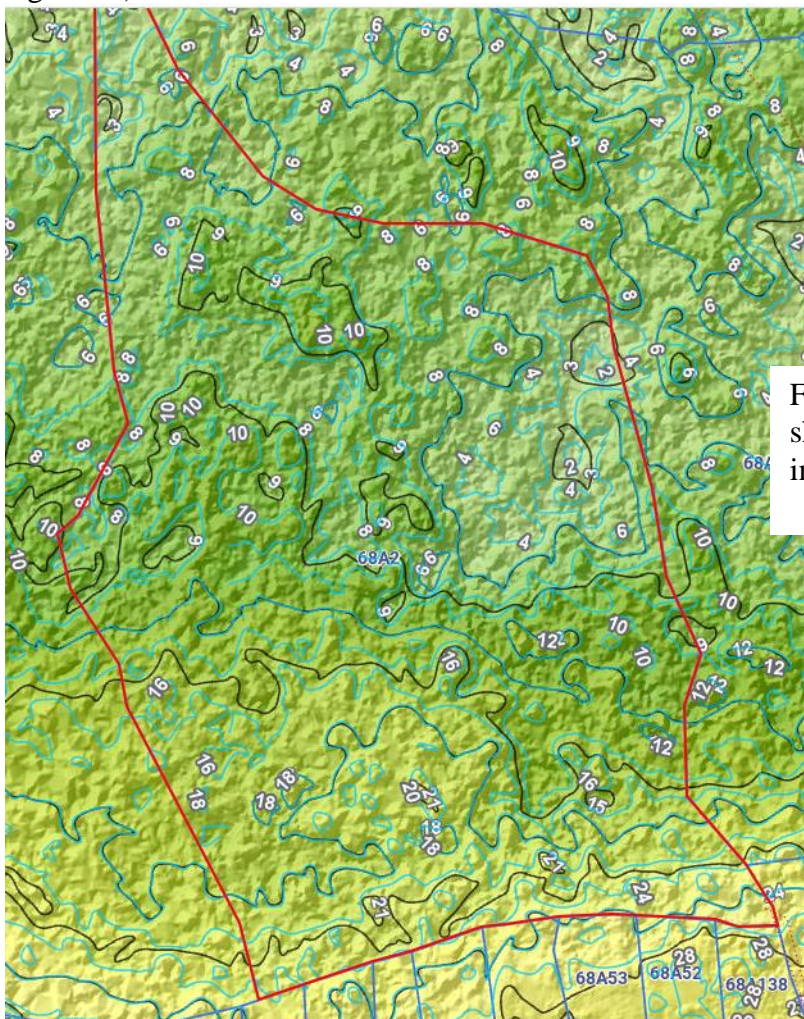


Figure 2: LIS Terrain Model showing site elevations including the natural ridge

The Department questions the need for more residential subdivisions without an updated Development Plan. The current Development Plan is outdated and does not reflect accurately how the island should be developed moving forward taking into consideration the population size, projected population growth, the environment and climate change. Thus without an updated development plan for the islands there is no vision on how the island should progress in terms of development. This can result in unnecessary fragmentation of ecological valuable habitats and loss of valuable limited resources (such as land and associated ecosystem services). It is recommended that prior to approval of this subdivision, the supply and demand of residential lots should be determined as there has been other large scale subdivisions that have been recently granted approval and remain undeveloped. This often results in adverse effects on the environment now if the land is cleared, with homes not being constructed for years (sometimes decades).

In conclusion the DoE wishes to express its concern regarding the subdividing and consequentially the fragmentation of ecological valuable habitat without the demonstrated need for further subdivision lots and therefore does not support this subdivision.

*Should the Central Planning Authority grant permission for the proposed subdivision, the DoE would **not** support the clearing of the resulting parcels. The parcels should be left in their natural state to allow this habitat to provide its ecosystem services. The following conditions should also be a part of any planning approval:*

- The resulting subdivided lots should not be cleared until development is imminent and there has been a development planning application (including but not limited to land clearing) and is the subject of a separate consultation with the National Conservation Council.*
- Lot 68 which has been designated as LPP should be remain it is natural state to act as a natural vegetated buffer between the subdivision and the Crown Own Parcel which has significant ecological value and is considered for protection.*
- The natural ridge on the southern portion of the parcel should not be excavated for fill but retained as part of the natural landscape of the site as it can offer some protection against climate change impacts such as storm surge inundation.*

Water Authority Cayman (WAC)

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

Water Supply:

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

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

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

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

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

Wastewater Treatment:

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

Fire Department

At this time the Fire Department has no comments and no objection to the proposed and will save comments for future development. As per standard fire prevention code 1994 6031.3.1 and 603.1.3.2 , where public water supply is inadequate or not available, an approved water source shall be provided.

Fire hydrant in no case shall distance exceed 1000ft.

PLANNING DEPARTMENT ANALYSIS

General

The subject property is located in East End, north of Sea View Road and is accessed via a minimum 30 foot wide right-of-way from Sea View Road.

The property is currently vacant and the NCC has noted that the parcel was partially cleared in the 1950's and used for agricultural purposes

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Lot widths

Regulation 9(8)(g) requires a minimum lot width of 80 feet in the Low Density Residential zone. Proposed lots 7, 8, 9, 15, 26, 27 & 35 have a width less than 80 feet and should be discussed by the Authority.

2) Road connections

The subdivision design lacks any future road connections to adjoining parcels which is typically sought by the Authority.

2.17 TRISTAN MCLEAN (Cayman Survey Associates Ltd.) Block 58A Parcel 107 (P21-0523) (BES)

Application for a 10 lot subdivision.

FACTS

<i>Location</i>	off Frank Sound Road
<i>Zoning</i>	A/R
<i>Notification result</i>	No Objectors
<i>Parcel Size proposed</i>	.92 ac to 4.07 ac
<i>Parcel Size required</i>	.50 ac
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	Subdivision (10-lots)
<i>LPP Lot Size required</i>	0.91 acre (39,639.6 sq ft)
<i>LPP Lot Size proposed</i>	0.92 acre (40,075.2 sq ft)

BACKGROUND

February 24, 2020 - a dwelling house was granted administrative approval on lot “C”.

September 28, 2020 – a Building Permit for dwelling house was issued.

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

- 1) Prior to the commencement of any site works such as filling, grading and road construction (with the exception of minor land clearing needed to establish site levels for the preparation of a stormwater management plan), the applicant shall submit:
 - a) Specifications of any proposed underground utilities; including location, type of utilities, and trench dimensions.
 - b) A stormwater management plan prepared in accordance with the requirements of the Managing Director, NRA and approved by the Central Planning Authority. The plan shall be designed to embrace storm water runoff produced from a rainfall

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

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

on the sub-division have been installed in accordance with the WAC specifications and have passed all specified tests.

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

Reasons for the decision:

The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2021 Revision). The Authority also determined that as the property is 3' above sea level or less that a condition of approval needs to be included to require the lots to be filled in order that the subdivision is viable upon being finalized (i.e. lots are registered and available for transfer).

AGENCY COMMENTS

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

Department of Environment (NCC)

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

The subject parcel consists of a mixture of primary seasonally flooded mangrove forest and man-modified area. Mangrove forests are a critical part of our natural environment, providing several ecosystem services which include assisting to mitigate the effects of climate change.

As one of the most productive terrestrial ecosystems, mangrove wetlands are extremely biodiverse and provide habitat and food for an immense variety of species. They also function as natural sponges that trap and slowly release surface water. Inland wetlands in urban areas are particularly valuable, counteracting the greatly increased rate and volume of surface-water runoff from areas of hardstanding and buildings. Trees, root mats and other wetland vegetation also slow the speed and distribution of storm waters. This combined water storage and braking action lowers flood heights and reduces erosion. In addition, inland wetlands improve water quality by filtering, diluting, and degrading toxic wastes, nutrients, sediments, and other pollutants.

Another important function of mangrove wetlands is that they are extremely effective at sequestering carbon from the atmosphere and serve as carbon sinks. The large scale removal of significant tracts of mangrove habitat reduces the island's natural carbon sequestration potential and the removal of mature vegetation and de-mucking of the site has the potential to release captured carbon back into the atmosphere.

It is unclear from the submissions whether the proposed resulting subdivided parcels are intended to be used for agriculture or for residential as there has been no justification

provided by the applicant. However, we would question the validity of the use of land for agriculture due to the presence of wetland habitat, rather than soil cover. Additionally, without an updated development plan which considers practical targets for population growth the DoE wishes to express its concern regarding the subdividing and consequentially the fragmentation of primary habitat without the demonstrated need for further subdivision lots.

Should the Central Planning Authority grant permission for the proposed subdivision, the DoE would not support the clearing of the resulting parcels. The parcels should be left in their natural state to allow this primary habitat to provide its ecosystem services. As the resulting parcels will contain primary habitat, any future clearing, filling, excavating or development of the resulting subdivided parcels should be the subject of a separate consultation with the National Conservation Council. Please note that there is a formally adopted Mangrove Species Conservation Plan and mangroves are protected under Section 33 (2) of the National Conservation Act which states "...a person who, not being authorized or permitted under this law – takes or permits any other person to take a specimen of a protected species...commits an offence". No clearing should take place until planning permission for land clearing, site works or development has been granted and those works are imminent.

National Roads Authority

No agency comments submitted

Water Authority

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

Water Supply:

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

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

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

Stormwater Management

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

Wastewater Treatment:

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

PLANNING DEPARTMENT ANALYSIS

General

The applicant is requesting planning permission to subdivide the above captioned property into eight (8) lots, one (1) LPP lot and one (1) road lot located off Frank Sound Road.

The resultant acreage of the lots after the subdivision would range from 40,075 sq ft to 177,289.2 sq ft. Access to the site is via a 30-ft right of way.

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 Issues

1) Land filling/clearing

As noted on the available mapping data, the site is currently about 3' above sea level. In order to ensure the lots are developable, the Authority would typically impose a condition of approval requiring the lots to be filled such that there is a reasonable building envelope filled to 4' sea level with the remaining portions of the lots filled and graded to assist with storm water management. This condition would be contrary to the recommendations of the DOE that the lots not be cleared and filled until they are developed.

Further, the DOE is suggesting that any clearing of the newly created subdivision lots be subject to separate applications for clearing which is contrary to the accepted practice that should one obtain planning permission to build on one of the subdivision lots that an inherent element of that approval is to clear the lots in order to construct the approved buildings.

2) Drainage Wells with the Water Lens

As noted in WAC comments, the property is located over the North Side fresh water lens or within the 500 meters buffer zone of the lens. The Water Authority has asked that stormwater drainage wells are drilled to a maximum depth of 80-ft to protect the fresh water lens. This matter will have to be addressed through the review of development applications for each lot.

2.18 SCS INVESTMENTS LDC (DDL Studio Ltd.) Block 12D Parcel 109 (P21-0246) (\$525,000) (BES)

Application to add 3 apartments to an existing apartment building.

FACTS

<i>Location</i>	Palm Height Drive, Snug Harbour Subdivision
<i>Zoning</i>	LDR
<i>Notification result</i>	No Objectors
<i>Parcel Size proposed</i>	0.6302 ac. (27,451.5 sq. ft.)
<i>Parcel Size required</i>	25,000 sq. ft.
<i>Current Use</i>	Apartments
<i>Proposed Use</i>	3-apartments
<i>Proposed building Size</i>	2,540.10 sq. ft.
<i>Building footprint</i>	7,087 sq ft
<i>Total building site coverage</i>	25.8%
<i>Allowable units</i>	9
<i>Proposed units</i>	10 (3 + 7 existing)
<i>Allowable bedrooms</i>	15
<i>Proposed bedrooms</i>	17 (4+ 13 existing)
<i>Required Parking</i>	17
<i>Proposed Parking</i>	16

BACKGROUND

April 29, 2015 (CPA09/15; item 2.8) –CPA granted planning permission for 2-lots subdivision.

Decision: It was resolved to adjourn the application and invite the applicant to appear before the Authority to provide a detailed explanation of the proposal and to explain the reason for the deficient setback for the pool pump enclosure.

AGENCY COMMENTS

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

Department of Environment (NCC)

Under delegated authority from the National Conservation Council (section 3 (13) of the

National Conservation Law, 2013), the Department of Environment (DoE) offers the following comments for your consideration.

The site is man-modified and of low ecological value. Any stockpiled materials should be kept away from the canal edge to reduce the possibility of rainwater runoff washing material into the canal.

National Roads Authority

As per your memo dated April 22nd 2021 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

Encroachment

Please note that the landscaping aligning this property is slightly encroaching onto Palm Heights Drive, please see graphic below. The NRA requests that that the applicant remove this landscaping so as to help reinstate the shoulder.



Road Capacity Issues

The impact of the proposed development onto Palm Heights 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 Palm Heights Drive, within the property boundary, to NRA standards. Please have applicant comply.

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 Palm Heights 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%20Detail.s.pdf>)*

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

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

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

Department of Environmental Health

1. The applicant has met the requirements of DEH.

Water Authority

The developer is advised that the estimated wastewater flows from the proposed development, when added to those of the existing development on this parcel, exceeds the maximum 1,800 US gallons per day (gpd), limit for treatment by septic tank(s). Therefore, approval for the proposed development requires that all wastewater generated on the parcel; i.e., from both proposed and existing structures, shall be treated in an onsite aerobic wastewater treatment system(s). The Water Authority's requirements for the proposed development are as follows:

Wastewater Treatment and Disposal

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

- The proposed development requires Aerobic Treatment Unit(s) with NSF/ANSI Standard 40 (or equivalent) certification that, when operated and maintained per manufacturer's guidelines, the system achieves effluent quality of 30 mg/L Biochemical Oxygen Demand and 30 mg/L Total Suspended Solids. The proposed system shall have a treatment capacity of at least 2,400 US gallons per day (gpd), based on the following calculations.*

BUILDING	UNITS/BLDG	GPD/UNIT	GPD/BLDG	GPD
Proposed Storage Unit Renovation	2 x 1-Bed Units	225gpd/2-Bed Unit	450gpd	450gpd
Proposed H1 Renovation	1 x 4-Bed Unit	375gpd/4-Bed Unit	375gpd	375gpd
H2	3-Bed Unit	300gpd/2-Bed Unit	300gpd	300gpd
H3	2-Bed Unit	225gpd/2-Bed Unit	225gpd	225gpd
H4	2-Bed Unit	225gpd/2-Bed Unit	225gpd	225gpd
H5	2-Bed Unit	225gpd/2-Bed Unit	225gpd	225gpd
H6	2-Bed Unit	225gpd/2-Bed Unit	225gpd	225gpd
H7	2-Bed Unit	225gpd/2-Bed Unit	225gpd	225gpd
H8	1-Bed Unit	150gpd/1-Bed Unit	150gpd	150gpd
TOTAL				2,400gpd

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

at a minimum invert level of 4'5" above MSL or 5'8" if installed less than 100ft from the sea. The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.

Existing septic tank:

The Existing septic tank(s) shall be either incorporated into an upgraded aerobic treatment system or decommissioned as per the Water Authority's Best management practices:

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

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.

Fire Service

The CFO approved the site layout

APPLICANT'S LETTER

We write on behalf of our client, SCS investments LDC, requesting the following density variance for an additional apartment unit with two bedrooms beyond the current planning development guidelines for this parcel, located in a low-density residential development zone.

The owner has consulted all the owners in the strata, who all unanimously support the proposal.

The proposed development consists of modifying Unit H1 and adding two one-bedroom units by modifying the area of the existing storage unit, modifying the number of units and bedrooms in the building from 8 units and 14 bedrooms to 10 units and 17 bedrooms. The current permitted number is 9.45 units and 15.12 bedrooms for this parcel of 0.6302 acres.

The proposed project will include the parallel parking spaces in the front to comply with the required parking allocation, 15 spots for the whole development to meet the planning guidelines.

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

- *The project will represent a minimal change to the site coverage area as Unit H1 and the storage unit footprints are to be incorporated into the project.*
- *The owners within a radius of 250ft have been notified, and the proposed change in*

density will not be materially detrimental to persons residing or working in the vicinity of the property and the neighborhood; nor to the public welfare, in accordance with Section 8 (13) (b) (iii) in the planning law.

- *With the exception of the number of units and bedrooms, the application complies with the Development and Planning Regulations (2020 Revision).*
- *There are no physical constraints on the site that would prevent the development of apartments.*
- *There are numerous apartment developments in the surrounding area and the proposed apartments are consistent and compatible with the established building character of the area.*
- *There is sufficient infrastructure on this site and in the surrounding neighborhood, e.g., public road, water line, electrical service, commercial retail, grocery stores, etc., to support the residents of the proposed apartments.*

We have ensured that the project complies with all other requirements for Low-Density Residential developments.

We trust this explanation satisfies any concerns that the board members may have, and they will propose a favorable decision to grant this variance request.

PLANNING DEPARTMENT ANALYSIS

General

The application is three (3) apartments addition (2,540.10 sq ft) to existing apartments at the above-caption property. The site is located on Palm Height Drive, Snug Harbour Subdivision.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Apartments and Bedrooms Density

Per Regulations 9(8)(c), the maximum allowable apartments on the site are nine (9) units, and the applicant is proposing 3-units plus 7 existing apartments or a total of 10-apartments. With regards to bedrooms density, the total permissible bedrooms are 15, and the applicant is proposing 17-bedrooms.

The Authority should assess if there is sufficient reason and an exceptional circumstance that warrants granting the proposal with 10-units and 17-bedrooms.

2) Pool Pump Enclosure Setback

The pool pump enclosure is setback 2'-7" from the side boundary - the minimum side setback is 10' per regulation 9(8)(j).

2.19 CJ MOORE (CDI Construction & Renovations) Block 59A Parcel 220 (P21-0392) (\$750,000) (BES)

Application for 6-townhouses, pool and dwelling house

FACTS

<i>Location</i>	Halley Street, off Frank Sound Road
<i>Zoning</i>	LDR
<i>Notification result</i>	No Objectors
<i>Parcel Size proposed</i>	21,344.4 sq. ft.
<i>Parcel Size required</i>	35,000 sq. ft.
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	residential
<i>Proposed building Size</i>	11,235 sq. ft.
<i>Building footprint</i>	6,302 sq ft
<i>Total building site coverage</i>	29.5%
<i>Allowable units</i>	7
<i>Proposed units</i>	6 + 1 dwelling house
<i>Allowable bedrooms</i>	12
<i>Proposed bedrooms</i>	12 for townhouse + 3 for dwelling house
<i>Required Parking</i>	11
<i>Proposed Parking</i>	13

BACKGROUND

No previous planning history

Decision: It was resolved to adjourn the application and invite the applicant to appear before the Authority to provide detailed reasons for the lot size variance and to discuss a concern with the total number of proposed bedrooms on the site.

AGENCY COMMENTS

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

Department of Environment (NCC)

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

The site is man-modified and of low ecological value. We recommend that the applicant plants and incorporates native vegetation into the landscaping scheme for the development. Native vegetation is best suited for the habitat conditions of the site, requiring less maintenance and making it a very cost-effective choice.

National Roads Authority

No comments from the agency

Department of Environmental Health

The department has no objections to the proposed in principle.

Solid Waste Facility:

- 1. The development will require (1) eight cubic yard container serviced once per week with an enclosure built to DEH specifications*

Table 1: Specification for Onsite Solid Waste Enclosure

Container size (yd3)	Width (ft)	Depth (ft)	Height (ft)	Slab Thickness (ft)	Requirements
8	10	10	5.5	0.5	Water (hose bib), drain, Effluent Disposal well

Swimming Pool:

- 2. A swimming pool application must be submitted for review and approval prior to constructing the pool.*
- 3. The swimming pool must be a minimum of twenty-five feet (25') away from the septic system.*

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 **(2,500) US gallons** for the proposed, based on the following calculations:*

BUILDING	UNITS/BLDG	GPD/UNIT	GPD/BLDG	GPD
House	3-Bed Unit	300gpd/3-Bed Unit	300gpd	300gpd
Triplex	3 x 2-Bed Units	225gpd/2-Bed Unit	675gpd	675gpd
Triplex	3 x 2-Bed Units	225gpd/2-Bed Unit	675gpd	675gpd
TOTAL				1,650gpd

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

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

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

Water Supply

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

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

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

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

Fire Service

Please note only one set of proposed hydrant and fire well is required. Main entrance preferred

APPLICANT'S LETTER

Concerning my submission for apartments on lot 59A/220 -Located on Frank Sound Road.

