

# Central Planning Authority

**Minutes** of a meeting of the Central Planning Authority held on **November 8, 2023 at 10:00am** in Conference Room 1038, 1st Floor, Government Administration Building, 133 Elgin Avenue

## 26<sup>th</sup> Meeting of the Year

CPA/26/23

Mr. Ian Pairaudeau (Chair) (apologies)

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

Mr. Joshua Bernard

Mr. Gillard McLaughlin (left 4:25)

Mr. Charles Russell Jr. (apologies)

Mr. Peterkin Berry (arrived 10:25)

Mr. Peter Campbell

Mr. Kenneth Ebanks (via Zoom)

Ms. Danette McLaughlin (left 4:30)

Ms. Shakina Bush (left 2:40)

Ms. Christine Maltman, MCIP, AICP

Ms. Celecia Bancroft

Mr. Ashton Bodden (left 4:05)

Mr. Haroon Pandohie (Executive Secretary)

Mr. Ron Sanderson (Deputy Director of Planning - Current Planning) (Acting Executive Secretary 2.18)

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

## List of Applications Presented at CPA/26/23

- 2.1 WESTON WILLIAMS (IWB Architecture) Block 27D Parcel 94 (P22-0793) (\$250,000) (EJ) 5**
- 2.2 AMAR MUNDLE (Amar Mundle) Block 48C Parcel 234 (P23-0448) (\$772,600) (EJ) 8**
- 2.3 ADVANCE EV LTD (Whittaker & Watler) Block 20E Parcel 308 (P23-0375) (\$1,166,940) (NP) 10**
- 2.4 GOVERNOR'S BEACH (Public Works Department) Block 11D Parcel 3 (P22-0526) (\$650,000) (NP) 22**
- 2.5 EVELIN MENA (Brewster's Designs) Block 24E Parcel 486 (P23-0584) (\$60,000) (NP) 37**
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- 2.8 RUTH FERREIRA DE ARANTES (Ian Barnes) Block 4E Parcel 342 (P21-0813) (\$400,000) (MW) 50**
- 2.9 RICHARD BROWN (GMJ Home Plan Ltd.) Block 4B Parcel 531 (P23-0612) (\$455,000) (EJ) 58**
- 2.10 CP DEVELOPMENTS LTD. (Alan O'Connell) Block 19A Parcel 62 (P23-0714) (\$12,000) (MW) 65**
- 2.11 EDDY FERRUFINO (Envision Design Associates) Block 27E Parcel 95 (P23-0007) (\$109,940) (EJ) 67**
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- 2.21 MICHAEL TAYLOR (Dwayne Construction Ltd) Block 48E Parcel 110 (P22-1106) (\$1.5 million) (NP) 112**
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- 2.23 LEIDER VIAMONTE ARGUELLES (John Bernard) Block 28B Parcel 307 (P23-0656) (\$288,000) (EJ) 117**
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- 6.3 PLANNING LAW REVIEW COMMITTEE 158**

**APPLICANTS ATTENDING THE AUTHORITY’S MEETING**

<b>Applicant Name</b>	<b>Time</b>	<b>Item</b>	<b>Page</b>
Weston Williams	10:30	2.1	5
Amar Mundle	11:00	2.2	8
Advance EV	11:30	2.3	10
Governor’s Beach	1:00	2.4	22
Evelin Mena	1:30	2.5	37
George P. Evans	2:00	2.6	39
Charles Watler	2:30	3.1	137
Dhown Homes	3:00	3.1	147

**1.1 Confirmation of Minutes CPA/25/23 held on 25<sup>th</sup> October 2023.**

**Moved:** Christine Maltman

**Seconded:** Kenneth Ebanks

**Confirmed**

**1.2 Declarations of Conflicts/Interests**

<b>Item</b>	<b>Member</b>
2.3, 2.15	Danette McLaughlin
2.6	Kenneth Ebanks
2.18	Haroon Pandohie



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

**2.1 WESTON WILLIAMS (IWB Architecture) Block 27D Parcel 94 (P22-0793) (\$250,000) (EJ)**

Application for an after-the-fact duplex.