I hereby request variances as follows, permission to increase maximum rooms from 11 as per Density spec to 15 as outlined in my drawings.

I also requesting variance with regards to lot size for apartments from 25,000 sq. ft. as specified in the law to 21,344.4 sq. ft. which is the actual size of my (59A/220) lot.

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

Please note that the proposed apartments covered spaces are within the required set back line.

I thank you for considering this matter and look forward to a favorable decision on this application in due course.

PLANNING DEPARTMENT ANALYSIS

General

The applicant is 6-apartments, pool and dwelling house at the above-caption property.

The site is located on Halley Street, off Frank Sound Road.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Suitability

According to Regulation 9(8) of the Development and Planning Regulations (2021 Revision), in suitable locations, townhouses are permissible. The surrounding land uses in the immediate area are (2-duplexes on Block 59A Parcel 223 (Halley Street) and Block 59A Parcel 26 Rem1-apartments, single-family dwelling houses and vacant properties based on Cayman Land Info Map.

2) Lot Size

Pursuant to Regulation 9(8)(f), the minimum lot size for townhouses is 25,000 sq ft, and the minimum lot size for a house is 10,000 sq ft per 9(8)(d) for a total lot size requirement of 35,000 sq ft. The subject lot size is 21,344 sq. ft.

The Authority should assess if there is sufficient reason and an exceptional circumstance to warrant a lot size variance.

3) Bedroom density

The Regulations allow for 12 bedrooms for the townhouses and that is what the applicant is proposing. The Regulations do not specify a bedroom density for houses, but in this instance, there will be 3 bedrooms, bringing the total on site to 15. The Authority should determine if the number of bedrooms is acceptable.

2.20 SHAYMA HAMDY (Roland Bodden and Co.) Block 52C Parcel 85 (P21-0297) (\$6,000) (MW)

Application for (3) lot subdivision.

FACTS

<i>Location</i>	Bodden Town Rd., Bodden Town
<i>Zoning</i>	Low Density Residential
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	0.7707 ac. (33,571.692 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Existing residence

BACKGROUND

April 1, 2003 – Two Bedroom House (Approved 4-1-2003)

May 1, 2013 – Two Lot Subdivision (Approved 5-1-2013)

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

- 1) The applicant shall provide water infrastructure for the entire sub-division. The developer shall submit plans for the water supply system for approval by the Water Authority. The water supply system shall be installed to the Authority's specifications, under the Authority's supervision. Copies of these specifications are available at the Water Authority's office on Red Gate Road.
- 2) The applicant shall request to have the sub-division connected to the Water Authority's public water system. This request will be acted upon after the pipelines on the sub-division have been installed in accordance with the WAC specifications and have passed all specified tests.
- 3) The surveyor's final drawing **shall include the surveyed dimensions of all lots and must show all required easements** and shall be submitted to the Director of Planning for approval prior to the survey being registered.

Reasons for the decision:

- 1) With the exception of the lot widths, 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 widths per Regulation 9(8)(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 widths as follows:
 - a) The subject parcel exists in a very irregular shape which has resulted in some portions of the new proposed lots being less than the required minimum lot width with the remaining portions complying. The Authority views these as technical variances due to the shape of the parent parcel.
 - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare.

AGENCY COMMENTS

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

Water Authority

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

Water Supply:

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

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

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

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

Wastewater Treatment:

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

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 April 8th, 2021 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

Stormwater Management Issues

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

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

Infrastructure Issues

The NRA advises the CPA to require the developer to provide for signage (stop signs, etc.), street lighting and any other traffic calming measures on the proposed roads of the subdivision. Once the roadway has been taken over as a public road, the NRA can then assume that responsibility. Please have the applicant provide proper 15' truncation and a stop sign with stop bars at the junction with Bodden Town Road.

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

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.

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

Department of Environmental Health

N/A

Department of Environment (NCC)

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

We have no objection to the proposed subdivision. Any development should be the subject of further consultation.

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

Fire Department

N/A

APPLICANT'S LETTER

On behalf of our client, Shayma Hamdi, we are kindly requesting a variation on the minimum lot width requirement for the proposed subdivision, as it relates to Planning Regulation 8(13).

Due to the irregular shape of the parcel, lots A, B & C were unable to meet the minimum lot width requirement. The irregular shape of the parcel could not create symmetrical lot designs in a practical fashion which resulted in the proposed design. Nonetheless, our client has met the minimum lot size requirement.

Your approval for the variation would be greatly appreciated. Should you have any questions or require any additional data please call our office.

PLANNING DEPARTMENT ANALYSIS

General

The application is for a (3) Lot Subdivision with lot width variances to be located on Bodden Town Rd., Bodden Town.

Zoning

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

Specific Issues

1) Lot Width

Regulation 9(8)(g) states “*the minimum lot width for detached and semi-detached houses and duplexes is 80 feet.*” The proposed width of Lot B (30’) & Lot C (41’) with a difference of Lot B (50’), Lot C (39’) respectively. It should be noted that the proposed lots are irregular in shape and the minimum lot width is satisfied at other areas of the lots.

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

2.21 INVICTA CONSTRUCTION LIMITED (Abernethy & Associates Ltd) Block 9A Parcel 570 (P21-0560) (\$4,433) (MW)

Application for a 4 lot subdivision.

FACTS

<i>Location</i>	Shorewinds Trail., West Bay
<i>Zoning</i>	Low Density Residential
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	2.515 ac. (109,553.4 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Vacant

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

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

Reasons for the decision:

- 1) With the exception of the width of the lots at the road, which is addressed below, the application complies with the Development and Planning Regulations (2021 Revision).
- 2) The proposed lots do not meet the minimum required lot width per Regulation 9(8)(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 widths as follows:
 - a) The lots front on the corner of an existing road and the width of the lots at the road is less than the required minimum, but widens throughout the depth of the lots to meet or exceed the required minimum with more than adequate building area within the lots. The Authority views these technical variances as being typical for most

subdivisions where there are corner lots and considers this design acceptable to make the most efficient use of the land.

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

AGENCY COMMENTS

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

Water Authority

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

Water Supply:

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

Wastewater Treatment:

- *Please be advised that the development is outside the Water Authority's West Bay Beach Sewage System (WBBSS) collection area; therefore, the required onsite treatment of wastewater will be specified by the Water Authority when the proposal for built development is reviewed.*

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

National Roads Authority

None received at this time.

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 subject parcel is predominately man-modified, having been previously cleared, apart from mangroves remaining on the water's edge. Mangroves are a protected species and should be retained in accordance with the Species Conservation Plan for Mangroves

(2020) under the National Conservation Act (2013). Any filling or excavation should be the part of a separate application with consultation with the National Conservation Council.

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

Fire Department

N/A

APPLICANT'S LETTER

Enclosed please find the relevant documents relating to the above subdivision. We are asking for a variance on the lot width for all the lots under the Planning Regulation 8(13) (b) (iii) to accommodate this. The majority of the lots meet the required widths, but driveways were designed for access points. All lots are large in area and have ample building envelopes.

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

PLANNING DEPARTMENT ANALYSIS

General

The application is for a 4 lot subdivision that also includes a minor reparation with the adjoining parcel located on Shorewinds Trail., West Bay.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Lot Widths

Regulation 9(8)(g) states “*the minimum lot width for detached and semi-detached houses and duplexes is 80 feet.*” The proposed width of Lot 2 (24.1’), Lot 3 (24.3’) & Lot 4 (32.2’) with a difference of Lot 2 (55.9’), Lot 3 (55.7’) & Lot 4 (47.8’) respectively. The Authority needs to determine if the lot widths along the road frontage are acceptable.

2.22 DAVID HAMIL (Craftman's Touch) Block 13D Parcel 225 (P21-0359) (\$40,000) (BES)

Application for storage shed.

FACTS

<i>Location</i>	Heather LN, George Town (the Swamp)
<i>Zoning</i>	HDR
<i>Notice results</i>	No Objectors
<i>Parcel size proposed</i>	0.16 ac (6,966.6 sq. ft.)
<i>Parcel size required</i>	5,000 sq. ft.
<i>Current use</i>	Apartments
<i>Proposed use</i>	Storage Shed

BACKGROUND

April 16, 2008 (CPA/15/08; item 2.10) – CPA granted planning permission for 4-apartments.

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

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

Reasons for the decision:

- 1) With the rear and side setbacks, 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 rear and side setbacks per Regulations 9(6)(h) and (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 setbacks as follows:
 - a) The characteristics of the proposed development are consistent with the character of the surrounding area in that the available aerial photography shows that there are several similar ancillary buildings on adjacent properties with similar or lesser setbacks.
 - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare.

APPLICANT'S LETTER

With respect to our submission for an addition for building of an auxiliary storage on block 13D parcel 225 located on Heather Lane George Town Grand Cayman. We hereby request variances as follows:

- 1. Rear setback variance where the present regulations requires a minimum of 20'-0". The proposed store room would be at 2'.*
- 2. Side setback variance where the present regulations require a minimum of 5'. The proposed store room would be at 2'.*

In making the application for such a variance, our client is mindful of provisions of Regulations 8 (13) of the Development and Planning Regulations, and would submit that there is sufficient reason and exceptional circumstances that would permit such setback allowance, in that:

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

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

PLANNING DEPARTMENT ANALYSIS

General

The application is for a storage shed (120-sq ft) at the above-captioned property. The site is located on Heather LN, George Town (the Swamp).

Zoning

The property is zoned High Density Residential.

Specific Issues

1) Side Setback

Per Regulation 9(6)(i), the minimum side setback is 10 feet, whereas the proposed side setback is 2' or a shortfall of 8'.

2) Rear Setback

Per Regulation 9(6)(h), the minimum rear setback is 20 feet, and the proposed rear setback is 2' or a shortfall of 18'.

The Authority is to determine whether or not if there are sufficient reasons and an exceptional circumstance that exists according to Regulation 8(13) to warrant granting setbacks variances as noted above.

2.23 EDWINA WILLIAMS (GMJ Home Plans Ltd) Block 27D Parcel 489 (P21-0404) (\$441,000) (NP)

Application for proposed duplex and pool.

FACTS

<i>Location</i>	Bodden Town
<i>Zoning</i>	LDR
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	.2522 ac. (10,985.8 sq. ft.)
<i>Parcel size required</i>	12,500 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	3,313 sq. ft.
<i>Total building site coverage</i>	26.7

Decision: It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss concerns regarding the deficient lot size for a duplex.

PLANNING DEPARTMENT ANALYSIS

General

The subject parcel is located in a new subdivision in Bodden Town slightly north of the terminus of the new by-pass road at Hirst Road.

The subdivision has one house under construction and the rest of the parcels are undeveloped.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Lot size

The required lot size for a duplex in this zone is 12,500 sq ft per Regulation 9(8)(e) and the subject parcel size is 10,985.8 sq ft. A recent June site visit revealed that the subject subdivision is new and has one house presently under construction. In addition, residential buildings along Star Anise Drive in an adjacent subdivision appear to be entirely single family dwellings. In short, there do not appear to be any duplexes in this area of Bodden Town and the Authority should carefully consider whether a duplex on an undersized parcel of land is acceptable in this instance.

2.24 HAAG (Paradise Drafting Ltd) Block 22D Parcel 391 (P21-0594) (\$1,600,000) (NP)

Application for proposed house, pool & dock.

FACTS

<i>Location</i>	Un-named Road, Prospect
<i>Zoning</i>	LDR
<i>Notification result</i>	No objectors
<i>Parcel size</i>	10,018.8 sq. ft.
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	5,186 sq. ft.
<i>Total building site coverage</i>	30%
<i>Notification Results</i>	No objectors

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 shall be submitted to the Department of Environmental Health. The applicant shall also submit to the Director of Planning the requisite signed certificate certifying that if the pool is constructed in accordance with the submitted plans it will conform to public health requirements.
- 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) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 6) 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, front and side setbacks, 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 front and side setbacks per Regulations 9(8)(i) and (j) 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 setbacks as follows:
 - a) The deficient setbacks apply to only the one corner of the house and the septic tank, all other features comply;
 - 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.
- 3) The proposed development does not comply with the minimum required setback from the canal per Regulation 8(10)(ea) of the Development and Planning Regulations (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 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 (NCC) are noted below.

Department of Environment (NCC)

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

The subject parcel is man-modified and of limited ecological value. We recommend that best management practices are adhered to during construction; these include but are not limited to:

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

We also recommend that the applicant plants and incorporates native vegetation in the landscaping scheme. Native vegetation is best suited for the habitat conditions of the Cayman Islands resulting in vegetation that requires less maintenance which makes it a very cost-effective choice.

APPLICANT'S LETTER

We are writing on behalf of our client who wishes to construct a new house in the Channels. Due to the irregular shape of the parcel, a few setback variances are being requested for your consideration.

The parcel is zoned low density residential.

Our client requests that the following setback variances be considered:

- 1. Front setback of 15'-3 ½" to the house corner along the dead-end portion of the street in lieu of the minimum 20'-0" as required in Regulation 9 (8) (i).*
- 2. Rear setback of 18'-1" to the swimming pool in lieu of the minimum 20'-0" as required in Regulation 8(10)(d).*

3. Side yard setback of 6'-7 ½" to the septic tank and well in lieu of the minimum 10'-0" as required in Regulations 8(5) and 9(8)(j).

We do not feel that any of these variances would impact the adjacent neighbours or neighbourhood detrimentally. In particular, items 2 and 3 are below grade and would never be noticed by adjacent neighbours. We have also notified the immediate adjacent neighbours of these variance requests.

We therefore kindly request that the Planning Board review that above points and hopefully agree that this project presents no negative or un-suitable aspects to the existing neighbourhood.

PLANNING DEPARTMENT ANALYSIS

General

The subject property is located off of Admirals Way in Prospect.

The property is currently vacant and there are relatively few houses built in this neighbourhood.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Proposed Road Setback

Regulation 9(8)(i) requires a minimum front setback of 20 feet. The east corner of the house is proposed to be setback 15'3" from the un-named road.

2) Proposed side (east) setback

Regulation 9(8)(j) requires a minimum side setback of 10 feet. The applicant is proposing a setback of 6' 7" to the septic system.

3) Proposed canal setback

Regulation 8(10)(ea) requires a minimum canal setback of 20 feet. The applicant is proposing a canal setback of 18'1" to the pool edge.

2.25 MARTINEZ (JMP Construction) Block 22D Parcel 372 (P21-0492) (\$600,000) (NP)

Application for proposed house, pool, gazebo & dock.

FACTS

<i>Location</i>	Un-named Road, Prospect
<i>Zoning</i>	LDR
<i>Parcel size</i>	10,105.92 sq. ft.
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	3,697.49 sq. ft.
<i>Total building site coverage</i>	29.1%
<i>Notification Results</i>	No objectors

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 shall be submitted to the Department of Environmental Health. The applicant shall also submit to the Director of Planning the requisite signed certificate certifying that if the pool is constructed in accordance with the submitted plans it will conform to public health requirements.
- 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) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 6) 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, front and side setbacks, 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 front and side setbacks per Regulations 9(8)(i) and (j) 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 setbacks as follows:
 - e) The deficient setbacks apply to only the one corner of the house and the pool equipment enclosure, all other features comply;
 - f) The characteristics of the proposed development are consistent with the character of the surrounding area;
 - g) 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
 - h) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.
- 3) The proposed development does not comply with the minimum required setback from the canal per Regulation 8(10)(ea) of the Development and Planning Regulations (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 pool and gazebo that do not. The Authority is of the view that the canal wall provides sufficient protection for the pool and gazebo and the lesser setback will not detract from that protection. Per sub-regulation f) above, the Authority views these reasons as a material consideration that allows for the lesser setback.

AGENCY COMMENTS

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

Department of Environment (NCC)

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

The subject parcel is man-modified and of limited ecological value. We recommend that best management practices are adhered to during construction; these include but are not limited to:

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

We also recommend that the applicant plants and incorporates native vegetation in the landscaping scheme. Native vegetation is best suited for the habitat conditions of the Cayman Islands resulting in vegetation that requires less maintenance which makes it a very cost-effective choice.

APPLICANT'S LETTER

RE: Setback variance on Block 22D Parcel 372

JMP Construction is requesting a setback variance for a single-family residence on Block 22D Parcel 372.

We are proposing a setback variance from 20'-0" to 13'-2" on the front, pool equipment from 10'-0" to 6'-0" on the side and gazebo from 20'-0" to 4'-10" on the canal.

We request permission for the subject matter per the drawings provided and humbly give the following reasons:

1. Per section 8(13)(b)(iii) of the Planning Regulations, the proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent properties, to the neighborhood, or to the public welfare;

2. Per section 8(13)(d) of the Planning Regulations, the adjoining property owners have been notified of the lesser setback associated with the application and they have not objected.

PLANNING DEPARTMENT ANALYSIS

General

The subject property is located off of Admirals Way in Prospect.

The property is currently vacant and there are relatively few houses built in this neighbourhood.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Proposed Road Setback

Regulation 9(8)(i) requires a minimum front setback of 20 feet. The east corner of the house is proposed to be setback 13'2" from the road.

2) Proposed side (west) setback

Regulation 9(8)(j) requires a minimum side setback of 10 feet. The applicant is proposing a setback of 6 feet to the pool equipment room.

3) Proposed canal setback

Regulation 8(10)(ea) requires a minimum canal setback of 20 feet. The applicant is proposing a canal setback of 4'10" to the gazebo and 17'2" to the pool edge.

2.26 MICHAEL MORTIMER (MJM Design Studio) Block 12C Parcel 451/3H10H14 (P21-0473) (\$2,500,000) (EJ)

Application for a house with helper's quarters (duplex) and a detached guest house, swimming pool and the relocation of the existing boat slip/dock.

FACTS

<i>Location</i>	Off Ritz Carlton Drive
<i>Zoning</i>	HT
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.4613 ac. (20,094 sq. ft.)
<i>Parcel size required</i>	12,500 sq. ft.
<i>Current use</i>	Vacant

<i>Proposed building size</i>	9,696 sq. ft.
<i>Total building site coverage</i>	20.62%
<i>Allowable units</i>	2
<i>Proposed units</i>	3
<i>Allowable bedrooms</i>	NA
<i>Proposed bedrooms</i>	6
<i>Required parking</i>	2
<i>Proposed parking</i>	2

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 shall be submitted to the Department of Environmental Health. The applicant shall also submit to the Director of Planning the requisite signed certificate certifying that if the pool is constructed in accordance with the submitted plans it will conform to public health requirements.
- 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) The area of works along the canal edge shall be fully enclosed with silt screens with a 4-ft minimum skirt depth to contain any sedimentation or debris arising from the construction of the docks.
- 6) 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.
- 7) Any stockpiled construction materials should be kept away from the canal edge to reduce rainwater runoff washing material into the canal.
- 8) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 6) 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, front and side setbacks, 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 front and side setbacks per Regulations 9(8)(i) and (j) 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 setbacks as follows:
 - a) The characteristics of the proposed development are consistent with the character of the surrounding area as the same type of setback variance have been granted throughout the Deck House subdivision.
 - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
 - c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.
- 3) The proposed development does not comply with the minimum required setback from the canal per Regulation 8(10)(ea) of the Development and Planning Regulations (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 pool and the pool deck stairs that do not. The Authority is of the view that the canal wall provides sufficient protection for the pool and pool deck stairs and the lesser setback will not detract from that protection. Per sub-regulation f) above, the Authority views these reasons as a material consideration that allows for the lesser setback.