**Appearance at 10:30**

**FACTS**

<i>Location</i>	Yellowstone Street, North Sound Estates
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.30 ac. (13,068 sq. ft.)
<i>Parcel size required</i>	22,500 sq. ft.
<i>Current use</i>	house & ATF duplex
<i>Proposed building size</i>	787 sq. ft.
<i>Total building site coverage</i>	20.69%
<i>Required parking</i>	3
<i>Proposed parking</i>	4

**BACKGROUND**

1986 – permission granted for a house.

September 20, 2006 – The Department granted permission for an addition to create a duplex (never constructed)

September 21, 2017 – The Department issued an enforcement notice (CE17-0108).

July 27, 2018 – approval granted permission for an addition to create a duplex.

December 15, 2021 – an enforcement notice (CE21-0222) issued for the atf duplex.

August 16, 2023 (**CPA/17/23; Item 2.6**) – The CPA adjourned the application in order to invite the applicant to discuss concerns regarding the lot size.

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

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

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) With the exception of the lot size, which is addressed below, the application complies with the Development and Planning Regulations (2022 Revision).
- 3) The proposed application does not comply with the minimum required lot size per Regulation 9(8)(e) of the Development and Planning Regulations (2022 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.

### **APPLICANT'S LETTER**

*I was told to write you a letter and request a lot size variance exemption for the addition done to my home, and give reason for wanting lenience.*

*I am not one to disobey laws are one who deliberately break polices or regulation but under the circumstances in which I am faced I saw it necessary to do what I did. I am a hard-working person who believes that no matter what life throws at me I need to find a way to overcome, the cast of living in the Cayman Island has gotten to a point where living as become somewhat difficult and prices in all aspects of purchasing as gone up where my expenses have exceeded my income.*

*I have been working at the same company for over fifteen years and while my salary was ok and I was able to manage my bills, it has gotten to the point where I have to choose between food and paying my mortgage.*

*I have even gone as far as to start doing a part time job but even with that it was difficult to make ends meet. Because of this I decided to add two rental units in the back of my yard seeing that I had the space, this was done not to gain wealth or to live a life of luxury, it was done because of my financial situation, I have not left this Island for over four years and the Pandemic has made it even harder, I say this to express how desperate I am just to pay bills and to afford my mortgage and just to have the basic needs to survive in this country. This is my home and I have nowhere else to go so the little that I have which is my house I am fighting hard to keep.*

*Mr. Pandohie I humbly ask for some lenience on the addition that I have made to my property so that can keep my house and to maintain me and my family.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The after-the-fact one by one-bedroom duplex is the result of enforcement notice CE21-0222 and is located on Yellowstone Street in North Sound Estate.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) Minimum lot size**

The after the fact duplex is located on the subject parcel of 13,068 sq. ft. vs 12,500 sq. ft. which would meet regulations 9 (8)(e) per duplex; however, there is an existing duplex on the subject parcel which would require a total of 25,000 sq. ft.; consequently, the applicant is seeking a 11,932 sq. ft. lot size variance for both duplexes.

Interesting to note that in 2017, CE17-0108, an enforcement notice on the subject parcel for enclosing of garage space to increase habitable space. Therefore, the subject has two duplexes with both already being occupied.

The Authority is asked to consider the merits of the applicant's letter and to bear in mind that the North Sound Estate area has hundreds of parcels that is similar in lot size and therefore should be concern for any proliferation of applications.

## **SUPPLEMENTARY ANALYSIS**

On August 16, 2023 (CPA/17/23; Item 2.6) – The CPA adjourned the application in order to invite the applicant due to lot size variance; the applicant is to appear at 10:30am.



Photos courtesy of CE21-0222.



Photos courtesy of Google Maps.

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

- Mr. Williams advised he built the duplex for a second income. He noted he paid the after-the-fact fines and in hindsight he wouldn't have done it.
- In response to questions from the Authority Mr. Williams advised as follows:
  - he bought the existing duplex and he has owned the property for 3 or 4 years
  - the existing septic tank will be used for the duplex
  - he wasn't aware he was breaking the law because this is the norm in his neighbourhood
- There was a general discussion to determine if the two buildings are connected and it was determined they were not so the Authority is dealing with a house and a duplex.
- Mr. Williams confirmed the existing building is a house, not a duplex.
- The Authority advised that if Mr. Williams wants to enclose the space between the two buildings then that would require planning permission and Mr. Williams advised he understood.

## 2.2 **AMAR MUNDLE (Amar Mundle) Block 48C Parcel 234 (P23-0448) (\$772,600) (EJ)**

Application for duplex.

**Appearance at 11:00**

### **FACTS**

<i>Location</i>	Willie Wood Drive, Breakers
<i>Zoning</i>	<b>LDR</b>
<i>Parcel size proposed</i>	0.40 ac. (17,424 sq. ft.)
<i>Parcel size required</i>	12,500 sq. ft.
<i>Current use</i>	Vacant

<i>Proposed building size</i>	2,342 sq. ft.
<i>Total building site coverage</i>	13.45%
<i>Required parking</i>	2
<i>Proposed parking</i>	4

**BACKGROUND**

On July 19, 2023 (**CPA/16/23; Item 2.8**) – The CPA adjourned the application in order to invite the applicant to appear before the authority to discuss concerns regarding the building design as it appears to be 4 apartments units instead of a duplex.

**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 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) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area.
- 4) Prior to undertaking any sanding or breaking down of polystyrene as part of the construction process, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the adjacent Marine Protected Area offshore.
- 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) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted because with the revisions that the applicant made to the plans the application complies with the Development and Planning Regulations (2022 Revision).

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The proposed duplex is located on Willie Wood Drive in Midland Acres.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) Proposed use duplex vs apartments.**

The applicant has submitted plans for a duplex; nevertheless, the design appears to be potential for four (4) unit apartment, as the unit on each side has a kitchenette; therefore, the Authority is asked to consider the proposed design.

If the Authority considers the proposed design apartments, then the applicant will have to notify, seek lot size variance and pay correct fee. Nevertheless, if the CPA considers a duplex, then the proposed meets all planning regulations for this zone.

### **SUPPLEMENTARY ANALYSIS**

On July 19, 2023 (CPA/16/23; Item 2.8) – The CPA adjourned the application in order to invite the applicant to appear before the authority to discuss concerns regarding the building design as it appears to be 4 apartments units instead of a duplex. The applicant has now submitted revised plans showing the two kitchenettes removed.

At 11:00am Mr. Mundel appeared as the applicant. Summary notes are provided as follows:

- The Authority explained why the application was previously adjourned.
- Mr. Mundel advised the original plans have been changed. The Authority viewed the revised plans.
- The Authority asked why is there an outside door in the den because it appears that area could be plumbed at a later date and closed in. Mr. Mundel advised that is not his intention.
- The Authority asked again why does he need the extra door and Mr. Mundel replied it is for access. The Authority asked if he needs them and Mr. Mundel replied they aren't necessary.

#### **2.3 ADVANCE EV LTD (Whittaker & Watler) Block 20E Parcel 308 (P23-0375) (\$1,166,940) (NP)**

Application for an automobile dealership.

**Appearance at 11:30**

**Danette McLaughlin declared a conflict and left the meeting room.**

### **FACTS**

*Location* Crewe Road in George Town

*Zoning* **Medium Density Residential**

*Notification Results* Objections

<i>Parcel size</i>	24,393.6 sq. ft.
<i>Parcel size required</i>	CPA Discretion
<i>Current use</i>	Vacant
<i>Building Footprint</i>	5,886 sq. ft.
<i>Building Area</i>	6,483 sq. ft.
<i>Site Coverage</i>	74.3 % (parking & buildings)
<i>Parking Required</i>	22
<i>Parking Provided</i>	23

## **BACKGROUND**

September 27, 2023 (CPA/23/23: Item 2.1) – The Authority resolved to adjourn the application and re-invite the objectors to a future meeting.

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

Conditions (1-6) listed below shall be met *prior to the commencement of any site preparation works such as clearing, filling and grading* and before permit drawings can be submitted to the Department of Planning.