AGENCY COMMENTS

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

“Under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Act, 2013), the Department of Environment (DoE) offers the

following comments for your consideration.

The Department notes that the site is man-modified and of low ecological value. If the Central Planning Authority is minded to approve this development, the following best management practices should be adhered to:

- *The area of works along the canal edge shall be fully enclosed with silt screens with a 4-ft minimum skirt depth to contain any sedimentation or debris arising from the construction of the docks.*
- *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.*
- *Any stockpiled construction materials should be kept away from the canal edge to reduce rainwater runoff washing material into the canal."*

APPLICANT'S LETTER

With respect to our May 3rd, 2021 submission for a House, Pool, Guest cottage and Cabana on 12C 451/3 Lot 14. We hereby request a variance to allow the following:

1. *Main house (garage portion) is 17'8" from roadside boundary and 10'-0" from east side boundary.*
2. *Two story guest house is 10'-0" from west side boundary and 12'-10 from canal wall*
3. *Pool to be built 15'-1" from the canal wall & pool deck steps are 6'-0" from the rear canal wall and 6'-4 ½" from side canal inlet wall as illustrated on the site plan*

In making the application for such a variance, our client is mindful of provisions of Regulations 8 (13) of the Development and Planning Regulations, and would submit that there is sufficient reason and exceptional circumstances that would permit such setback allowance, in that:

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

Please also take into to consideration the following:

- I. *The unique circumstance surrounding the development. The parcel boundaries are inclusive of the canal and inlet, creating a significant reduction in the parcel depth. However, the main house falls within the actual boundary setback lines.*
- II. *Unusual terrain characteristics and parcel geometry limit the site's development potential within traditional setback guidelines.*

PLANNING DEPARTMENT ANALYSIS

General

The applicant is seeking a house with helper's quarters (duplex) and a detached guest house, swimming pool and the relocation of the existing boat slip and dock.

Zoning

The property is zoned Hotel/Tourism.

Specific Issues

1) Relocation of existing boat slip and dock.

There is an existing boats slip on the property that is orientated at about 45⁰ and cuts through the centre of the site. The applicant proposes to relocate the boat slip and dock such that they will be in the south east corner of the subject parcel providing more space in the middle of the property for the main development.

2) Canal, Side and Front Setbacks Variances.

The main house (garage portion) is setback 17'8" from roadside boundary and 10'-0" from east side boundary, whereas the required setbacks are 25' and 20', respectively.

The two story guest house is 10'-0" from west side boundary and 12'-10" from canal wall, instead of the required 20' setbacks.

The pool is to be built 15'-1" from the canal wall & pool deck steps are 6'-0" from the canal instead of the required 20' setback.

2.27 MICHELLE AND BRAD FISHER (John Doak Architecture) Block 15D Parcel 93 (P21-0638) (\$200,000) (EJ)

Application for a house addition consisting of two bedrooms and a garage.

FACTS

<i>Location</i>	Vienna Close in South Sound
<i>Zoning</i>	LDR
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.29 ac. (12,632 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	House & Swimming Pool
<i>Proposed building size</i>	898 sq. ft.
<i>Total building site coverage</i>	31.34%
<i>Required parking</i>	1
<i>Proposed parking</i>	1

BACKGROUND

1989 Permission granted for a house.

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

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

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

Reasons for the decision:

- 1) With the exception of the site coverage, rear and side setbacks, which are addressed below, the application complies with the Development and Planning Regulations (2021 Revision).
- 2) The proposed application does not comply with the maximum allowable site coverage and the minimum required rear and side setbacks per Regulations 9(8)(h)(i) and (j) 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 additional site coverage and lesser setbacks as follows:

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

APPLICANT'S LETTER

"With reference to our client's application for planning permission for the expansion of their house, we request the Central Planning Authority's approval to allow a side boundary setback of 8'0" as shown in the attached plans and as described below.

VARIANCE REQUEST

The applicant seeks a variance for an extension of the existing single storey house which will extend 2ft into the 10ft side setback, noting as follows:

- *The applicant is the owner of the subject parcel 15D93*
- *The existing house respects and complies with all setbacks to the roadside, rear boundary and all side boundaries of the property*
- *The footprint of the existing buildings are within the maximum site coverage. The proposals result in a site coverage of 31.33%*
- *The extension will allow the house to have a single garage and to provide accommodations for elderly guests making family visits*

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

- (a) *The elevation of the property*
- (b) *The geology of the property*
- (c) *The storm beach ridge*
- (d) *The existence of a protective reef adjacent to the proposed development*
- (e) *The location of adjacent development*
- (f) *Any other material consideration which the Authority considers will affect the proposal*

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

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

- (i) The characteristics of the proposed development are consistent with the character of the surrounding area – the proposed single storey extension is consistent with the neighbourhood single family residences and are consistent in scale and massing with the traditional “Caymanstyle” character and the surrounding residential areas of this neighbourhood in South Sound.*
- (ii) Unusual terrain characteristics limit the site’s development potential- the building’s setbacks are all consistent and respectful of the Planning Laws. The proposed configuration does not hinder access. The terrain of the property is not detrimental to the subject application.*
- (iii) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare – the proposed extension will not negatively impact persons residing or working in the vicinity and will therefore not be materially detrimental in any respect.*

Our client requests the Central Planning Authority’s approval for the proposed buildings and associated works as located, and respectfully requests the CPA’s favourable review of the above noted side setback variances.”

PLANNING DEPARTMENT ANALYSIS

General

The applicant seeking house addition consisting of two bedrooms and a garage

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Side and rear setback variances

The proposed two-bedroom with garage house addition is proposed at 8’ vs 10’ from the side boundary and the pool equipment pad at 19.1’ vs 20’ from the rear boundary.

2) Site coverage Variance

In addition to the setback variances; the proposed will be over the allowed site coverage proposed at 31.34% vs 30% or 1.34% over; therefore, the applicant is also seeking the an over site coverage variance from the authority.

3) Building design

The proposed bedroom addition has indirect access to the existing house through the proposed garage. It includes two bedrooms, a dayroom, kitchenette and bathroom and could be considered a dwelling unit which would turn the overall development into a duplex. The parcel size is large enough to accommodate a duplex, so the categorization as such would have implications for the permit review as opposed to creating a planning issue.

2.28 LIV DEVELOPMENT (Tropical Architectural Group Ltd.) Block 15E Parcel 34H1 (P21-0553) (\$495,000) (EJ)

Application for a house and pool.

FACTS

<i>Location</i>	Off Walkers Road
<i>Zoning</i>	LDR
<i>Notification result</i>	No objectors
<i>Parcel size approved</i>	0.1466 ac. (6,385 sq. ft.)
<i>Current use</i>	Vacant
<i>Proposed building size</i>	3,597 sq. ft.
<i>Total building site coverage</i>	32.11%
<i>Required parking</i>	1
<i>Proposed parking</i>	2

BACKGROUND

November 28, 2018 (CPA/26/18; Item 5.12) – The CPA granted permission for a subdivision with undersized land strata lots

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 shall be submitted to the Department of Environmental Health. The applicant shall also submit to the Director of Planning the requisite signed certificate certifying that if the pool is constructed in accordance with the submitted plans it will conform to public health requirements.
- 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) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 6) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s)**.

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

Reasons for the decision:

- 1) With the exception of the site coverage, front, rear and side setbacks, which are addressed below, the application complies with the Development and Planning Regulations (2021 Revision).
- 2) The proposed application does not comply with the maximum allowable site coverage, the minimum required front, rear and side setbacks per Regulations 9(8)(h)(i) and (j) 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 additional site coverage and lesser setbacks as follows:
 - a) The characteristics of the proposed development are consistent with the character of the surrounding area as most, if not all, of the houses in this subdivision have been granted the same or similar variances;
 - 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.

AGENCY COMMENTS

Comments from the National Conservations Council (DOE) are provided below.

National Conservation Council

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

The application site is man-modified but was previously part of seasonally flooded Mangrove wetland habitat. The site is low lying and therefore it is recommended that a stormwater management plan is developed to ensure that any site derived storm water runoff is handled on site and does not impact surrounding areas. It is also recommended that native vegetation is 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.



Figure 1: LIS 2018 Aerial Imagery Showing Application Parcel (Outlined in Blue)

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

APPLICANT'S LETTER

Further to the application submitted to build Two (2) Storey House on Block 15E Parcel 34 Lot 1, we hereby request for a setback variance of which requires a minimum of 20 ft front setback and 15 ft minimum side setback per Planning Regulation 9 (8)(i) and (j).

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

1. ***Under Regulation 8 (13)(b)(i), the characteristics of the proposed development are consistent with the character of the surrounding area:*** *We would like to request for a variance due to the application of the house templates to the respective lot. We ensured outer setback requirements are met, and only interior setbacks are requested.*

We have updated the rear patio of the house so it will not encroach the rear setback (outer setback). With this, we would like to request the right side 6'-3" for the pool and 14'-10" for the main house and 10'-1" away from the nearest boundary at the left side of the property line.

As for the Septic Tank location, CPA requested to relocate the septic tank for H12, H13, H14, and H9 near the road which CPA already approved. And with the H9 application, we have moved it near the road as well.

Lastly, we would like to request for a variance on the condensing units. There are no other suitable locations we can fit these on site aside from its proposed locations and we hope that the CPA board will find this acceptable.

2. ***Under Regulation 8 (13)(b)(ii), the unusual terrain characteristics limit the site's development potential. The property is irregular in shape which limits the property's buildable area."***

PLANNING DEPARTMENT ANALYSIS

General

The proposed four (4) bedroom two-storey house with swimming pool does not meet the required setbacks; therefore, the applicant is seeking several variance from the CPA.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Setback variances

As proposed, the subject house and swimming pools does not meet the required setbacks with the house proposed at 7.7' vs 20' from the front/road boundary, 19.9' vs 20' from the rear boundary and 8.4' vs 15' from the side; the proposed swimming pool is as close as 3.5' vs 20' from the front boundary (garbage location area); and the septic tank is proposed at 2.5' vs 10' from the side boundary.

2) Site coverage variance

In addition to the site coverage variances; the proposed will be over the allowed site coverage proposed at 32.11% vs 30% or 2.11% over; therefore, the applicant is also seeking the an over site coverage variance from the authority.

2.29 LIV DEVELOPMENT (Tropical Architectural Group Ltd.) Block 15E Parcel 34H3 (P21-0555) (\$474,750) (EJ)

Application for a house and pool and lpg.

FACTS

<i>Location</i>	Off Walkers Road
<i>Zoning</i>	LDR
<i>Notification result</i>	No objectors
<i>Parcel size approved</i>	0.223 ac. (9,683 sq. ft.)
<i>Current use</i>	Vacant
<i>Proposed building size</i>	3,798 sq. ft.
<i>Total building site coverage</i>	22.28%
<i>Required parking</i>	1
<i>Proposed parking</i>	3

BACKGROUND

November 28, 2018 (CPA/26/18; Item 5.12) – The CPA granted permission for a subdivision.

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 shall be submitted to the Department of Environmental Health. The applicant shall also submit to the Director of Planning the requisite signed certificate certifying that if the pool is constructed in accordance with the submitted plans it will conform to public health requirements.
- 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) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 6) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s)**.

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

Reasons for the decision:

- 1) With the exception of the front, rear and side setbacks, 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 front, rear and side setbacks per Regulations 9(8)(i) and (j) 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 setbacks as follows:
 - a) The characteristics of the proposed development are consistent with the character of the surrounding area as most, if not all, of the houses in this subdivision have been granted the same or similar variances;
 - 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.

AGENCY COMMENTS

Comments from the National Conservations Council (DOE) are provided below.

National Conservation Council

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

The application site is man-modified but was previously part of seasonally flooded Mangrove wetland habitat. The site is low lying and therefore it is recommended that a stormwater management plan is developed to ensure that any site derived storm water runoff is handled on site and does not impact surrounding areas. It is also recommended that native vegetation is 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.



*Figure 1: LIS 2018 Aerial Imagery Showing Application Parcel (Outlined in Blue)
Please do not hesitate to contact the Department should you require further assistance.*

APPLICANT'S LETTER

"Further to the application submitted to build Two (2) Storey House on Block 15E Parcel 34 Lot 3, we hereby request for a setback variance of which requires a minimum of 20 ft front setback and 15 ft minimum side setback per Planning Regulation 9 (8)(i) and (j).

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

1. ***Under Regulation 8 (13)(b)(i), the characteristics of the proposed development are consistent with the character of the surrounding area:*** *We would like to request for a variance due to the application of the house templates to the respective lot. We ensured outer setback requirements are met, and only interior setbacks are requested.*

We have updated the rear patio of the house so it will not encroach the left side setback (outer setback), same with the pool and pool deck. With this, we would like to request the right side variance of 13'-11" and 15'-9" away from the nearest boundary at the rear of the property line.

As for the Septic Tank location, CPA requested to relocate the septic tank for H12, H13, H14, and H9 near the road which CPA already approved. And with the H9 application, we have moved it near the road as well.

Lastly, we would like to request for a variance on the condensing units and LPG tank. There are no other suitable locations we can fit these on site aside from its proposed locations and we hope that the CPA board will find this acceptable.

2. ***Under Regulation 8 (13)(b)(ii), the unusual terrain characteristics limit the site's development potential. The property is irregular in shape which limits the property's buildable area and even though we exceeded on the required setback line, we are still within the allowed site coverage."***

PLANNING DEPARTMENT ANALYSIS

General

The proposed four (4) bedroom two-storey house with swimming pool and LPG tank and septic tank does not meet the required setbacks; therefore, the applicant is seeking several setback variances from the CPA.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Setback Variances

As proposed, the subject house, swimming pools, LPG Tank and Septic Tank does not meet the required setbacks with the house (steps) proposed at 16.5' vs 20' from the front/road boundary, 15.6' vs 20' from the rear boundary and 13.7' vs 15' from the right side; the septic tank and LPG Tank is proposed at 4.10' & 16.3' vs 20' respectively from the rear boundary; therefore, the applicant is seeking front, side and rear setback variances from the Authority.

2.30 LIV DEVELOPMENT (TROPICAL ARCHITECTURAL GROUP LTD.) Block 15E Parcel 34H4 (P21-0558) (\$473,250) (EJ)

Application for a house and pool.

FACTS

<i>Location</i>	Off Walkers Road
<i>Zoning</i>	LDR
<i>Notification result</i>	No objectors
<i>Parcel size approved</i>	0.1963 ac. (8,550 sq. ft.)
<i>Current use</i>	Vacant
<i>Proposed building size</i>	3,786 sq. ft.
<i>Total building site coverage</i>	26.19%
<i>Required parking</i>	1
<i>Proposed parking</i>	2

BACKGROUND

November 28, 2018 (CPA/26/18; Item 5.12) – The CPA granted permission for a subdivision.

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 shall be submitted to the Department of Environmental Health. The applicant shall also submit to the Director of Planning the requisite signed certificate certifying that if the pool is constructed in accordance with the submitted plans it will conform to public health requirements.
- 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) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 6) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s)**.

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

Reasons for the decision:

- 1) With the exception of the front, rear and side setbacks, 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 front, rear and side setbacks per Regulations 9(8)(i) and (j) 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 setbacks as follows:
 - a) The characteristics of the proposed development are consistent with the character of the surrounding area as most, if not all, of the houses in this subdivision have been granted the same or similar variances;
 - 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.

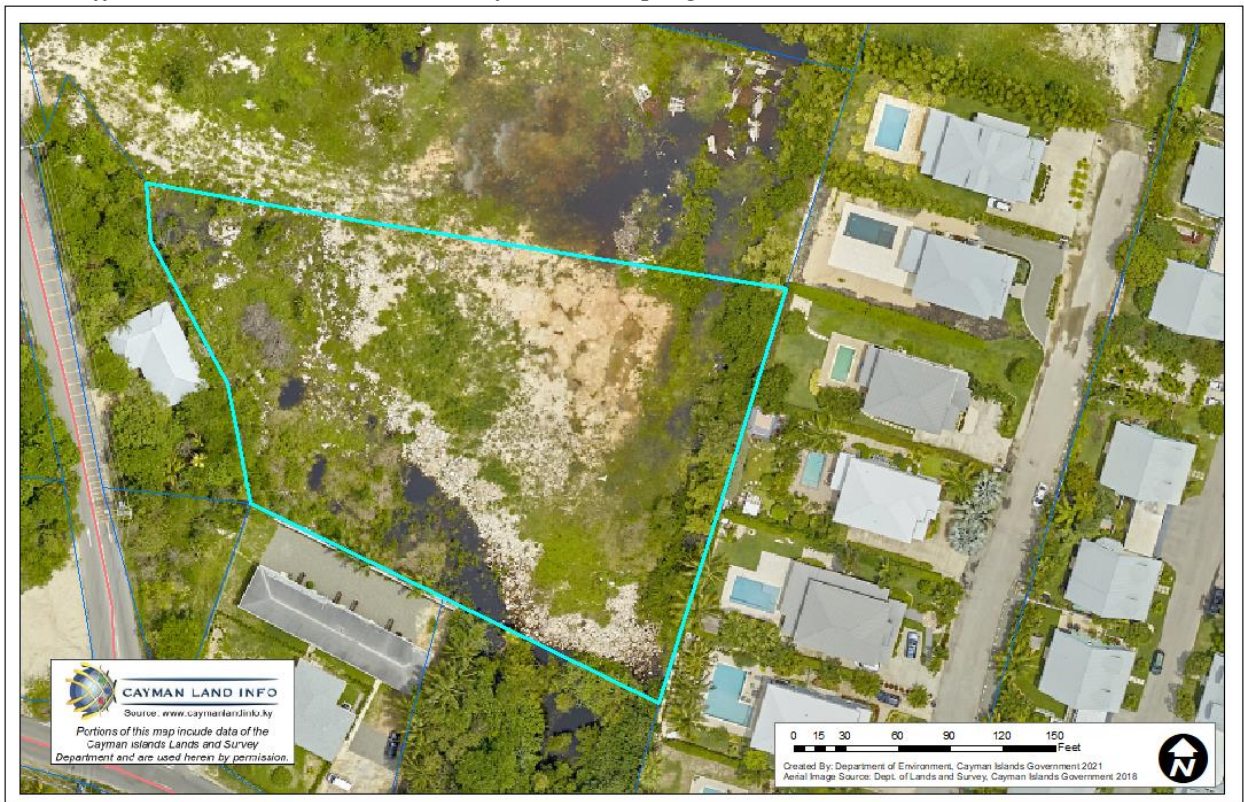
AGENCY COMMENTS

Comments from the National Conservations Council (DOE) are provided below.

National Conservation Council

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

The application site is man-modified but was previously part of seasonally flooded Mangrove wetland habitat. The site is low lying and therefore it is recommended that a stormwater management plan is developed to ensure that any site derived storm water runoff is handled on site and does not impact surrounding areas. It is also recommended that native vegetation is 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.



*Figure 1: LIS 2018 Aerial Imagery Showing Application Parcel (Outlined in Blue)
Please do not hesitate to contact the Department should you require further assistance.*

APPLICANT'S LETTER

"Further to the application submitted to build Two (2) Storey House on Block 15E Parcel 34 Lot 4, we hereby request for a setback variance of which requires a minimum of 20 ft front setback and 15 ft minimum side setback per Planning Regulation 9 (8)(i) and (j).

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

1. ***Under Regulation 8 (13)(b)(i), the characteristics of the proposed development are consistent with the character of the surrounding area:*** *We would like to request for a variance due to the application of the house templates to the respective lot. We ensured outer setback requirements are met, and only interior setbacks are requested.*

With this, we would like to request front variance of 16'-3", 10'-8" left side variance, and an 8'-1" rear variance for the pool. All variances are away from the nearest boundary of the property line.

As for the Septic Tank location, CPA requested to relocate the septic tank for H12, H13, H14, and H9 near the road which CPA already approved. And with the H9 application, we have moved it near the road as well.

Lastly, we would like to request for a variance on the condensing units . There current location is the ideal location so that all utilities are on 1 side of the house, maintenance is an easy access. We hope that the CPA board will find this acceptable.

2. ***Under Regulation 8 (13)(b)(ii), the unusual terrain characteristics limit the site's development potential.*** *The property is irregular in shape which limits the property's buildable area and even though we exceeded on the required setback line, we are still within the allowed site coverage."*

PLANNING DEPARTMENT ANALYSIS

General

The proposed four (4) bedroom two-storey house with swimming pool and septic tank does not meet the required setbacks; therefore, the applicant is seeking several setback variances from the CPA.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Setback Variances

As proposed, the subject house, swimming pools, and septic tank does not meet the required setbacks; although, the proposed house is setback 26' from the road; the Authority should determine if it is sufficient that house and front steps is proposed at 18' & 15.11' vs 20' from the proposed driveway; therefore, the subject house and septic tank is proposed at 12' & 1.1' vs 20' respectively from the rear boundary and swimming pool is proposed at 6.10' vs 20' from said rear

boundary'; therefore, the applicant is seeking at minimum side and rear setback variances from the Authority.

2.31 DAVID LEE (EKT Architecture) Block 25B Parcel 263 (P21-0419) (\$460,000) (NP)

Application for proposed duplex.

FACTS

<i>Location</i>	Bodden Town
<i>Zoning</i>	LDR
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	0.28 ac. (12,198.8 sq. ft.)
<i>Parcel size required</i>	12,500 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	2,614.22 sq. ft.
<i>Total building site coverage</i>	21.4

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

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

- 1) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 2) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 3) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 4) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s)**.

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

Reasons for the decision:

- 1) With the exception of the lot size, which is 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 per Regulation 9(8)(e) 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 as follows:

- a) The characteristics of the proposed development are consistent with the character of the surrounding area as there are many duplexes on similar size lots in the surrounding area.
- b) The amount of the lot size variance is minimal.
- 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.
- d) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997

PLANNING DEPARTMENT ANALYSIS

General

The subject parcel is located on Prospect Drive.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Lot size

The required lot size for a duplex is 12,500 sq ft per Regulation 9(8)(e) and the subject parcel is 12,198.8 sq ft. A review of aerial mapping for the area revealed that the Prospect Drive area contains a mix of single detached dwellings, duplexes and apartments on similar size lots.

2) Parking

The proposal includes a total of eight parking spaces whereas the Regulations require a total of two spaces. Since these are proposed two bedroom units, staff are of the opinion that a total of four parking spaces is satisfactory for the proposed duplex. Removal of four parking spaces will provide more landscaping and green space in the front yard.

2.32 GARTH EBANKS Block 33B Parcel 135 (P21-0582) (\$15,000) (JP)

Application for dock.

FACTS

<i>Location</i>	Water Cay Road, Cayman Kai
<i>Zoning</i>	LDR
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.3960 ac. (17,249.76 sq. ft.)
<i>Current use</i>	Vacant

BACKGROUND

No Planning history

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

- 1) The dock shall be used for residential purposes only; no commercial land-uses shall be permitted on the site, unless planning permission is granted.
- 2) With the exception of the dock area, the existing mangroves shall be retained in their natural state.
- 3) Any stockpiled materials being kept away from the canal edge to reduce the possibility of rainwater runoff washing material and debris into the canal causing turbidity and impacting water quality;
- 4) 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.
- 5) The dock construction area being fully enclosed with silt screens with a 4-foot minimum skirt depth to contain any sedimentation or debris arising from the construction of the dock; and
- 6) The silt screens being left in place until the water contained inside the screens has cleared to the same appearance as the water immediately outside of the screens.

Reason for the decision:

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

AGENCY COMMENTS

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

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 subject parcel is predominately man-modified. However, the canal boundary of the site consists of dense mangroves, as shown in Figure 1 below. Mangroves provide a nursery habitat for fish and other marine life and are vital in helping to maintain good water quality. Both mangroves and other canal-side vegetation provide a natural buffer which helps to intercept surface water that may run-off the land into the canal impacting water quality. In addition, canal-side vegetation, especially mangroves, also helps to prevent soil erosion by binding the substrate.

Mangroves are protected under Schedule 1, Part 2 of the National Conservation Act (2013). For this reason, we recommend the retention of these mangroves along the canal edge in accordance with the Species Conservation Plan for Mangroves (2020) under the National Conservation Act (2013). With guidance, mangroves can be trimmed to give vistas without causing severe injury to or killing mangroves. Should the applicant wish to trim the mangroves to give a view of the canal, we recommend this is done in accordance with the Department of Environment's Mangrove Trimming Guidelines (doe.ky/sustainable-development/best-practices-guides/mangrove-trimming-guidance/).



Figure 1: Lands and Survey 2018 aerial imagery showing mangroves along the coastline of the subject parcel (outlined in red).

RECOMMENDATIONS

The Department does not object to the proposal, however, we recommend that the proposed dock is reconfigured in order to allow for the retention of the existing mangroves.

There are many examples of docks being constructed whilst retaining mangroves both locally and overseas. For example in the state of Florida, it is illegal to remove and even trim mangroves without permission or a mangrove trimming license. For this reason, docks are sensitively built to conserve mangroves where possible and retain the benefits and ecosystem services that mangroves provide (see Figures 2 & 3 below).



Figures 2 & 3: Photos of a luxury residential development in Naples, Florida where the dock has been sensitively designed to retain mangroves along the canal edge. The mangroves have been trimmed to allow views but remain healthy and provide a privacy buffer for residents (Source: mangrovebaynaples.com).

Should the Central Planning Authority or Department of Planning be minded to grant planning permission for the dock, we recommend that best management practices are adhered to during construction; these include but are not limited to:

- Any stockpiled materials being kept away from the canal edge to reduce the possibility of rainwater runoff washing material and debris into the canal causing turbidity and impacting water quality;*
- A minimum dock height of 4 feet and the installation of dock decking with a minimum of ½ inch spacing between decking boards to allow light penetration to occur to support*

marine life under the dock.

- *The dock construction area being fully enclosed with silt screens with a 4-foot minimum skirt depth to contain any sedimentation or debris arising from the construction of the dock; and*
- *The silt screens being left in place until the water contained inside the screens has cleared to the same appearance as the water immediately outside of the screens.*

APPLICANT'S LETTER

Please note that while the above application was submitted without an immediate plan for development on the property, the owners intend to apply for, and if able to successfully acquire a building permit, construct a single-family home on the property in the near future.

In the meantime, the proposed dock will be used on occasion for basic residential use. Boat docking will not be on a full-time basis but rather be primarily during weekends and holidays. No commercial use of the dock will be permitted by the landowners.

PLANNING DEPARTMENT ANALYSIS

General

The application site is located in the Cayman Kai area of Grand Cayman. The application an east to west axis with access to the site obtained from the west. The canal forms the eastern boundary and vacant lots are sited to the north and south.

Zoning

The property is zoned Low Density Residential.

Specific Issues

1) Retention of mangroves

The application seeks Planning Permission for the siting of a dock upon undeveloped land. There are existing mangroves along the shoreline and it would appear that the dock can be built while retaining as many mangroves as possible. The Authority may wish to consider imposing a condition of approval requiring the retention of the mangroves.

2) Use of dock

As the site is undeveloped, should the Authority be of the view to grant permission, it is suggested that a condition be imposed to ensure the dock is not used for commercial purposes (i.e. watersports)

2.33 REHOBOTH PHYSIO & PAIN CARE (AD Architecture) Block 20B Parcel 342 (P21-0679) (\$7,500) (NP)

Application for proposed change of use – office to medical office.

FACTS

<i>Location</i>	George Town, Cannon Place
<i>Zoning</i>	Light Industrial
<i>Office size</i>	1,133 sq. ft.
<i>Current use</i>	Office
<i>Proposed use</i>	Medical Office – Physiotherapy

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

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

Reason for the decision:

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

PLANNING DEPARTMENT ANALYSIS

General

The subject office is located in the Cannon Place Plaza on North Sound Road.

The present use of the premises is as an office. The proposed use of the space is as a medical office for Rehoboth Physio and Pain Care.

The Planning Department has no concerns with the proposed change of use to a medical facility.

Zoning

The property is zoned Light Industrial.

2.34 LEGOLAND (Arco) Block 20D Parcel 123 (P21-0559) (\$50,000) (NP)

Application for proposed modification to planning permission.

FACTS

<i>Location</i>	George Town
<i>Zoning</i>	Medium Density Residential
<i>Parcel size</i>	1.125 acres.
<i>Parcel size required</i>	20,000 sq. ft.
<i>Current use</i>	Apartments
<i>Proposed use</i>	Pool, Bus lay by, two connecting roads
<i>Notification Results</i>	No Objections

BACKGROUND

February 7, 2018 (**CPA/03/18; Item 2.7**) - The Authority granted planning permission for ninety two (92) apartments and a laundry building.

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/03/18; item 2.7 be modified to allow changes to the plans as follows:

- add a swimming pool
- create a bus lay by along Crewe Road
- extend two driveways to the abutting property, also owned by Legoland, which will constitute Phase Two of the development.

All other conditions of CPA/03/18; item 2.7 remain applicable.

Reason for the decision:

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

AGENCY COMMENT

The following comments have been received from the NRA:

The NRA does support such a proposal for a bus stop at the location you have illustrated on your attachment. The NRA is also pleased to see the elimination of the access driveway of building #12 and access integrated within the Legoland Panton Place development.

Note that the NRA is prepared to pay for the cost of the paving of the new bus layby as part of the proposal provided your client takes care of the relocation of the sidewalk with Type-F curb face.

PLANNING DEPARTMENT ANALYSIS

General

The subject property is located along Crewe Road in George Town.

Approval was granted for apartments (CPA/03/18; Item 2.7) and the owner now wishes to modify planning permission with proposed changes to the site plan in the following manner:

- add a swimming pool
- create a bus lay by along Crewe Road
- extend two driveways to the abutting property, also owned by Legoland, which will constitute Phase Two of the development.

At a CPA meeting on March 21, 2018, planning permission was modified in order to add a laundry room to the site plan. The following condition was applied to that approval:

“The applicant shall submit a revised site plan showing the location of a future pool”.

The subject application meets the CPA condition as one of the components of the subject modification application is for a swimming pool.

Zoning

The property is zoned Medium Density Residential.

Specific Issues

1) Reciprocal Rights of Way

One of the proposed modifications is to extend two existing driveways east into Phase Two of the Legoland Development.

Unless the proposal is to combine the two properties into one, reciprocal rights of way will be required.

2.35 HEALTH CITY CAYMAN (Frederick & McRae) Block 12D Parcel 95 Block 3 (P21-0640) (\$280,000) (NP)

Application for proposed change of use – office to medical office.

FACTS

<i>Location</i>	Camana Bay Development
<i>Zoning</i>	General Commercial
<i>Office size</i>	600 sq. ft.
<i>Current use</i>	Office
<i>Proposed use</i>	Medical Office – Chemotherapy Unit

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

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

Reason for the decision:

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

PLANNING DEPARTMENT ANALYSIS

General

The subject office is located in Block 3 of the Camana Bay Development, which is accessed via Forum Drive.

The present use of the premises is as an office. The proposed use of the space is as the chemotherapy unit of the Health City Medical facility.

The Planning Department has no concerns with the proposed change of use to a medical facility.

Zoning

The property is zoned General Commercial.

2.36 AZEEZ AJIBOLA (CS Design) Block 14BG Parcel 102 (P21-0544) (\$190,500) (BES)

Application for change of use from retail to a medical clinic.

FACTS

<i>Location</i>	North Church, George Town
<i>Zoning</i>	G.COM
<i>Notification result</i>	No Objectors
<i>Parcel Size proposed</i>	0.8020 ac. (34,935.12 sq. ft.)
<i>Parcel Size required</i>	20,000 sq. ft.
<i>Current Use</i>	Retail
<i>Proposed Use</i>	Clinic
<i>Proposed building Size</i>	1,293 sq. ft.

BACKGROUND

May 1, 2013 (**CPA/09/13; Item 2.4**) – CPA granted planning permission for a commercial building.

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

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

Reason for the decision:

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

AGENCY COMMENTS

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

National Roads Authority

No comments agency comments were received.

Health Practice Commission

No comments agency comments were received.

Department of Environmental Health

This application is not recommended for approval until the following has been submitted:

1. Revised floor plan showing the location of all biohazard sharps containers, hand sanitizer and hand wash sinks.

a. Note that hand wash sinks are required in each treatment room.

2. The location of the external biohazard bin must also be identified on the site plan.

Water Authority

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

Change-of-use with Existing Septic Tank

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

Water Supply

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

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

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

Fire Service

The CFO approved the site layout.

PLANNING DEPARTMENT ANALYSIS

General

The application is for a change of use from retail to an outpatient clinic at the above-captioned property. The site is located next to Coe Centre and opposite Casanova By The Sea Restaurant on North Church Street, George Town.

Zoning

The property is zoned General Commercial.

2.37 ARCH & GODFREY (Halfmoon Consulting) Block 20B Parcel 448 (P20-1149) (\$1 Million) (BES)

Application for a warehouse.

FACTS

<i>Location</i>	Kingbird Drive, George Town
<i>Zoning</i>	LI
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size Proposed</i>	34,412 sq. ft. (0.79 ac)
<i>Parcel Size Required</i>	20,000 sq. ft.
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	Warehouse
<i>Building Size</i>	5,000 sq. ft.
<i>Building Coverage</i>	14.5%
<i>Proposed Parking</i>	5 spaces
<i>Required Parking</i>	5 space

BACKGROUND

No previous planning history

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

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

- 1) If not already shown on the site plan, the applicant shall submit a site plan that shows the location, dimensions and **size** of the wastewater treatment system (including the disposal system).
- 2) If not already shown on the site plan, the applicant shall submit a site plan showing tire stops for the parking spaces and the parking area curbed and surfaced with asphalt or concrete.

- 3) The applicant shall submit a Stormwater Management plan designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority. **The applicant should liaise directly with the NRA in submitting the stormwater management plan.**
- 4) The applicant shall submit a landscape plan which shall be subject to review and approval by the Central Planning Authority. *It is suggested that the landscape plan be prepared following the recommendations of the Draft Cayman Islands Landscape Guidelines, found on the Planning Department's website (www.planning.ky) under Policy Development, Policy Drafts.*
- 5) The applicant shall submit a construction operations plan to the satisfaction of the Director of Planning indicating in sufficient detail how the development will be constructed without interfering with or obstructing adjacent roads, properties and fire lanes. At a minimum, the plan shall indicate the location of material storage, workers parking, site offices, portable toilets, construction fencing and where applicable, the stockpiling of material excavated from the site and material brought to the site for fill purposes.

In addition to Building Permit requirements, condition (6) listed below shall be met before a Building Permit can be issued.

- 6) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 7) 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.
- 8) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 9) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s).**

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

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

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

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

Reason for the decision:

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

AGENCY COMMENTS

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

Department of Environment/NCC

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

Fire Service

The CFO approved the site layout.

National Roads Authority

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

Road Capacity Issues

The traffic demand to be generated by the above proposed development of 5,000 sq. ft. has been assessed in accordance with ITE Code 150 - Warehousing. The anticipated traffic to be added onto Kingbird Drive 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
18	2	1	1	2	1	1

Based on these estimates, the impact of the proposed development onto Kingbird 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.

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 Access Road. Suggested dimensions of the 'hump' would be a width of 6 feet and a height of 2-4 inches. Trench drains often are not desirable.*
- *Curbing is required for the parking areas to control stormwater runoff.*
- *Roof water runoff should not drain freely over the parking area or onto surrounding property. Note that unconnected downspouts are not acceptable. We recommend piped connection to catch basins or alternative stormwater detention devices. Catch basins are to be networked, please have applicant to provide locations of such wells along with details of depth and diameter prior to the issuance of any Building Permits.*
- *Sidewalk detail needs to be provided as per NRA specifications. See (<https://www.caymanroads.com/upload/files/3/Sidewalk%20&%20Curbing%20Detail.s.pdf>)*

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

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

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

Chief Environmental Health Officer

- 1. The proposed meets the requirements of DEH.*
- 2. Specifications for the oil and water separator system must be submitted to DEH.*

Water Authority

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

Wastewater Treatment & Disposal

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

Water Resource Protection

- *The site operator and staff shall, at all times, employ Best Management Practices (BMPs) to prevent contamination of water resources by accidental spills of hazardous materials stored / used at the facility. BMPs shall include the following:*
- *Vehicle service and other industrial workshops where fuels, greases, oils or solvents are stored and/or handled shall have all floor drains plumbed to an oil/water separator. The outlet of the separator shall be plumbed to a disposal well. Oil/water separators must meet Water Authority standards.*
- *Conduct maintenance and repairs on a non-porous surface (concrete, not asphalt or soil). Protect the concrete work area with a sturdy rain canopy that extends two feet beyond the concrete work area. Berm the concrete work area to contain any spills. Use drip pans and oil change catch basins to minimize spills.*
- *Use dry methods (absorbent material such as sand, cat litter, or rags) to clean up any drips or spills that do occur. Collect soiled absorbent materials for delivery to the George Town Landfill for proper disposal. Call 949-8793 before delivering the wastes.*

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.

PLANNING DEPARTMENT ANALYSIS

General

The application is for a 5,000 sq. ft. warehouse at the above-captioned property. The site is located on Kingbird Drive, George Town.

The proposal would be located between Corporate Electric and Barcadere Warehouse Park.

Zoning

The property is zoned Light Industrial.

3.0 DEVELOPMENT PLAN MATTERS

4.0 PLANNING APPEAL MATTERS

5.0 MATTERS FROM THE DIRECTOR OF PLANNING

5.1 SCOTT MCFARLANE Block 12E Parcel 106 (P21-0722) (MW)

The Authority reviewed an application and plans for a fit-out application for a dental clinic in an existing commercial building and determined that approval would be granted.

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

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

Reason for the decision:

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

5.2 MANDARIN ORIENTAL HOTEL (JP)

The Authority was advised that the applicant will be submitting an application to relocate some ancillary features on the site (e.g. generator) which will remain located in the back of house areas of the resort and not in proximity to the sea. The Authority determined that given the location of the ancillary features a new HWM survey would not be required per Regulation 6(3).

5.3 DOLPHIN POINT (JP)

The Authority was advised that the applicant will be submitting an application to adjust the location of some ancillary features on the site (e.g. cabana, pool) which will remain located in the same general area as previously approved and will not be getting any closer to the sea. The Authority determined that given the location of the ancillary features a new HWM survey would not be required per Regulation 6(3).

6.0 CPA MEMBERS INFORMATION/DISCUSSIONS

The meeting adjourned at 4:30pm. The next regular meeting of the Central Planning Authority is scheduled for ***Wednesday, August 18, 2021 at 10:00 a.m.*** in Conference Room 1038, 1st floor, Government Administration Building.

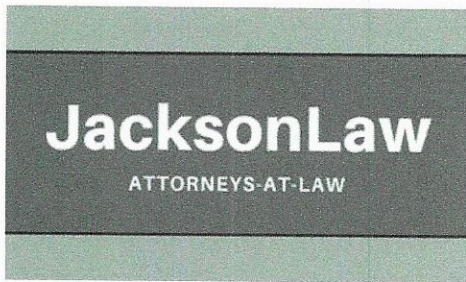
A handwritten signature in black ink, consisting of a large loop followed by several strokes.

Handel Whittaker
Acting Chairman

A handwritten signature in black ink, featuring a series of overlapping loops and a long horizontal stroke at the end.