- 1) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 2) If not already shown on the site plan, the applicant shall submit a site plan that shows the location, dimensions and **size** of the wastewater treatment system including the disposal system per the Water Authority’s specifications.
- 3) If not already shown on the site plan, the applicant shall submit a site plan showing tire stops for the parking spaces and the parking area curbed and surfaced with asphalt or concrete.
- 4) The applicant shall provide proof that a Stormwater Management plan has been submitted to the National Roads Authority (NRA). **The applicant should liaise directly with the NRA in submitting the stormwater management plan.**
- 5) The applicant shall submit a landscape plan which shall be subject to review and approval by the Central Planning Authority. *It is suggested that the landscape plan be prepared following the recommendations of the Draft Cayman Islands Landscape Guidelines, found on the Planning Department’s website ([www.planning.ky](http://www.planning.ky)) under About/Draft Policies.*
- 6) The applicant shall submit a construction operations plan to the satisfaction of the Director of Planning and must be prepared in accordance with the Central Planning Authority’s

Construction Operations Plan Guidelines - Template B *found on the Planning Department's website ([www.planning.ky](http://www.planning.ky)) under About/Draft Policies.*

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

- 7) The applicant shall submit the Stormwater Management plan required in condition 4) which has been designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority.
- 8) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 9) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area
- 10) Prior to undertaking any sanding or breaking down of polystyrene as part of the construction process, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the adjacent Marine Protected Area offshore.
- 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.
- 12) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s).**

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

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

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

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

Reasons for the decision:

- 1) Regulation 9(3) states commercial development may be permitted in suitable locations and if the applicant has advertised twice details of the application in the newspaper and there are no objections lodged by adjacent owners which the Authority regards as raising grounds for refusing permission.

In this instance, the Authority is of the view that the site is suitable for the proposed commercial development as it is in keeping with the character of the area. There is commercial use immediately to the west of the subject site and there are several other commercial uses in the surrounding area along Crewe Rd.

Further, objections were received, but the Authority is of the view that they do not raise grounds for refusing planning permission. More specifically,



- The proposed dealership is for the sale and service of electric vehicles and an inherent aspect of such vehicles is the lack of noise they generate. Further, the site is situated on a busy public road and the Authority is of the view that the noise generated from that traffic would be greater than any noise emanating from the dealership. Finally, the Authority notes that the site is adjacent to the runway of an active international airport and the noise from that facility would be far greater than any noise coming from the dealership.
  - The Authority does not agree that the proposed use will lead to traffic congestion and that view is supported by the National Roads Authority and the objectors have provided no evidence to the contrary.
  - An objection was raised regarding the intensity of use of the site. The Authority is of the view that the intensity of use of an electric vehicle dealership would be on par with what is experienced in multi-family developments of which there are several in the immediate area. The Authority is of the view that the intensity of use of the site as a dealership would be consistent with the existing developments in the area.
  - The enforcement of the Public Health Act does not fall within the remit of the Central Planning Authority.
  - The Authority is of the view that the aesthetic appearance of the proposed development is in keeping with the character of the area which includes a variety of commercial uses and multi-family development.
  - There is nothing in the Development and Planning Act or Regulations that requires the applicant to demonstrate there is a need for their proposed development.
- 2) The Authority is satisfied that the height of the proposed wall is in keeping with the character of the area.

### **AGENCY COMMENTS**

The Authority received and considered comments from the Fire Department, Water Authority, Department of Environment and National Roads Authority.

#### **Fire Department**

The Fire Department has stamp approved the drawings.

#### **Water Authority**

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

#### **Wastewater Treatment & Disposal**

- *The developer shall provide a septic tank(s) with a capacity of at least 1,750 US gallons for the proposed, based on the following calculations:*

<i>BUILDING</i>	<i>UNITS/BLDG</i>	<i>GPD/UNIT</i>	<i>GPD</i>
<i>Total Building Sq. Ft.</i>	<i>6,483 sq. ft.</i>	<i>0.1 x 6,483 (showroom factor)</i>	<i>648.3</i>
<i>Toilets</i>	<i>150gpd/Toilet</i>	<i>2 x 150</i>	<i>300</i>
<i>TOTAL</i>			<i>948.3</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 licensed driller in strict accordance with the Authority's standards. The minimum well casing diameter for this development shall be 4". Licensed drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.*
- *To achieve gravity flow, treated effluent from the septic tank shall enter the disposal well at a minimum invert level of 4'6" 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). Site Built Tanks shall be coated with Epoxytex CPP or ANSI/NSF-61 certified equivalent.*
- 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.*

*A 30ft horizontal separation between the effluent disposal well and any stormwater drainage wells.*

*Traffic Rated Tank and Covers*

*The drawings indicate the septic tank is proposed to be located within a traffic area. Therefore, a traffic rated tank and covers are required. The Water Authority requires that manhole covers be traffic rated heavy duty to meet AASHTO H-20 loadings of 16,000lb wheel loads and sealed*

with a gasket or O-ring. Covers and frames shall be manufactured from ductile iron or gray iron complying with the requirements of ASTM A-48 Class 35.

### Water Resource Protection

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

- Vehicle service and other industrial workshops where fuels, greases, oils or solvents are stored and/or handled shall have all floor drains plumbed to an oil/water separator. The outlet of the separator shall be plumbed to a disposal well. Oil/water separators must meet Water Authority standards, per attached guidelines.
- Conduct maintenance and repairs on a non-porous surface (concrete, not asphalt or soil). Protect the concrete work area with a sturdy rain canopy that extends two feet beyond the concrete work area. Berm the concrete work area to contain any spills. Use drip pans and oil change catch basins to minimize spills.
- Use dry methods (absorbent material such as sand, cat litter, or rags) to clean up any drips or spills that do occur. Collect soiled absorbent materials for delivery to the George Town Landfill for proper disposal. Call 949-8793 before delivering the wastes.
- Minimize inventory of fluids and chemicals; stock only what is needed in the near term. Store fluids and chemicals in their original containers; transfer fluids using funnels or drum pumps to minimize spills. Use less toxic or nontoxic solvents for parts cleaning; e.g., terpenes and citric acid or microbial or water-based cleaners.
- Collect and store liquid wastes to be recycled in an area protected from the rain. Store wastes in labelled drums with bung closures. Store waste drums within a secondary containment structure designed to contain 110% of the storage capacity. Store lead-acid batteries upright in a single layer, within an acid-resistant secondary containment bin. Limit the amount of wastes stored by regularly delivering them to the George Town Landfill recycling drop-off. Call 949-8793 before delivering the wastes.

### Water Supply

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

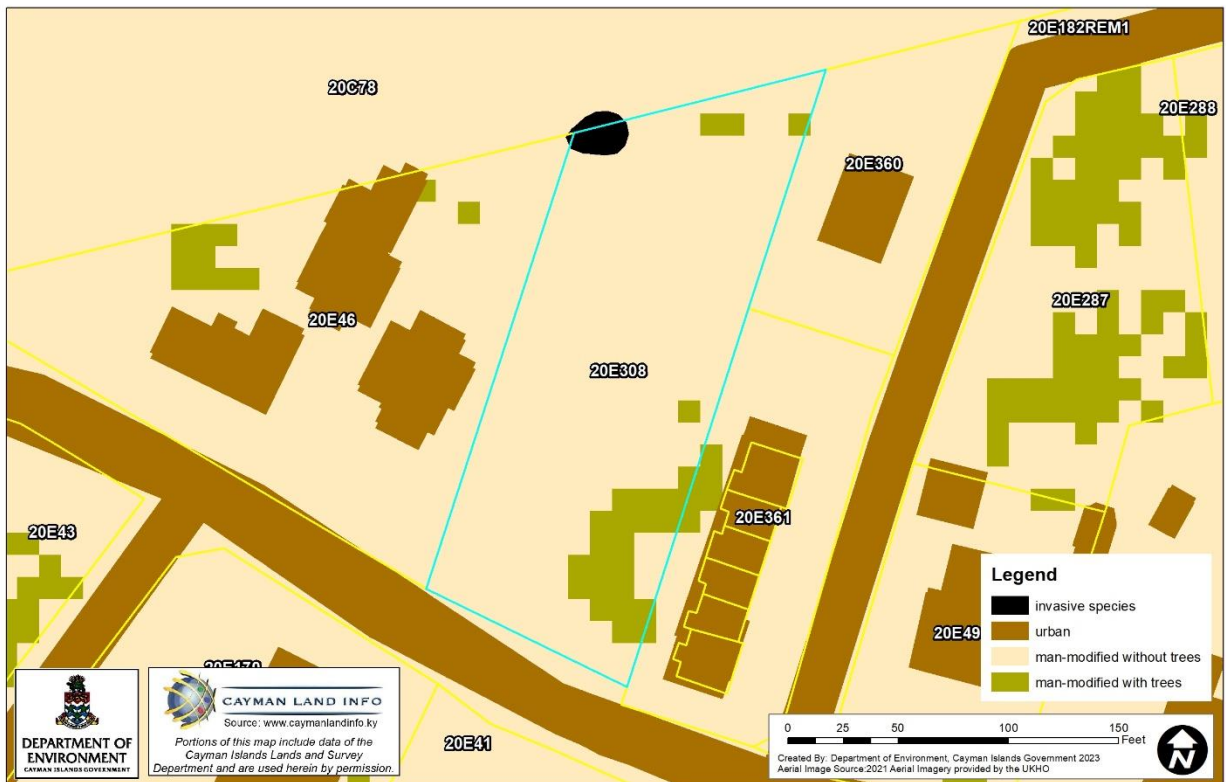
- The developer shall contact Water Authority's Engineering Services Department at 949-2837, without delay, to be advised of the site-specific requirements for connection to the public water supply.
- The developer shall submit plans for the water supply infrastructure for the development to the Water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