Haroon L. Pandohie
Executive Secretary

Appendix A



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

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

6 July 2021

Dear Sir,

Re: Planning Application P21-0425 - National Cement Ltd.

We act on behalf of National Cement Ltd. (the "**Applicant**") (and to the extent it is relevant to the matters raised herein, we also act for National Roads Ltd.) in respect of the captioned application for modification of existing planning permission. It is important to note the scope of the captioned application, which is limited to the development contemplated by application No P21-0425, thereby simply seeking planning approval to relocate the previously approved cabana, fuel tank and water tanks, and nothing else.

The Applicant has been served with a purported letter of objection, dated 28th May 2021, which was lodged with the CPA by Etienne Blake, on behalf of a specific list of client entities (the "**First Objection Letter**"), and which outlines certain ostensible objections to the subject application, but which, on closer consideration, appear to be objections which are misplaced, irrelevant, baseless and/or without merit, insofar they concern the proposed modification of planning permission. The Applicant has subsequently been served with a further letter from Etienne Blake, dated 4th June 2021, written to the Director of Planning, which letter (the "**Second Objection Letter**") expands upon some of the same misplaced, irrelevant, baseless and unmeritorious arguments and submissions outlined in the First Objection Letter. We will refer to these objections letters collectively as the "**Objection Letters**".

Firstly, it is important to note that both the First Objection Letter and the Second Objection Letter commence with an identically worded paragraph, which, on a plain and literal interpretation, confirms that both letters have been written on behalf of entities which have no legal capacity to object to the subject application, because these entities

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do not appear as proprietors on the registers of any parcels that were subject to notification of this application for modification of planning permission.

The Objection Letters list the following legal entities as objectors:

1. "ITC Ltd.",
2. "CI Precast",
3. "Tony's Toys Ltd." and
4. "Mac & Sons. Ltd".

None of the legal entities listed in the Objection Letters are named as proprietors in the registers of any of the lands subject to notification concerning the application for modification of planning permission. The proprietors/parcels to notification are listed in the attached Buffer Map Owner Listing.

It is submitted that the only persons who have *locus standi* to object to the planning application are the persons who are entitled to be served with a Notice pursuant to Section 15 (4) of the Development and Planning Act (2021 Revision) (the "DPA") in accordance with Regulation 8 (12A) of the Development and Planning Regulations (2020 Revision) (the "DPR"), which clearly only requires service on "owners" within the radius specified for the requisite zone and/or type of development application.

The word "owner" is defined by Section 2 of the DPA, thus:

' "owner", in relation to any building or land, means a person other than a mortgagee not in possession, who is for the time being entitled to dispose of the right of ownership of the building or land, whether in possession or reversion, and also includes a person holding or entitled to the rents and profits of the building or land under a lease or agreement the unexpired term whereof exceeds ten years and, without prejudice to the generality of this definition, "owner" includes each proprietor for the time being of a strata lot;'

It is therefore submitted that the entities which have been named as objectors are not entitled to object, as they are not "owners" of any land on whom a Section 15 (4) Notice was required to be served. Concomitantly, the actual owners of the land are not entitled to use the separate legal persons, ie. the companies named in the Objection Letters, as their proxies to object on their behalf, regardless of whether those proprietors own and/or control those entities which operate the businesses upon the relevant adjacent parcels. Conversely, Counsel for those companies, who has confirmed in writing that he is instructed by those entities, is not entitled to now extend his representation to the owners of the relevant parcels vis-à-vis their nexus to those companies which he has named as his clients. Therefore, legally speaking, the actual owners of the relevant adjacent parcels, who are the only persons who have legal standing to receive a Section 15 (4) notice and to object, have not objected to the subject application within the statutorily prescribed 21-day period. Consequently, there

is no valid objection to the subject application and the Objection Letters are therefore, legal speaking not relevant or admissible as objections to this application.

Simply put, whilst the law does not require an applicant for planning permission to be an owner of any property, it does require an objector to be an owner of adjacent land within the requisite radius.

Nevertheless, in the event that the CPA were to find that the objecting entities (the “**Non-Owner Objectors**”) somehow have legal standing to object, we have been instructed to reply to both of the letters of objection and to elucidate the salient issues of this application, so as to prevent the convenient conflation of the relevant issues with matters that were never previously objected to or challenged by objectors, as this appears to the Applicant to be the design of the objection letter. Simply put, it is our position that the CPA can only consider matters relevant to the application currently before it and should not allow any objectors the opportunity to revisit and challenge previously approved planning applications which the objectors themselves did not challenge when they had the opportunity.

In order to illustrate our position, and to give context to the specific scope of the current application, it is important to consider the existing planning permission, previously granted by the CPA. It should be noted that the facts outlined below are all verifiable as a matter of public record.

History

In or about May of 2018, subsequent to the purchase of Block 19E, Parcel 187, which parcel includes the excavated pit (referred to as “*the Pond*” by the Non-Owner Objectors), our clients discovered that the Government’s Land Information System (the “**L.I.S.**”) suddenly and inexplicably showed the parcel as Land for Public Purposes (“**L.P.P.**”). This surprised our clients, since they had done the usual exhaustive search of the Registry file and the L.I.S. prior to the purchase of the property, and there was no such designation at that time. Needless to say, this greatly aggrieved our clients, and, as a result, they made the requisite inquiries of the Registry and the Planning Department. To this day, our clients have not been able to ascertain either the reason for the sudden, after-the-fact appearance of that purported designation, nor the identity of the person responsible for such erroneous detail being entered in the L.I.S.

After extensive consultation with the Planning Department, and after the Department had conducted an investigation of the historical data on its file, it was revealed that the original permission for the subdivision, which included the parcels comprising the roadway subsequently named Sherwood Drive and the excavated pit referred to in the Objection Letters as “*the Pond*”, was granted in September 1991, and that the drawing on the Planning Department’s file had been endorsed at some point by some unknown person with the handwritten note “P.O.S.”, which typically denotes “Public Open Space”. Public Open Space is a zone, which can only be created by the promulgation of such

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zone as part of the Development Plan by the Legislative Assembly (now "Parliament") and such Plan, and any subsequent amendment thereof is published and is a declaration of the zoning designated for the entirety of the Island of Grand Cayman.

It is asserted, as can easily be verified by public record, that at no point in time was the excavated pit ("*the Pond*") on Parcel 187 designated by the Development Plan as Public Open Space. It is also submitted that since the inception of the DPA and the DPR, it is commonplace for persons uninitiated in local planning practice to conflate Public Open Space or "P.O.S." with Land for Public Purposes or "L.P.P", although, legally speaking, they are very different, both in origin and in legal status. P.O.S. is a zone, which has its own statutory provisions under the Development Plan Planning Statement and under Regulation 17 of the DPR, and is created and can only be extinguished by an act of Parliament, whereas L.P.P. denotes land set aside by way of a decision of the CPA during the process of approving a subdivision of land, in accordance with Regulation 28 of the DPR. So, the former is created by an act of Parliament, whereas the latter is created by a decision of the CPA and is imposed as a condition of planning approval.

This being the case, this firm was instructed and wrote on behalf of the Applicant (and National Roads Ltd.) to the Chairman on the CPA on October 11, 2018 (copy of letter attached for ease of reference) regarding what the Planning Department's investigation of the Planning file had revealed. Subsequently, Counsel for the Applicant and National Roads Ltd appeared before the CPA on October 31, 2018 and made submissions in that regard. On November 6, 2018, the Director of Planning wrote on behalf of the CPA to confirm its agreement that the L.P.P. designation was erroneous and would be removed.

In March of 2019, pursuant to application No. P18-1212, permission was granted for major redevelopment of the existing National Cement site, situated on Block 19E, Parcels 186 and 187 and Block 13D, Parcel 458. Such permission included the approval of concrete batching plants, aggregate bins, cement silos, a generator, control building and cabana, as well as the installation and relocation of a parking spaces and the filling of an existing excavated pit on the captioned parcels (the "**Approved Development**").

Prior to granting the planning permission comprising the Approved Development, the CPA approved a subdivision and combination plan, pursuant to application No. P18-1179 (the "**Approved Subdivision**"), which was designed to reconfigure the National Cement site in order to accommodate the additional development contemplated by the Approved Development.

Although all of the surrounding proprietors were served with the requisite Section 15 (4) Notices for application Nos. P18-1179 and P18-1212, neither of those applications were objected to by anyone, nor was the resulting Approved Subdivision and Approved Development challenged by way of appeal.

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The Approved Subdivision, which included a reconfiguration of the previous parcel comprising Sherwood Drive, has been registered by the Registrar of Lands, in accordance with the uncontested and unchallenged planning permission granted to the Applicant.

The Approved Development has been commenced and is under way, but a number of necessary changes have been identified for improving the functionality of the Applicant's site and for enhancing the efficiency and safety of the Applicant's operations, thereby necessitating the modification of the Approved Development.

In that vein, permission for modification of the Approved Development was recently granted by the CPA via application No. P21-0122 for the addition of a 1760 sq. ft. cement silo, an associated 1020 sq. ft. canopy and 120 sq. ft. electrical room and the relocation of a generator and fuel tank (the "**First Modification**").

The Current Application

The application currently before the CPA is application No. P21-0425, which is an application for permission to relocate the existing approved cabana, fuel tank and water tanks from their currently approved positions to the positions depicted on the site plan submitted through the OPS as part of this application. This application, like the preceding application No. P21-0122, is driven by the desire of the Applicant to improve the functionality of its site and the efficiency and enhanced safety of its operations. It is important to note that the current application seeks only to relocate the aforementioned existing approved elements and does not seek permission to introduce any new elements into the development.

The First Objection Letter

The objection letter of 28th May 2021 somewhat cryptically refers to the Non-Owner Objectors being adversely affected by "*proposals to fill the Pond with Concrete as well as fencing off part of Sherwood Drive...*" yet there is no proposal whatsoever contemplated by this application to do either of those things, as both the filling of "*the Pond*" and the fencing of our clients' property were the subject of the aforementioned previous applications which resulted in the Approved Development, yet there was no objection then to those applications by anyone, nor was there any attempt to legally challenge the Approved Development undertaken by anyone over the past two years, since that planning approval was promulgated. Therefore, any parties who could have objected in the past have lost any opportunity to complain to the CPA (or to appeal to the Appeals Tribunal) about those aspects of the Approved Development, as over two years has passed since that development was approved.

For that reason, any complaint against either the filling of the excavated pit ("*the Pond*") or the fencing is irrelevant to the current application and are in any event baseless and without merit.

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The Objection Letter further proposes that *"further objection to the application are(sic) premised on the fact that our Clients enjoy naval rights of drainage which in the absence of a drainage management plan with(sic) expose our Clients businesses to catastrophic flooding with consequential damage to their properties, trade supplies and equipment"*

It is submitted on behalf of the Applicant that this objection is preposterous and absurd, and, further and in the alternative, completely irrelevant, for the following reasons:

1. Firstly, there is no aspect of the development comprising the subject application which could affect any so-called *"naval rights of drainage"*, as asserted by the Non-Owner Objectors;
2. There are no such *"naval rights of drainage"* existing over either of our clients' properties, and, if the CPA in fact had any remit to consider such an archaic and arcane concept as *"naval rights of drainage"* we would assert that the Non-Owner Objectors would have to prove that such rights existed or could even exist before asking the CPA to recognize and act upon such purported rights. Simply making a statement that such rights exist, without more, renders any objection based on such asserted rights baseless and without merit;
3. Such *"naval rights of drainage"* are not recognized by the Registered Land Act as registerable rights, neither are the same identified as a material consideration to an application for a planning permission by the Development and Planning Act, Regulations or the Development Plan Planning Statement. *"Naval"* rights of drainage are analogous with riparian rights which are not expressly recognized by any legislation in this jurisdiction, save for public rights of access to the sea under the Prescription Act. This jurisdiction enjoys the benefit of a legal framework that requires any right in land to either be registered or declared to exist by the Courts. The Non-Owner Objectors have not even adumbrated the basis upon which they assert the existence of such rights. It is therefore hard to understand the Non-Owner Objectors' assertion that such rights apply to our clients' property, let alone how the same relate to the subject application for planning permission.
4. It is accepted that, pursuant to established common law principles, the protection of the interests of surrounding landowners is a material consideration, as the protection of the interests an individual occupier of land is an important aspect of public interest as a whole, as was held in Stringer v. Minister of Housing & Local Government (1970) 1 WLR 1281, which has been followed from time to time by the CPA and the Appeals Tribunal. However, it is submitted that such interest must be an identifiable, recognized interest, not some nebulous concept of *"naval rights of drainage"* as has been proffered by the Non-Owner Objectors.

5. In order for the Non-Owner Objectors to avail themselves of their complaint of “harm” to such a “right” as a material interest, they would first have to prove that such interest exists. Whilst the CPA can take account of any right or interest in land that is registered on title, it cannot be asked to opine or adjudicate on the existence of such “rights” that have not been registered or declared by a competent court or tribunal to exist, since such a decision or finding would most certainly be beyond the scope of the CPA’s legal remit. If indeed the Non-Owner Objectors assert such rights exist, then they would each have to prove the existence of such rights before the appropriate forum and, if the same are registerable (perhaps as a *profit a prendre*), then the process prescribed by the Registered Land Act would have to be followed in order to secure the registration of such rights on title, before the CPA could take the same into account as a relevant planning consideration. Simply put, the CPA cannot be asked to recognize and protect such rights without first making a finding of fact that such rights exist, and the CPA is not empowered or entitled to make such a finding.
6. The Non-Owner Objectors’ assertions also indicates a lack of understanding of (or a refusal to acknowledge) the existing planning permission comprising the Approved Development, as the same included, as a result of extensive consultation with the NRA, a comprehensive Stormwater management plan that contemplates drainage of all water falling or collected upon our client’s site during a flood event. This Stormwater Drainage plan, which involves the use of some 33 deep wells, as well as berming of the perimeter of our clients’ site so as to contain and drain all stormwater, was imposed as a condition of planning approval as part of the Approved Development. Therefore, the assertion that there is no “*drainage management plan*” is also completely without merit. Consequently, the assertion that the proposed development (or even any aspect of the previously approved development) could somehow expose the Non-Owner Objectors’ businesses to “*catastrophic flooding*” is an absurdity and has no merit.

It appears, albeit not clearly, that the Non-Owner Objectors are asserting that they (or some of them) are currently (or have in the past) enjoyed the right of drainage into the excavated pit (referred to in the Objection Letter as “*the Pond*”), which is now part of the Applicant’s operating site and which is bounded on all sides by the Applicant’s private road (now Block 19E, Parcel 264) and the Applicant’s ongoing development on what is now Block 13D, Parcel 471. However, an examination of the topographical LIDAR maps available on the government’s Land Information System (“LIS”), clearly shows that, of the Non-Owner Objectors’ unbuilt lands, nearly all lie no higher than the level of the Applicant’s private road, and most lie lower than the Applicant’s operating site.



Assuming that this elevation data is accurate, which we are instructed a physical survey will confirm, the Non-Owner Objectors would be hard pressed to show how their lands could have enjoyed any sort of drainage either onto our client's land or the excavated pit, since such drainage would have to defy the law of gravity. Indeed, if there were any existing rights of drainage, common sense would dictate that the land enjoying such rights would necessarily have to be both higher and directly adjacent, neither of which is the case.

In any event, it is submitted that the assertions in the Objection Letter are completely irrelevant and, consequently without merit, as the Non-Owner Objectors have failed to show how the proposed modification of planning approval, which modification only involves moving a few pieces of already approved equipment to a different location on the land, would result in any demonstrable harm to any neighbouring land or any other material planning interest.

The Second Objection Letter

The second letter from Etienne Blake dated 4th June 2021 repeats and expands upon the complaints advanced in the First Objection Letter, and similarly, is completely without merit. Insofar as relates to the matters repeated in the Second Objection Letter, we would reiterate our positions as set out above.

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The Second Objection Letter contains additional specious assertions, and, in some instances, completely baseless argument, which we would address as follows:

1. The notion that is being promoted by the Non-Owner Objectors that an application for planning permission must be made the actual owner of the relevant land demonstrates a fundamental lack of understanding of the law and the well-established lawful process which the CPA has followed since its inception. There is no provision whatsoever in either the DPA or the DPR that requires an application to be made by an owner of the land to which the application relates. Without question, pursuant to Section 16 (4) of the DPA, once obtained, planning permission enures to the benefit of the land to which it relates, but that does not gainsay or require that planning permission must be sought by the proprietor. In fact, it is now common practice that planning permission is sought by a contracting purchaser pursuant to a land purchase agreement which is subject to a condition precedent that planning permission can be obtained prior to completion of the purchase. Obviously, in such a situation, the purchaser has to make the application *prior* to taking title to the land in question. This practice is lawful and is necessary for the viability of our very valuable real estate development sector, since typically, real estate developers will only purchase property when they are certain that they will be able to gain planning permission for the particular project they have in mind. Therefore, the argument advanced by the Non-Owner Objectors that any permissions and modification obtained by National Cement Ltd. are “a nullity” due to some ill-conceived idea of “*lack of standing*” is simply ludicrous and completely without merit. Furthermore, such argument is made an absolute absurdity by virtue of the fact that National Roads Ltd. is a 100% owned and controlled subsidiary of National Cement Ltd., a fact which was disclosed to the CPA by JacksonLaw in its letter of October 11 2018, written on behalf of National Cement Ltd. and National Roads Ltd.
2. The Non-Owner Objectors assert, without any evidence or authority, that National Cement (and presumably, its attorneys) deliberately misled the CPA to believe that the LPP designation was made in error. Such an assertion is asinine and, frankly, may very well be libelous, in that, the record of the CPA meeting shows that the CPA did not rely solely on the assertions of National Cement or its attorneys, but rather on us pointing out that, based on the information provided by the Planning Department, upon which we were obliged to rely, the inexplicable labeling of Parcel 187 as LPP on the LIS was in fact erroneous. This position was based on the fact that the Department, after conducting its own investigation of its own records, could find no decision of the CPA whereby that parcel was ever designated as LPP. The Second Objection Letter goes on to assert that some form of designation was made in October 1994. If indeed, the author of that letter or any of his clients have some form of record of such designation, then, provided the provenance/veracity of such record can be established, they should submit the same for the CPA to

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consider, since, as far as we are informed by the Planning Department, no such designation was ever made.

3. The Non-Owner Objectors' assertion that Section 98A to 98D of the Registered Land Act ("the RLA") has any relevance or application whatsoever to LPP is misguided and simply wrong and such assertion is posited on a fundamental misconstruction of those provisions. Sections 98A through 98D relates to the process of **dedication** of land for public use by a proprietor, NOT the **designation** of LPP pursuant to Regulation 28 of the DPR. Whilst it may be convenient to conflate the terms "dedication" and "designation" those words connote to very different things, and, especially in the context of the DPR, neither one has any relation to the other. To illustrate this point, one only has to look at the provisions relative to the **dedication** of beach accesses, namely Regulation 15 (6) for the Beach Resort/Residential zone and Regulation 32 for Hotel/Tourism zones. Both of these provisions require the CPA to "*set aside and dedicate*" a beach access of the width prescribed therein. Whilst it is questionable whether the provisions of Section 98B of the RLA can even be applied to facilitate the registration of such beach accesses on private land, it is clear from a comparison of Regulations 15 (6) and Regulation 32 with Regulation 28, which deals with the creation of LPP, that, given the obvious absence of the word "**dedicate**" after the words "*set aside*", Regulation 28 does NOT require the dedication of LPP lands. It may be argued that this seems illogical or even absurd, but that is the state of the law and we are all bound by the wording of the law. Simply put, since the LPP provisions do NOT require (and never have required) LPP to be *dedicated* for public use, none of the provisions of Sections 98A through 98D apply to LPP. The net effect of all of this is that LPP exists simply as a condition of planning approval and enjoys no special status under the current legislative framework. On that basis, we would submit that the assertion that there are no "*clear statutory procedures for the removal extinguishment of LPP*", as asserted by the Non-Owner Objectors, and so the only thing that the CPA can do with land previously lawfully designated as LPP is to modify planning permission, pursuant to Section 17 of the DPA so as to modify the existing LPP, or, alternatively, to accept a payment in lieu of such LPP designation and extinguish the same, in accordance with Regulation 28.
4. The Non-Owner Objectors contend that they have a right to avail themselves of the "essential utility" of "the Pond" as a drainage sump, and further assert that they enjoy such rights by virtue of the provisions of Section 97 of the RLA. However, for the reasons adverted to herein in rebuttal of the First Objection Letter, the Applicant submits that no such rights exist. In fact, it is submitted that a proper construction of Section 97 of the RLA clearly demonstrates the fallacy of that argument, in that, whilst the same recognizes the "*natural rights of support, light air or access*", no "natural right of drainage" is provided in that Section.

5. The notion that landowners adjacent to a road are entitled to drain across such road would necessarily dictate that the road could never be raised and would have to be always restricted to a height that is below the surrounding lands. Not only does this notion offend common sense, but we have been unable to find any authority to support such a concept, and we note with interest that the Non-Owner Objectors have not prayed any legal authority in aid of this preposterous assertion.

Stormwater Management and Encroachment on a Road

One of the conditions imposed on the Applicant in respect of the Approved Development was to create a Stormwater Management plan in accordance with the requirements of the National Roads Authority ("the NRA"). Ultimately, this stormwater management plan involved the grading of the Applicant's site and the drilling of some thirty-three (33) deep wells so as to create a drainage system that would ensure the collection, retention and complete drainage of all stormwater upon the Applicant's land. In effect, as is the norm with large development sites, the CPA required the Applicant to create its own watershed area within its site, so as to prevent drainage unto any neighbouring properties, which would include the lands occupied by the Non-Owner Objectors. Therefore, based on the content of the Objection Letters the Applicant has now become very concerned that persons who appear to be operating businesses on the surrounding lands are now insisting that they have a right to somehow drain any stormwater across the Applicant's land, in particular across the road and into an excavated pit that is in the process of being filled in accordance with unchallenged and unchallengeable planning permission. The Applicant is therefore understandably aggrieved that the neighbouring landowners appear to be exercising a different methodology for draining their sites, in such a way that obviates the need for their properties to manage their own stormwater. The Applicant is entitled to presume that, on the basis of consistency, fairness and good planning practice, any approved development on these other properties would have been or will now be required to comply with the same approach to stormwater management as the Applicant. That being the case, it is hard to understand how the Non-Owner Objectors can now be asserting a position that clearly flies in the face of such stormwater management requirements, and in accordingly, the Applicant would urge the CPA and the Planning Department to investigate and take the appropriate action as a matter of enforcement for any such breach of planning control.

The Applicant would refer the CPA to the multiple structures outlined in red in the image below, all of which, based on the aerial photography published on the L.I.S., have been erected sometime during the last ten years on Block 13D, Parcel 429 and which, presumably, would have required a storm water management plan for that land, if planning approval had been obtained. We are instructed that no notification of any planning application was ever delivered to the Applicant in respect of any of these structures. That being the case, either these structures never received planning

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approval, or the Applicant was never notified of any such application, which would in fact render any such approval *void ab initio* or a nullity. Concomitantly, if permission is now sought after the fact for these structures, the Applicant would object to any approval that does not require a similar condition requiring a Stormwater Management Plan as was imposed on the Applicant vis-à-vis the Approved Development.

**Image 1:
March 2013
Google Earth**

Zero of six structures shown in red outlined areas in 2013.



**Image 2:
January 2021
Google Earth**

Five of six structures shown in red outlined areas in 2021.



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**Image 3:
February 2021
Google Earth**

Sixth structure
shown in yellow
outlined area in
2021.



Our clients would hereby request that the CPA and the Planning Department consider these blatantly apparent planning violations, which evade proper drainage requirements, in light of the expressly stated desire of the Non-Owner Objectors to illegally drain water across our client's road and/or onto the Applicant's Approved Development.

As the Applicant is being accused of causing harm to the surrounding properties by way of its approved development, our clients feel obliged to refer the CPA to the multitude of structures erected on Block 13D, Parcels 324 and 430 and on Block 19E, Parcel 206, which appear to have been done without any proper drainage facilities such as wells and catchment basins, which may very well be the cause of any flooding problems they may have encountered. Therefore, in light of the Non-Owner Objectors' stated intention to illegally drain water from the land that they occupy onto the Applicant's private road and operating site, we would hereby request that the CPA and the Planning Department thoroughly investigate all of the surrounding sites for any breaches of planning control, particularly any failure of the persons responsible to properly fill and/or drain those lands in accordance with the legally and reasonably required standards of planning control.

The Applicant would also draw the CPA's attention to the provisions of Section 16 (i) of the Roads Act, which provides *inter alia*, that "any ... discharge of water or other liquid on the road from any premises adjoining such road" constitutes an "encroachment on a road". It is important to note that Section 16 uses the term "on a road" as opposed to the use of the term "on a public road" which is used elsewhere in the statute. It is therefore submitted that this provision applies to discharges of water unto any road, regardless of whether it is a public road or private road. **It should also be noted that pursuant to Section 21 (b) of the Roads Act, whoever "causes or permits any encroachment on a road under section 16" is guilty of an offence and liable to a fine of \$5,000 and imprisonment for six months.** It would therefore seem prudent for the Non-Owner Objectors to not insist that they have a right to discharge water onto (or across)

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the road, as that would seem to be tantamount to insisting that they have a right to commit a criminal offence.

Therefore, it is the Applicant's position that if the CPA is minded to consider the objections by Non-Owner Objectors, who have expressly stated their intent to illegally drain onto the Applicant's lands, so as to alleviate any flooding on their property, then we would reiterate that it would be entirely appropriate for the CPA and Planning Department to investigate the actual sources of the drainage problems on those lands and to take the necessary steps to ensure that any offending landowners are brought into compliance with the appropriate standards of planning control as it is the Applicant's belief that if that happens, any purported deeply held concern about "catastrophic flooding" of their own lands would thereby be fully alleviated.

Summary

In conclusion, in simple terms, our clients submit that:

1. There are no legally admissible objections to the proposed development, as the objecting entities have no legal standing to object, and;
2. Further and in the alternative, the matters raised in the Objection Letters are irrelevant and/or completely without merit, for the reasons outlined herein.

We trust that the foregoing sets out clearly our clients advised position on the matters raised or adverted to in the Objection Letters and we would be obliged to clarify or expand upon the same at the hearing of the captioned application.

With Best Regards,


JacksonLaw

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CAYMAN ISLANDS BUFFER MAP OWNER LISTING

SUBJECT PARCEL: 19E186,19E187,13D458

BUFFER DISTANCE: 80ft TOTAL OWNERS: 32

SEARCH ID 2132 DATE GENERATED: 13-May-2021

<u>LANDREF</u>	<u>STRATA NUM</u>	<u>OWNER</u>	<u>OWNER ADDRESS</u>	<u>PROPRIETORSHIP TYPE</u>	<u>OWNERSHIP</u>	<u>OWNER 2</u>	<u>REGISTERED AREA</u>	<u>UNITS</u>	<u>LEASE NUM</u>
13D 324		ROSWORTH L. McLAUGHLIN	Northward Grand Cayman	Proprietor in Common	P		0.50	AC	NOT LEASE
13D 324		DOORLEY H. McLAUGHLIN	George Town Grand Cayman	Proprietor in Common	P		0.50	AC	NOT LEASE
13D 325		STANLEY LINCOLN HILL	Box 2683 Grand Cayman KY1-1111 Cayman Islands	Single Proprietor	P		0.51	AC	NOT LEASE
13D 347		HULMAN DOORLY McLAUGHLIN	P.O. Box 10698 Grand Cayman KY1-11 06 Cayman Islands	Joint Proprietor	P		0.4089	AC	NOT LEASE
13D 347		LEMUEL ROSWORTH McLAUGHLIN	P.O. Box 10698 Grand Cayman KY1-11 06 Cayman Islands	Joint Proprietor	P		0.4089	AC	NOT LEASE
13D 413		ROSWORTH McLAUGHLIN	Mack & Son Trucking P.O. Box 10698 Grand Cayman KY1-1006	Single Proprietor	P		0.4394	AC	NOT LEASE
13D 429		ALPHA KOZAILY	P.O. Box 30198 Grand Cayman KY1-1 201 Cayman Islands	Joint Proprietor	P		0.46	AC	NOT LEASE



Lands & Survey Department
Cayman Islands Government
PO Box 1089
Grand Cayman KY1-1102



<u>LANDREF</u>	<u>STRATA NUM</u>	<u>OWNER</u>	<u>OWNER ADDRESS</u>	<u>PROPRIETORSHIP TYPE</u>	<u>OWNERSHIP</u>	<u>OWNER 2</u>	<u>REGISTERED AREA</u>	<u>UNITS</u>	<u>LEASE NUM</u>
13D 429		ELIAS KOZAILY	P.O. Box 30198 Grand Cayman KY1-1 201 Cayman Islands	Joint Proprietor	P		0.46	AC	NOT LEASE
13D 430		ANTHONY WILLIAMS	P.O. Box 2118 Grand Cayman KY1-110 5 Cayman Islands	Joint Proprietor	P		0.78	AC	NOT LEASE
13D 430		SHARON RUTH WILLIAMS	P.O. Box 2118 Grand Cayman KY1-110 5 Cayman Islands	Joint Proprietor	P		0.78	AC	NOT LEASE
13D 434		PALBERT HOLDING LTD.	P.O. Box 10305 Grand Cayman KY1-1 003 Cayman Islands	Single Proprietor	P		3.14	AC	NOT LEASE
19E 183		THE PROPRIETOR STRATA PLAN NO . 295	c/o P.O. Box 1098 G.T. Grand Cayman	Single Proprietor	P		0.5000	AC	NOT LEASE
19E 183	H1	ANTHONY WILLIAMS	P.O. Box 2118 George Town Grand Cayman	Joint Proprietor	P		1462	SF	NOT LEASE
19E 183	H1	SHARON RUTH WILLIAMS	P.O. Box 2118 George Town Grand Cayman	Joint Proprietor	P		1462	SF	NOT LEASE
19E 183	H2	MERVYN ANTHONY WILLIAMS	P.O. Box 2118 Grand Cayman KY1-11 05 Cayman Islands	Joint Proprietor	P		882	SF	NOT LEASE
19E 183	H2	SHARON WILLIAMS	P.O. Box 2118 Grand Cayman KY1-11 05 Cayman Islands	Joint Proprietor	P		882	SF	NOT LEASE
19E 183	H3	SHARON RUTH WILLIAMS	P.O. Box 2118 Grand cyaman KY1-110 5 Cayman Islands	Joint Proprietor	P		1462	SF	NOT LEASE



Lands & Survey Department
Cayman Islands Government
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<u>LANDREF</u>	<u>STRATA NUM</u>	<u>OWNER</u>	<u>OWNER ADDRESS</u>	<u>PROPRIETORSHIP TYPE</u>	<u>OWNERSHIP</u>	<u>OWNER 2</u>	<u>REGISTERED AREA</u>	<u>UNITS</u>	<u>LEASE NUM</u>
19E 183	H3	MERVYN ANTHONY WILLIAMS	P.O. Box 2118 GT Grand Cayman KY1-1105 Cayman Islands, B.W.I.	Joint Proprietor	P		1462	SF	NOT LEASE
19E 183	H4	M. ANTHONY WILLIAMS	P.O. Box 2118 Grand Cayman	Joint Proprietor	P		0.1707	AC	NOT LEASE
19E 183	H4	SHARON RUTH WILLIAMS	P.O. Box 2118 George Town Grand Cayman	Joint Proprietor	P		0.1707	AC	NOT LEASE
19E 184		SUPERIOR AUTO LTD.	P.O. Box 11389 Grand Cayman KY1-1008 Cayman Islands	Single Proprietor	P		0.50	AC	NOT LEASE
19E 185		MARK DEMERCADO	P.O. Box 11389 Grand Cayman KY1-1009 Cayman Islands	Joint Proprietor	P		0.4978	AC	NOT LEASE
19E 185		DENISE DEMERCADO	P.O. Box 11389 Grand Cayman KY1-1009 Cayman Islands	Joint Proprietor	P		0.4978	AC	NOT LEASE
19E 198		THEALA JACKSON	P.O. Box 167, Grand Cayman KY1-1104	Single Proprietor	P		0.43	AC	NOT LEASE
19E 206		GILLES A. LANGLOIS	P.O. Box 10587 Grand Cayman KY1-1005 Cayman Islands	Single Proprietor	P		1.16	AC	NOT LEASE
19E 213		THEALA JACKSON	P.O. Box 167, Grand Cayman KY1-1104	Single Proprietor	P		0.06	AC	NOT LEASE
19E 214		PURE AIR LTD.,	P.O.Box 397, Grand Cayman	Single Proprietor	P		0.51	AC	NOT LEASE



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Grand Cayman KY1-1102

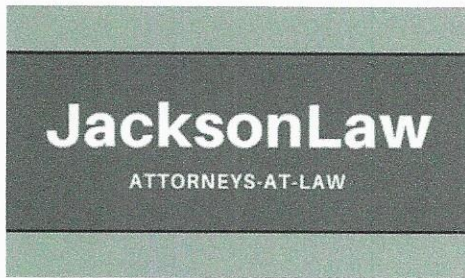


<u>LANDREF</u>	<u>STRATA NUM</u>	<u>OWNER</u>	<u>OWNER ADDRESS</u>	<u>PROPRIETORSHIP TYPE</u>	<u>OWNERSHIP</u>	<u>OWNER 2</u>	<u>REGISTERED AREA</u>	<u>UNITS</u>	<u>LEASE NUM</u>
19E 234		FRANK EWEN FLOWERS	P.O. Box 900 Grand Cayman KY1-900 6 Cayman Islands	Single Proprietor	P		1.173	AC	NOT LEASE
19E 259		CHARLES EDWIN BARNES	P.O. Box 1721 G.T. George Town Grand Cayman	Single Proprietor	P		0.4764	AC	NOT LEASE
19E 49		ELAINE McDERMOTT	P.O. Box 1453 Grand Cayman KY1-111 0 Cayman Islands	Joint Proprietor	P		0.21	AC	NOT LEASE
19E 49		ANGLEN McDERMOTT	P.O. Box 1453 Grand Cayman KY1-111 0 Cayman Islands	Joint Proprietor	P		0.21	AC	NOT LEASE
19E 49		STEPHEN ANTHONY McDERMOTT	P.O. Box 1453 Grand Cayman KY1-111 0 Cayman Islands	Joint Proprietor	P		0.21	AC	NOT LEASE



Lands & Survey Department
Cayman Islands Government
PO Box 1089
Grand Cayman KY1-1102





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

October 11, 2018

Planning Department
PO Box 31206
Grand Cayman KY1-1205
Cayman Islands

Attn: Director of Planning

Dear Mr. Pandohie,

PURPORTED LPP DESIGNATION ON GEORGE TOWN EAST BLOCK 19E, PARCEL 187

We act and write on behalf of National Cement Ltd., which company currently operates a cement storage and bagging operation on 13D458 (the "Compound") and is the holder of 100 percent of the shares of National Road Ltd., which is the registered proprietor of 19E186 (the "Road Parcel") and 19E187 (the "Partially Excavated Parcel"). Therefore, for the purposes of the subject matter of this letter, we also act for National Road Ltd. as well, and so any reference to "our client" or "our clients" should be construed as being a reference to the either the relevant company or both companies, as context requires.

As you would be aware, our client recently obtained planning approval for a series of improvements to Parcel 13D458 (CPA12/17 item 2.14, P17-0491) (the "Approval"), including the renovation of a building and the demolition and reconstruction of another building and the construction of a car park lot and temporary offices. It should be noted that the Approval was always intended to be the first phase of a future expansion of our client's existing site, and that the Road Parcel and the Partially Excavated Parcel were acquired so as to allow our client to reconfigure and expand the Compound so as to enhance efficiency of land use and production and productivity of its existing operations.

Our client therefore purchased the Partially Excavated Parcel (0.87 acre) on July 28, 2016 as an essential means of expanding the Compound onto it over time. At the time of the purchase the requisite due diligence exercise that was undertaken by our clients' conveyance attorneys did not disclose any sort of restriction on the development potential of the Partially Excavated Parcel, either via the Land Registry or via representations by the seller. Our client was therefore surprised when it recently discovered that a "note" has been placed on the Land Register of the Partially Excavated Parcel, on April 20, 2018, without our client's knowledge or consent, indicating that the same is designated as lands for public purpose ("LPP"). This note has deeply distressed our clients, since such a designation would unforeseeably and severely impair our clients' ability to develop its planned

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expansion of the Compound, which it has, since acquiring the Partially Excavated Parcel, expended significant time and resources developing.

Consequently, upon discovering the recent placement of this note on the Register, our client undertook an investigation into the origin of this apparent LPP designation and discovered that there is no record of any actual or legitimate LPP designation. In fact, our clients' investigation also disclosed that the records of the Planning Department erroneously indicate that at some point in time the excavated portion of the Partially Excavated Parcel (0.60 acre) (the "Pit") had been zoned as Public Open Space ("P.O.S.") by the Legislative Assembly of the Cayman Islands. However, we know that the Partially Excavated Parcel is not so designated either on the original Development Plan or any amendment thereof and that the parcel is in fact, and has always been, zoned Heavy Industrial. We therefore believe that this erroneous record is the cause of the recent erroneous note being made on the Land Register, in that, the terms "LPP" and "P.O.S." have been conflated by the Planning Department, and somehow that confusion caused the note to be recently made on the Land Register, subsequent to our client's purchase of the Partially Excavated Parcel.

Our clients maintain that the Partially Excavated Parcel has never fulfilled the intent of an LPP designation, and it certainly has not provided any form of "active or passive recreational use" to landowners in the subdivision. In fact, the Pit has never served any useful purpose to anyone and was simply an excavation which was made to produce fill for the surrounding subdivision lands. In its current state, the Pit is nothing more than a dangerous and polluted eyesore that has only served to invite the dumping of garbage and other detritus into it. Our client believes that, ultimately, it is better and safer to fill the Pit so as to allow the entirety of the Partially Excavated Parcel to be used productively as part of the Compound. It is our client's view that this would certainly better serve the interests of proper planning control and the efficient use of its industrially zoned land (which is becoming rarer every day), which it is legally entitled to develop in accordance with the Development Plan and the attendant regulations for that zoning designation. Certainly, this is the intended use by our clients, who bought the land for use which is consistent with that zoning and who have now expended significant resources in furtherance of that objective.

In any event, as there is no decision by the Central Planning Authority (the "CPA") on record thereby designating any portion of the original subdivision as LPP, we would urge the Planning Department to remove the recent, erroneous note from the Land Register of the Partially Excavated Parcel so as not to improperly obstruct our client's planning application for the expansion of the Compound.

Although our clients are not obliged to do so, our clients have instructed us to indicate that if the error described above can be rectified expeditiously, our client would be happy to designate a portion of the Road Parcel as LPP, since the Road Parcel is obviously a valid implementation of the concept of LPP, as it serves as public access to the businesses of the landowners within the subdivision. For your ease of reference, we have attached a drawing showing the proposed area of the Road Parcel that our clients would be, upon such error being rectified, happy to invite the CPA to designate as LPP (shaded in green), which we would in such circumstances propose to submit for such designation as part of the planning application for the proposed expansion of the Compound, which our client will be submitting in the very near future.

For the sake of clarity, we are not seeking any approval from the CPA vis-a-vis this letter; rather we are simply bringing to your attention what appears to be an administrative error and seeking rectification in respect thereof. However, if we are invited to attend a meeting with either yourself or the CPA to explain our position, we would be happy to do so.