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

## **Department of Environment**

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

*The site and surrounding area are man-modified and of limited ecological value (as shown in Figure 1), although there has been significant regrowth of now mature vegetation.*



*Figure 1: Land cover map of 20E308, note the parcel and surrounding area are heavily man-modified (Source: DoE, 2023).*

*As proposed, the site plan does not leave much opportunity for the retention of mature vegetation on site. That said, there are a number of considerations that could be made to increase the environmental sensitivity of the proposed development.*

*The site features a high proportion of impermeable paved areas. This will affect drainage for both the application site and the surrounding area. The DoE recommends that the applicant considers the use of porous or permeable paving in areas of hard standing to assist with stormwater management and reduce the demand on drainage infrastructure.*

*We note the application appears to relate to a showroom for electric vehicles. With that in mind, the DoE highly recommends the applicant considers the incorporation of sustainable design and energy efficiency features. The inclusion of renewable energy would be particularly appropriate for the proposed development. The Cayman Islands has a target of 70% of energy*

generation being renewably sourced by the year 2037 (Cayman Islands National Energy Policy 2017-2037). Photovoltaic solar panels, in particular, could be installed on the roof of the showroom, or on carports installed over the proposed parking areas.

*We also recommend that native plants are incorporated into the landscaping scheme if at all possible. Native plants are best suited for the conditions of the site, including the temperature and amount of rainfall. They are climate-appropriate and require less maintenance and irrigation. Landscaping with native vegetation also provides ecological benefits by creating habitat and food for native fauna such as birds and butterflies, promoting biodiversity and providing valuable ecosystem services.*

*Best management practices should be adhered to during construction to reduce impacts on the environment. In particular control measures should be put in place to address pollution from expanded polystyrene (EPS) beads on construction sites, for example, those used in insulating concrete forms (ICF). Polystyrene is not biodegradable, and the EPS beads can be consumed by wildlife when it enters the food chain. These beads are very difficult to remove once they enter the environment and they do not naturally break down.*

*If the Central Planning Authority or Planning Department is minded to grant planning permission for the proposed works, we recommend the inclusion of the following condition in the approval:*

- 1) If the construction uses insulating concrete forms (ICFs) or other polystyrene materials, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the environment.*

### **National Roads Authority**

The NRA has no objections to the proposal.

### **CI Airports Authority**

A response has yet to be received from the CIAA.