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We trust the foregoing request on behalf of our client is clearly explained. However, please feel free to contact us if you have any queries in respect of the same.

With Best Regards,

J. Samuel Jackson, LLB. (Liv.),
Attorney-at-Law

Enclosed: Map of Area Showing Potential LLP Designated Roadway

Appendix B

Peacey, Jessica

From: Sanderson, Ron
Sent: Friday, June 4, 2021 4:32 PM
To: Peacey, Jessica
Subject: FW: ITC et al v National Cement letter to planning 4th June 2021
Attachments: ITC et al v National Cement letter to planning 4th June 2021.pdf

Ron Sanderson

Deputy Director of Planning | Current Planning
Department of Planning | Cayman Islands Government | Government Administration Building,
133 Elgin Avenue | PO Box 113, Grand Cayman, Cayman Islands KY1-9000
☎ +1 345 244-6504 (Main) ☎ +1 345 244- 6501
✉ ron.sanderson@gov.ky | www.planning.ky

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DEPARTMENT OF PLANNING
Cayman Islands Government

From: Anthony Akiwumi [<mailto:anthony.akiwumi@etienneblake.com>]
Sent: Friday, June 4, 2021 3:46 PM
To: Harron.Pandohie@gov.ky; Sanderson, Ron <Ron.Sanderson@gov.ky>
Cc: Williams, Sophia <Sophia.Williams@gov.ky>; Obi, Uche <Uche.Obi@gov.ky>
Subject: [EXTERNAL] ITC et al v National Cement letter to planning 4th June 2021

Dear Sirs,

Please find attached for your reference correspondence in the above captioned matter.

Kind regards,

Anthony Akiwumi

The Director,
Department of Planning
George Town,
Cayman Islands

28th May 2021

Att: Mr. Haroon Pandohie

Dear Sirs,

National Cement Ltd.

We act for, ITC Ltd., CI Precast, Tony's Toys Ltd. And Mac & Sons. Ltd the proprietors of which own property adjacent to Sherwood Drive (19E 186), the Pond (19E 187) and We have received Notice with respect to an application by National Cement Ltd. for further modification of the Permission to construct a batching plant on 13D 458. Our clients are adversely affected by proposals to fill the Pond with Concrete as well as fencing off part of Sherwood Drive contrary to VROW's over the roadway in our Client's favour. Further objection to the application are premised on the fact that our Clients enjoy naval rights of drainage which in the absence of a drainage management plan with expose our Clients businesses to catastrophic flooding with consequential damage to their properties, trade supplies and equipment.

We wish to be notified of the date of the hearing by the CPA of the application for modification when on our Clients behalf, we will provide detailed submissions on why the proposed modifications should be refused.

Yours faithfully,



Etienne Blake

CC: Mr. Ron Sanderson (Deputy Director)

The Director,
Department of Planning
George Town,
Cayman Islands

4th June 2021

Att: Mr. Haroon Pandohie

Dear Sirs,

National Cement Ltd.

We act for, ITC Ltd., CI Precast Ltd., Tony's Toys Ltd. and Mac & Sons Ltd. the proprietors of which own property adjacent to Sherwood Drive (19E 186), the Pond (19E 187).

Sherwood Drive and the Pond have always been owned by National Roads Ltd. which company has never (as would have been appropriate) been an applicant with respect to the initial planning permission and modifications thereof granted by the CPA to National Cement Ltd. We observe too, that as of the date of this letter, we are unaware of any grant by Lands and Survey of approval of any application by National Roads Ltd. to combine the Sherwood Drive and the Pond into a single parcel. This glaring omission notwithstanding, the CPA and the Planning Department have granted permission / approvals purportedly in connection with National Cement Ltd's development of a concrete batching plant and ancillary works on 13D 458. In this context, all Notices for permission and / or modifications thereof have omitted to stipulate National Cement Ltd.'s objectives¹ in relation to Sherwood Drive and the Pond (neither of which it owned at all material times) and with serious impact on established rights of way vested in our Clients over the entirety of Sherwood Drive and the access thereto, also via an established vehicular right of way, from 13D 325 onto Sherwood Drive.

¹ Rendering the Notices defective.

In the result, the current application for modification will result in the severe curtailment of our Clients' rights of way, such that access to and from their adjoining properties will be severely impeded. Egregiously, National Cement Ltd. will have co-opted the CPA and Department of Planning's *imprimatur* to create facts existing on the ground, in relation to the easements affecting Sherwood Drive and the access road from 13D 325 to Sherwood Drive. Our Clients' view is that National Cement Ltd. has deliberately proceeded in this manner, in an attempt to circumvent the statutory protections and procedures (per section 96 of the Registered Land Act 2018) governing the rights of way granted to our Clients is a gross and manipulative abuse of process which ought not to be countenanced by the CPA and the Planning Department.

For the avoidance of doubt, our Clients assert that the Permission and Modifications thereof which affect Sherwood Drive, the access road heretofore described and the Pond are a nullity; further, to the extent that National Cement Ltd. intends to proceed with its pending application to erect fences across the rights of way and our Clients's rights to drainage into the Pond, please take this letter as documenting our Clients' objections. National Cement Ltd.'s lack of standing with respect to the initial application for permission as it affected Sherwood Drive and the Pond is compounded by its unlawful invitation to the Planning Department, via its attorney's letter of 11th October 2018 in which it was asserted, without foundation, that the LPP status of the Pond was made in "error", notwithstanding a designation made in October 1994 and the clear statutory procedures for the removal / extinguishment of such designations prescribed by section 98A to 98D of the Registered Land Act (2018 Revision). Neither the Planning Department nor the Registrar is authorised to circumvent the statutory processes which, for the avoidance of doubt prescribes the following:

"98D. The court shall have power, on the application of any person interested in land affected by a dedication, by order, to wholly or partially extinguish or modify a dedication (with or without payments by the applicant of compensation to any person suffering loss in consequence of the order)."

It is relevant to note, in this context, that National Road Ltd acquired the Pond (and indeed Sherwood Drive) in 2016 and neither it nor National Cement Ltd. are in any position to. Contend that the original Designation of the Pond as LPP was in "error" nor assail the essential utility of the Pond as a drainage sump (*natural rights of drainage*)² for our Clients whose properties adjoin both the Pond and Sherwood Drive. In the premises the purported removal of the Pond's LPP designation is unlawful and a nullity as is any purported permission granted to National Cement Ltd, not least because it had no standing to make the applications for permission and / or modification and by so doing abusively manipulated, for its benefit, the process to the disadvantage of our Clients's due process rights specified by section 98D above and by section 19 of the Bill of Rights of the Cayman Islands Constitution 2009. In the premises, our Clients object to any application by National Cement Ltd. to fill the Pond with concrete whether as a device to combine and expand the footprint of 13D 458 with the Pond and / or erect a fence across Sherwood Drive to effect the combination as demonstrated on the submitted drawings or at all.

In light of the matters aforesaid and our Clients' position that the permission and modifications granted insofar as they affect their protected rights are a nullity our Client's take the view that they are not in any way inhibited in challenging the the permissions and objecting to any modifications thereof

² Section 97 of the Registered Land Act (2018 Revision)

including the present application before the CPA and the Planning Department. In either event our Clients' rights are reserved, including their rights to advance additional grounds of objection in light of additional information disclosed by way of requests for information pursuant to the FOI Act. On this aspect we require disclosure of all submissions, minutes and decision notices with respect to the application for permission and any correspondence from National Cement Ltd's attorneys with respect to the current application and in relation to the previous application for permission and modification. We wish to be notified of the date of the hearing by the CPA of the application for modification when on our Clients behalf, we will provide detailed submissions on why the proposed modifications should be refused.

Yours faithfully,

A handwritten signature in blue ink that reads "Etienne Blake". The signature is written in a cursive, flowing style.

Etienne Blake

CC: Mr. Ron Sanderson (Deputy Director)

Appendix 'C'

27 July 2021

Dear Mr. Chairman,

RE: Planning Application P21-0625 - Mizpah Development - 2,072 sq ft Duplex, 22236 sq ft 24 Unit Townhouses, 256 sq ft Cabana, Pool on Block 9A, Parcel 16

The following submissions are made by Mizpah Development in response to the report prepared by the DOE dated 15 July 2021 in respect of the captioned development, whereby the DOE is proposing the retention of a 50' wide "mangrove buffer" along the coastline of the pond, which would significantly impact the viability of the proposed development by constraining the development envelope on the subject parcel.

Firstly, the CPA should be mindful of the fact that the entirety of the subject parcel, including the part which extends into Vulganner's Pond - and indeed, the entirety of Vulganner's Pond itself - is zoned Low Density Residential and that there is no protected mangrove anywhere on the subject parcel.

No Legal Basis for Proposed "Buffer"

Consequently, there is no legislated environmental protection imposed on the subject parcel:

- (1) Neither the subject parcel nor Vulganner's Pond is Crown-owned, so there can be no designation of the pond as a protected area under the National Conservation Act, 2013 ("the NCA");
- (2) Furthermore, as far as we are aware, there has been no agreement with any of the landowners of the parcels comprising the pond to create a conservation area pursuant to Section 13 of the NCA;
- (3) The pond is not listed as an animal sanctuary under Schedule 4 of the NCA (such as Meagre Bay Pond, Colliers Pond, etc.);
- (4) Vulganner's Pond has not been declared by the National Conservation Council ("the NCC") to be the critical habitat of any protected species.

In short, as far as we are aware, despite the fact that there are a number of ways that either Parliament, Cabinet or the NCC could have afforded any necessary environmental protection to the pond, there has been no such statutory protection implemented, which leaves us with the reasonable assumption that no such protection is necessary and/or justified.

Despite this being the case, it appears that the Director of the DOE is now seeking to use her delegated authority under Section 3 (13) of the NCA to implement some sort of mangrove buffer on the subject parcel, without having any lawful authority so to do, or providing any rationale for the same.

That being the case, the CPA should be cognizant of the provisions of Section 15 of the Cayman Islands Constitutional Order 2009, which protects the rights of owners to peaceably enjoy their property, free from interference by the Government. Section 19 of the Constitution should also be borne in mind, which requires the actions and decisions of all public officials to be lawful, rational, proportionate and procedurally fair. We would submit that the actions of Director of the DOE do not meet this constitutionally guaranteed criteria.

Notwithstanding the foregoing, the approach which has been taken to design the proposed development was to create a low-rise, low impact style of development, incorporating the natural beauty and wildlife of the pond as a feature of the development itself, with the genuine intent to maintain the pond in its current state as natural habitat, as that will only serve to enhance the theme of the project. Therefore, even though Vulgunner's Pond comprises a significant part of the parcel and commensurately the owners of the subject parcel own a significant part of Vulgunner's Pond, the development was carefully planned to avoid impacting the pond, even though the pond itself is zoned for development (Low Density development). It is noted as well that Vulgunner's Pond is not even depicted on the Development Plan zoning map as a natural feature.

As the Department of Environment has pointed out, the site is 'man modified' save for the part within Vulgunner's Pond, so the impact of the development on natural habitat is insignificant, as the fringing mangroves at edge of the pond are not red mangroves standing in the pond itself. Additionally, the clump of mangroves in the eastern portion of the parcel, which are standing in the pond, will be left intact.

Pursuant to a survey that was carried out on 23 July 2021, which is well into the rainy season and following a number of heavy rains, it was noted by the surveyor that:

The closest point of the development to the pond will be a vehicular driveway which loops around the eastern end of the development. This was deliberately incorporated into the design of the site plan so as to set the buildings back as far as possible from the pond. This point is 21' away from the water level as surveyed by a licensed land surveyor on 23 July 2021.

The nearest building to the pond will be over 55' from the water's edge as measured on 23 July 2021.

It therefore appears the photograph superimposed on the land map ("Figure 3") and utilized by the Department of Environment in their comments does not accurately reflect the exact position of the development compared to an actual survey and depicts

the development closer to the pond. We have noted and are advised that this is the result of skewing of detail when an aerial photograph is superimposed on a survey/registry map.

DOE Report:

We would respond to the specific aspect of the DOE's report as follows:

Buffer Area

The buildings in the proposed development will be separated by a greater distance from the pond than the buildings in the adjacent development to which the Department of Environment referred. The site plan shows that three of the four units in the block of apartments adjacent to the Mizpah development are nearer to the pond than the apartments in our proposal. The area of the subject parcel which lies within the pond (including the cluster of mangroves standing in the pond) is actually being left completely intact in an effort dedicated to sustaining the ecosystem of the pond, is at least 3 times the area left by the adjacent development to which the Department of Environment referred.

Drainage/Water Quality in Vulgunner's Pond

As the pond is an integral feature of the proposed development, the intent is to prevent water runoff from impacting Vulgunner's pond. In that vein, a stormwater management plan has already been considered and will be designed so as to provide adequate on-site stormwater drainage for the developed part of the parcel. This design will include swales on the north and south sides that will terminate at the east end to prevent water runoff from draining into the pond. The vehicular right of way at the east side of the development will drain inward, away from the pond.

Additional Habitat

There is a 'mangrove island' east of the proposed development but within the property line of the proposed development. This "island" will remain untouched and we are happy for the CPA to impose that as a condition of planning approval. This clump of mangroves lies to the east of the water's edge surveyed on 23 July 2021 and will provide additional marsh land habitat for waterborne fauna as well as provided roosting and nesting for various pond fowl and other birds. We intend to preserve and protect this valuable feature as part of the development.

Balanced approach with due consideration of environmental concerns

The proposed development in all respects meets all of the planning requirements and is in conformity with all of the relevant Regulations. The manner in which accommodation of environmental concerns relating to impact within the parcel has been addressed exceeds the

norm and what is required by the Development and Planning Act, the Development Plan and the Development and Planning Regulations. Though not required by law or regulation, 28% of the subject parcel is being left untouched in the interest of the environment.

For the reasons outlined above, we would urge the CPA to approve the proposed development, subject to the usual appropriate conditions.

Although there are no objectors, given the DOE's proposals, we would ask that the CPA allow us to attend the hearing of this matter, so that we may address any issues arising from the foregoing or answer any questions the CPA may have about the proposed development.

A handwritten signature in cursive script, appearing to read "D. Hawkins".

David A. Hawkins
Proprietor

Appendix 'D'

EMORANDUM

TO: Director of Planning **YOUR REF:** P21-0625
ATTN: Jessica Peacey
FROM: Director of Environment **DATE:** 2 August 2021

SUBJECT: Mizpah Development
2,072 sq ft Duplex, 22,236 sq ft 24 Unit Townhouses, 256 sq ft Cabana, Pool
Block 9A Parcel 16

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).

We have reviewed a letter provided in response to our Planning Review submitted on 15 July 2021. The letter contains a number of factual errors and therefore we would like to clarify our position for the Central Planning Authority, to assist in their consideration of the application.

The Purpose of our Planning Reviews

Our review outlines the views of the NCC (in accordance with their function detailed in Section 9 of the National Conservation Act) on options for the CPA to consider on how to mitigate environmental impacts associated with a planning application.

Our review constitutes advice for consideration by the CPA when they review a planning application. The applicant's response to the DoE's review cites part of section 15 of the Constitution, however the latter part of section 15 (which was not cited) is pertinent to the development control/town and country planning process, namely:

"Property

*15.—(1) Government shall not interfere in the peaceful enjoyment of any person's property and shall not compulsorily take possession of any person's property, or compulsorily acquire an interest in or right over any person's property of any description, **except** in accordance with law and where*

- (a) the interference, taking of possession or acquisition is necessary or expedient in the interests of defence, public safety, public order, public morality, public health, **town and country planning or the development or utilisation of any property in such manner as to promote the public benefit or the economic well-being of the community;**"*

The Constitution also specifically outlines the need to protect the environment, and the need for government to consider the environment in all its decisions:

“Protection of the environment

18.—(1) Government shall, in all its decisions, have due regard to the need to foster and protect an environment that is not harmful to the health or well-being of present and future generations, while promoting justifiable economic and social development.

(2) To this end government should adopt reasonable legislative and other measures to protect the heritage and wildlife and the land and sea biodiversity of the Cayman Islands that—

- (a) limit pollution and ecological degradation;*
- (b) promote conservation and biodiversity; and*
- (c) secure ecologically sustainable development and use of natural resources.”*

We trust that the Central Planning Authority will read our review as intended, rather than as misconstrued in the applicant’s letter.

There are occasions, under specific circumstances, where the National Conservation Council can direct the CPA to take a specific action (see Section 41 of the NCA). These circumstances do not apply to this development.

Protected Status of Mangroves

There are four species of mangroves and all are listed as protected under Part 2 Schedule 1 of the National Conservation Act. The four species are Red Mangrove (*Rhizophora mangle*), White Mangrove (*Laguncularia racemosa*), Black Mangrove (*Avicennia germinans*), and Buttonwood (*Conocarpus erectus*).

Species which are listed under Part 2 Schedule 1 are species which may be hunted or collected (in accordance with regulations or a conservation plan, if any). The Species Conservation Plan for Mangroves was issued in accordance with Section 17 of the National Conservation Act and covers all four species wherever they are naturally occurring or have been restored. The Species Conservation Plan for Mangroves was gazetted in the Cayman Islands Gazette on Monday, 27 April 2020, Issue No.9/2020, meaning it is now fully adopted. The Conservation Plan can be accessed here: <https://conservation.ky/wp-content/uploads/2021/01/Species-Conservation-Plan-for-Mangroves-FINAL.pdf>

Under the Species Conservation Plan, it is an offense to ‘take’ mangroves unless any of a number of conditions are met. One of those conditions is “Planning Permission has been granted for a project impacting mangroves, by the Central Planning Authority or Development Control Board, and any conditions which must be met before this permission is valid or implementable, have been met.”

Therefore, the mangroves on the Application Site do have protection under the National Conservation Act. However it is lawful to remove them if the Central Planning Authority grants planning permission and the Applicant meets the conditions attached to the planning permission.

A site visit was conducted on 27 July 2021 which found all four species of mangroves on the application site, see Appendix A. The applicant’s letter places particular emphasis on the iconic

red mangrove, however all four species are important and sit within the mangrove community. The four species work in concert (see Figure 1) to provide a diverse habitat and many ecosystem services (water quality, space for birds, fish nursery, and stability).

The applicant's letter states that "As the Department of Environment has pointed out, the site is 'man modified' save for the part within Vugunner's [sic] pond, so the impact of the development on natural habitat is insignificant, as the fringing mangroves at edge of the pond [sic] are not red mangroves standing in the pond itself."

This is factually incorrect, as the Department stated, "The site is man-modified except for the part of the site within Vulgunner's Pond **and approximately 120 feet of tidally flooded mangrove forest adjacent to the pond**". As previously stated all four species of mangroves are present and are protected. It is also inaccurate to say that the impact of the development on natural habitat is insignificant, when it will result in the loss of approximately 18,000 sq ft of mangroves (as measured from 2018 aerial imagery). The Department proposed the retention of approximately 8,500 sq ft (estimated by keeping 50 ft of the existing 120 ft of mangroves multiplied by approximately 170 ft of 'frontage' onto the pond). The Department proposed 50 ft as a reasonable balance between losing all of the mangroves to development and constraining development by keeping all existing 120 ft of the mangrove fringe.