## **OBJECTIONS**

### **Letter 1**

*I am here objecting to the above-mentioned Car Showroom with Service Bays five signs and a wall*

*on block 20E Parcel 308. This proposed development is directly in the middle of my childhood family home and Apartments which have been there for decades.*

*This project would also create a lot of noise plus adding to the traffic congestion. And! Possibly devaluating the property but most of all - I maintain it is not a suitable location for such a project.*

*I thank you and trust the Board will take my objections into consideration and deny this project.*

## Letter 2

*We are writing to express our strong objection to the proposed Car Showroom with Service Bays, 5 Signs and a Wall located on Block 20E Parcel 308. We firmly believe that this proposal would have a negative impact upon our neighbourhood and its residents.*

*First and foremost, the introduction of a car showroom and service centre would result in increased traffic, further exacerbating the congestion issues that already plague Crewe Road. The constant noise that would be generated by vehicle engines and the frequent influx of customers and employees would disrupt the tranquility of our primarily residential neighbourhood. While we acknowledge that the neighbourhood is situated adjacent to the Owen Roberts International Airport runway, the residents have adapted to the noise generated by airplanes. It is important to note that that, under the Public Health Act (2012 revision), noise and vibration (other than noise or vibration from an aircraft) is considered a statutory notice. With the exception of the veterinary clinic, which experiences minimal traffic and customer activity, and the pre-existing plant nursery, retail store and take out restaurant, our area is predominantly residential and we would love to keep it that way.*

*Further to Public Health Act (2012 revision) the definition of a statutory notice includes any act, omission, or thing occasioning or likely to occasion injury, annoyance, offence, harm, danger or damage to the sense of sight, smell or hearing or which is or likely to be dangerous or injurious to person or property.*

*Furthermore, the potential size of this proposed development would reduce the aesthetic appeal of our neighbourhood and would be highly incongruous. The construction of a wall on this designated site would obstruct the view of oncoming westerly traffic for residents along Clarence Drive, compounding an existing issue. Additionally, there is already an Advance Limited Car Showroom and Service Centre approximately 1.2 miles away from the proposed site which raises the question of why another facility in such close proximity is necessary.*

*Given these concerns, I strongly urge the Central Planning Authority to reconsider the the applicant's proposal to construct a Car Showroom with Service Bays, 5 Signs and a Wall in our predominantly residential neighbourhood. Such a development would undoubtedly have a detrimental impact on our community and its residents.*

## Letter 3

*As the owner of the property located at 385 Crewe Road (20E29 I) I am writing to express my objection to the proposed Car Showroom with Service Bays, S Signs and a Wall located on Block 20E Parcel 308.*

*It is my opinion that this proposal would have a negative impact on the neighborhood and its residents.*

*The introduction of a car showroom and service centre would result in increased traffic, compounding the congestion issues that presently impact Crewe Road. The noise that would be generated by vehicles of customers and employees would disrupt the tranquility of the primarily residential neighborhood.*

*The size of this proposed development would reduce the aesthetic appeal of the neighborhood. Additionally, as the owner of a residential rental property, this could potentially diminish rental opportunities.*

*I strongly urge the Central Planning Authority to reconsider the applicant's proposal to construct a Car Showroom with Service Bays, S Signs and a Wall in this predominantly residential neighborhood. Such a development would undoubtedly have a detrimental impact on the community and its residents.*

Letter 4

*This is to express my objection to the above captioned planning permission request. As the owner of a home in the primarily residential area, a business of this size would be disruptive to my rental tenant and could potentially devalue my property.*

*I request that you deny this application.*

**APPLICANT'S LETTER**

*On behalf of my client, I would like to request a 1 ft. high variance for the height of the proposed concrete wall.*

*The client would like to have a 5 ft. high concrete wall to the two sides and back of the property for privacy & security purposes because of the proposed commercial building to be built on this land.*

*We are looking forward for your good office for consideration and approval of the variance request.*

**PLANNING DEPARTMENT ANALYSIS**

**General**

The subject property is located in George Town along Crewe Road.

The proposal is for a 6,483 square foot automobile dealership and 25 parking spaces.

**Zoning**

The property is zoned Medium Density Residential.

**Specific CPA Issues**

**1) Suitability for Automobile Dealership**

The subject property is zoned Medium Density Residential.