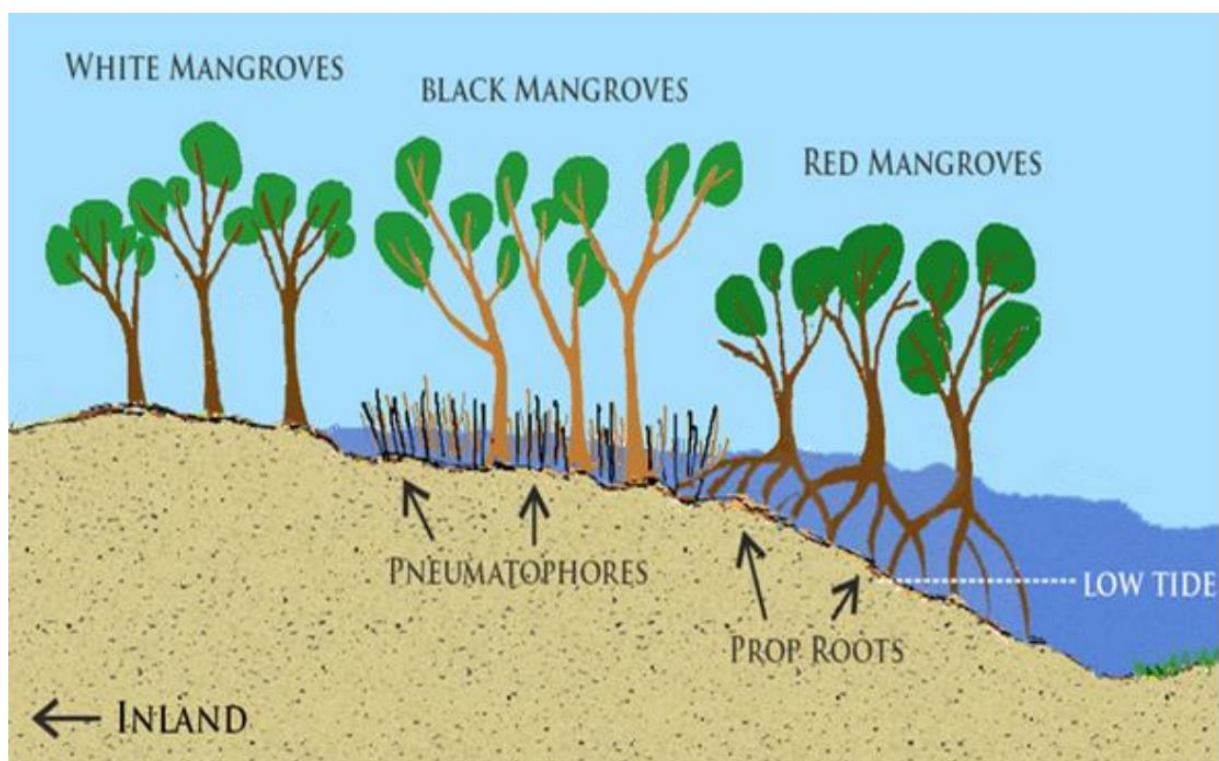


Figure 1. Mangrove succession diagram.

Updated Plans and Concerns with Respect to Our Geospatial Analysis

Updated plans which show the water's edge as surveyed on 23 July 2021 have been provided. The applicant's letter states that there is an error with the aerial photograph being overlaid with

the registry map. The Department does not produce or create either of these; they are both provided by the Lands and Survey Department. Aerial imagery is taken approximately every 5 years for the Lands and Survey Department, and the most recent imagery is from 2018.

The Department uses ArcMap, a geospatial processing program, to georeference architectural plans against data from the Lands and Survey Department such as aerial imagery, land registry information and parcel boundaries. After receiving the revised plans on 27 July 2021, the Department's Geographic Information Systems Officer georeferenced the revised plans and confirmed that the original geo-referencing was accurate.

In addition, the 2013 aerial imagery was reviewed to determine if the 2018 aerial imagery was somehow misleading, and this does not appear to be the case (see Figures 4 & 5).

The applicant's letter states that the development will be set back further from Vulgunner's Pond than the development to the south. This is easily disproven by the comments of the surveyor included in the letter and given that the Applicant's own plan shows that the distance is recorded as 15'-8^{3/8}" and 22'-6", and the wall of the development to the south is 50 to 70 ft from the edge of the pond when measured.

Updated Planning Review

The site is man-modified except for the part of the site within Vulgunner's Pond and approximately 120 feet of tidally flooded mangrove forest (see Figures 2 to 5). As stated above, mangroves are Part 2 Schedule 1 protected species under the National Conservation Act with a Species Conservation Plan in force. Vulgunner's Pond is a natural pond. It has been impacted by development in the area, including dredging, but remains habitat for birds and waterfowl (Part 1 Schedule 1 protected species under the National Conservation Act, which means they are protected at all times). The pond does have ecological value.



Figure 2. The site (blue) showing the context within West Bay.

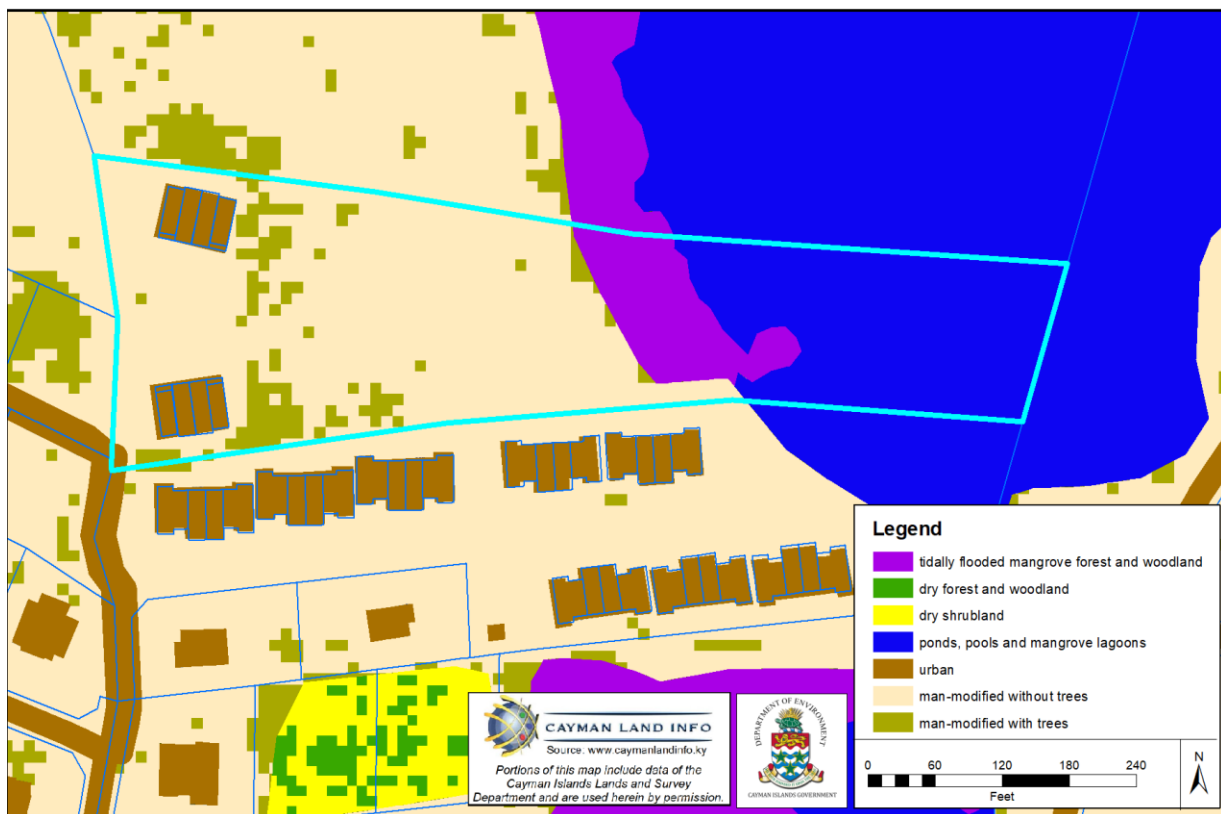


Figure 3. The purple band shows the area of mangroves and the blue shows Vulgunner's Pond.

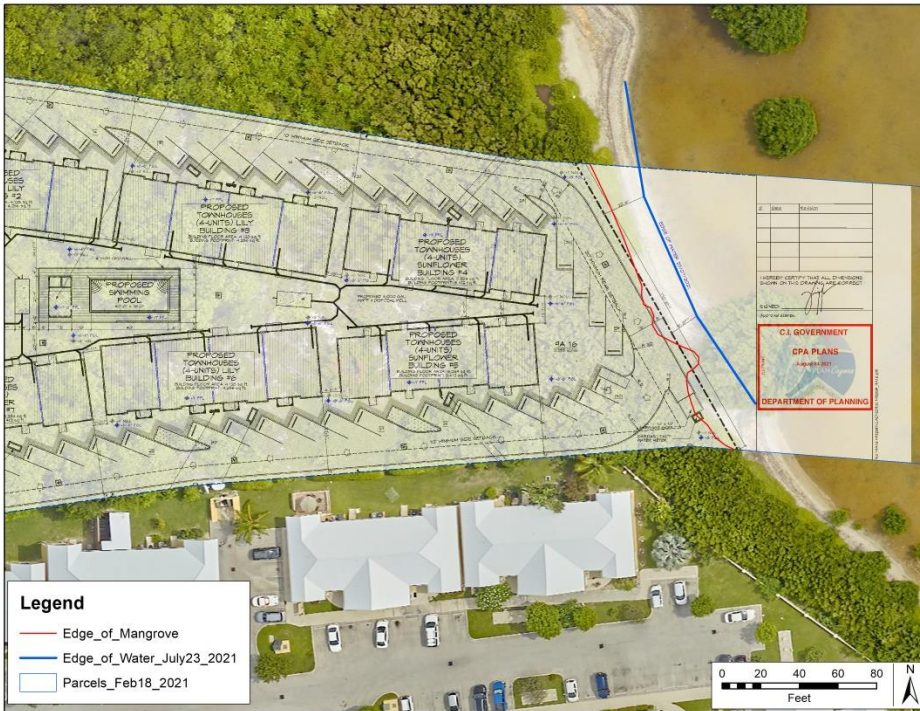


Figure 4. The proposed development georeferenced to Lands and Survey data with the 2018 aerial imagery.

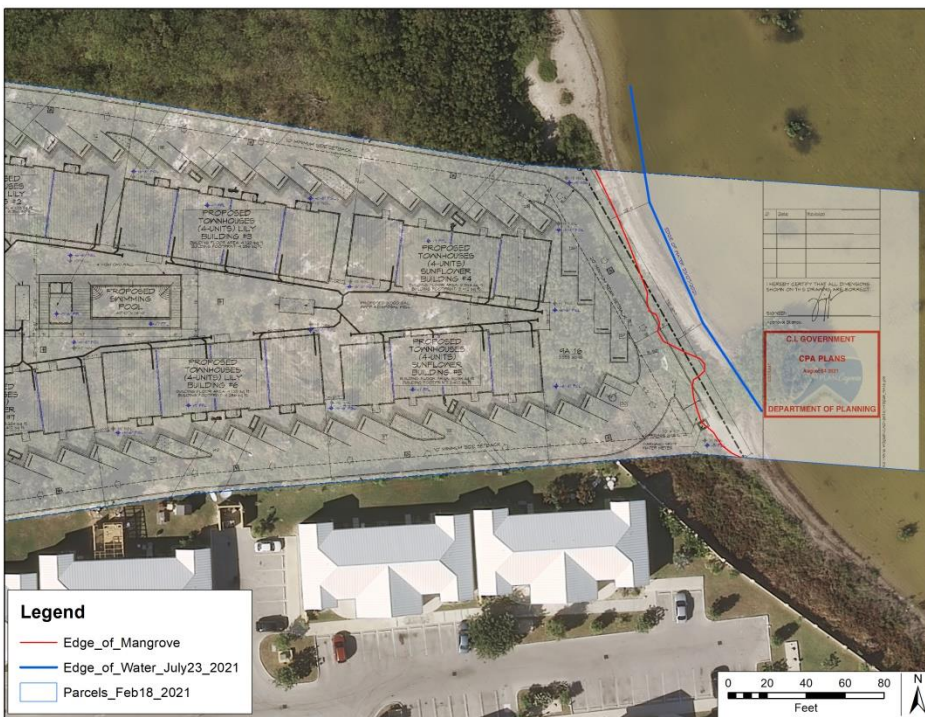


Figure 5. The proposed development georeferenced to Lands and Survey data with the 2013 aerial imagery.

The Department supports the applicant's retention of Vulgunner's Pond and agrees that it will be a valuable feature of part of the development. We agree that the pond has natural beauty and that the wildlife of the pond can become a feature of the development itself. We also do appreciate that more of the site falls within Vulgunner's Pond than the development to the south, and therefore retention of Vulgunner's Pond means that the Applicant will be leaving more of their site undeveloped than the development to the south did. We agree that leaving the mangrove 'island' will provide a habitat for birds.

We also maintain that leaving more mangroves along the water's edge would leave more habitat for birds and other wildlife, and prevent degradation of the pond from the development. We continue to recommend that in addition to retaining the pond itself, a 50 ft mangrove buffer is retained around Vulgunner's Pond. When the development adjacent to the south was constructed, a 50 ft buffer of mangroves next to Vulgunner's Pond was retained (Figure 6). Therefore, we maintain that including a 50 ft buffer of mangroves would be in keeping with the surrounding area.

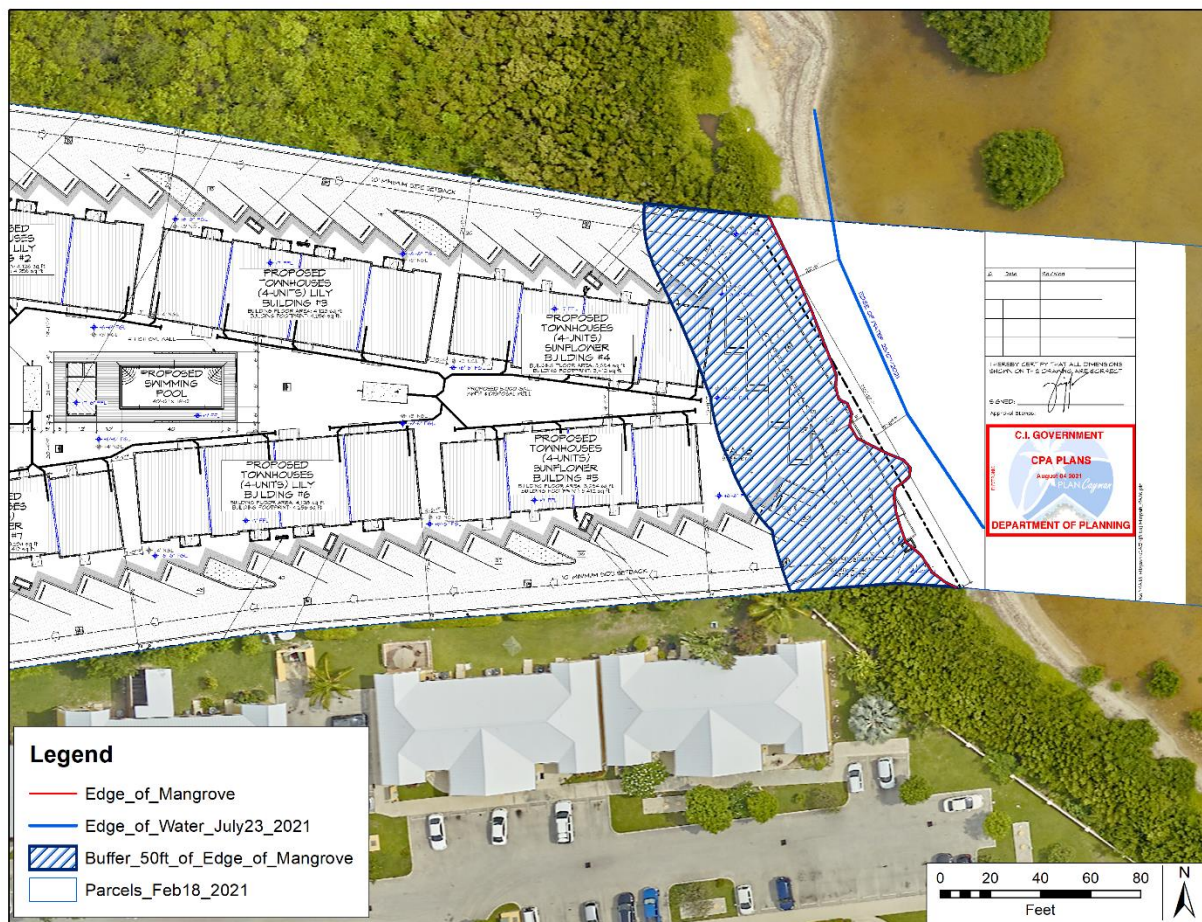


Figure 6. The updated plans, showing a mangrove buffer of 50 ft, which is in line with the development to the south.

Original Review

The site is man-modified except for the part of the site within Vulgunner's Pond and approximately 120 feet of tidally flooded mangrove forest adjacent to the pond. Vulgunner's Pond is a natural pond. It has been impacted by development in the area, but is habitat for birds and waterfowl (Part 1 Schedule 1 species under the National Conservation Act).

When the development adjacent to the south was constructed, a 50 ft buffer of mangroves next to Vulgunner's Pond was retained. We recommend that this development also retains a 50 ft buffer of mangroves to separate it from Vulgunner's Pond. Figure 3 [now Figure 6] shows an excerpt of the planning application drawings and an approximately 50 ft buffer.

Retaining a 50 ft buffer of mangroves would help to prevent runoff from the development going into Vulgunner's Pond, which can affect water quality. It would also aid in protection against flooding. It would provide habitat along the water's edge for birds and other wildlife.

Director of Environment

Appendix A: Mangroves on Site



Photo 1: Mixed mangrove communities at the site, with black mangroves are in the background



Photo 2: The photo is taken from the man-modified area looking towards the mixed mangrove community, Vulgunner's Pond is behind the mangroves.



Photo 3. White mangroves flowering on the development site.

Appendix 'E'

PARKING LEASE AGREEMENT

BETWEEN

CADS Holdings Ltd., as registered owner of Block 20B Parcel 265 and 266

AND

Kim Lund, as registered owner of Block 20B Parcel 236

PARTIES

This Parking Lease Agreement ("Agreement"), is made and entered into, by and between CADS Holdings Ltd. ("Lessor") and Kim Lund ("Lessee").

LEASE TERM

The Lessor agrees to lease the 5 parking spaces located at Block 20B Parcel 265 and 266 ("Parking Spaces") as highlighted in red on the attached Schedule 1, to the Lessee according to the terms and conditions set forth in this Agreement.

This Agreement shall commence on August 1st, 2021 and will continue for 10 (ten) years with an optional renewal of another 10 (ten) years term, subject to at least 6 (six) months written notice to renew, prior to the end of the lease term by the Lessee. The lease can be terminated by either party with at least 3 (three) months written notice to the other party.

TERMS AND CONDITIONS

Rent

Lessee will pay US\$5,000 per annum to the Lessor in advance for the Parking Spaces.

Subletting

Lessee will not be allowed to sublet the Parking Spaces.

Maintenance

Lessee is responsible for keeping the Parking Spaces in good condition.

Damage and Use of Space

The Parking Spaces are reserved only as spaces for parking of vehicles and the Lessor will not be liable for any damages to personal property or vehicles arising from the Lessee's negligence.

Governing Law

This Agreement shall be governed by and construed in accordance with Cayman Islands' law and the Courts of the Cayman Islands shall have the exclusive jurisdiction over disputes arising out of or in connection with this Agreement.

Entire Agreement

Lessee enters into this Agreement solely as a result of its inspection of the Parking Spaces and on the basis of the terms of this Agreement.

IN WITNESS WHEREOF the parties hereto have duly executed this Agreement on the day and year hereinbefore written.

SIGNED on behalf of the Lessor
on this 19th day of July 2021
in the presence of:

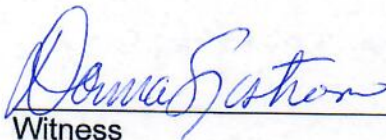


Witness



Lessor Woodrow Foster
Director

SIGNED on behalf of the Lessee
on this 19th day of JULY 2021
in the presence of:



Witness



Lessee