Regulation 9 (5) states the following:

“No use of land in a residential zone shall be dangerous, obnoxious, toxic or cause offensive odours or conditions or otherwise create a nuisance or annoyance to others”.

The Authority should also note that Regulation 9(1) states that in a residential zone, the primary uses are residential and horticultural. In addition, Regulation 9(3) notes that other uses may be permitted in suitable locations.

The Authority should determine if the subject property is a suitable location for an automobile dealership.

## 2) Proposed Height of Fence

CPA Guidelines state that the maximum height of a fence or wall shall be 4 feet.

In this instance, the proposed concrete wall height is 5.

The Authority should discuss whether a 5 foot high concrete wall is warranted in this instance.

### **SUPPLEMENTARY ANALYSIS**

As noted above, the Authority adjourned the application on September 27, 2023 to re-invite the applicant and objectors. The objectors have now stated they won't be attending the meeting, but have no concerns with the meeting proceeding on the basis of their written objections on record.

At 11:30am, Charles Markman and Nicole Markman appeared on behalf of the applicant and Waide DaCosta appeared as their Attorney. Summary notes are provided as follows:

- Mr. DaCosta provided several comments:
  - The proposed 5' wall is for privacy and it doesn't run all the way to the front
  - For security they want a 5' wall along the airport boundary and it transitions to 4' at the front
  - He handed out hard copies of the renderings included with the application which were available for viewing on the projector screen
  - This is an electric vehicle showroom with associated service and it is not unlike a Tesla dealership in a mall
  - It will be quiet like a high-end electronics store
  - There will be no noise or emissions
  - There will be no hazardous materials
  - They have taken into consideration the neighbours and they don't want to devalue their land, they feel this will uplift the area
  - The site borders a very active international airport and the noise pollution from that would drown out any other noises
  - This is a low-profile building and will blend into the area
  - There are other dealerships that have integrated into their areas like Vampt Motors
  - They did a survey of the area and he handed out copies (see Appendix A)
  - Over the years some of these properties have remained as houses and some are apartments leased on a commercial basis
  - There will be no noise pollution and no aesthetic pollution
  - It is tastefully designed
  - One of the objections is from the owners of 20E 46 and that is a unique parcel as it is residential, retail and occasionally there are cars for sale.
  - There are more commercial uses in the area and this has changed the landscape of the area



- This doesn't add any nuisance
  - It will enhance visibility as the wall is now 4' from the road and there is nothing to obstruct the vision of vehicles
  - NRA has no concerns
  - The noise from traffic on the road will be more than the noise from this site
  - They understand the objectors concerns and they know they have to integrate with the area and this is the best solution for the site
  - There won't be other vehicles here, just electric
  - Batteries are imported as needed
  - The service bay is needed for items such as alignments
- The Authority asked if there will be separate sign applications and Mr. DaCosta replied if they haven't been included with this application then there will have to be new applications.
  - The Authority noted that regarding signs and their size and lighting there are no comments from CIAA and asked if their architect has met with them. Mr. DaCosta replied he understands the architect met with CIAA, but he doesn't know what was the response.
  - The Authority noted that if the application is approved they still have to comply with CIAA and Mr. DaCosta agreed, they are subject to CIAA's rules. He noted that had there been anything egregious CIAA would likely have responded.
  - The Authority noted they aren't changing oil, but there is nothing from DEH about batteries. Mr. Markman advised they are not storing batteries. The Authority noted there are protocols for getting rid of batteries and Mr. Markman noted that it is his understanding that Government is still working on the battery disposal issue. Mr. DaCosta noted they will be subject to any Government parameters and they are waiting for the Regulations.
  - The Authority asked what is the height of the land in terms of safety from flooding batteries. Mr. Markman advised his understanding is the level it is at now is suitable. He noted the property is higher than the runway so there will be no building up of water.
  - Mr. DaCosta advised they don't want to swamp the neighbours and have to do a stormwater management plan.
  - The Authority noted they have a perimeter wall which will assist in retaining storm water on site.
  - The Authority noted the proposal is for electric vehicles, but the Law and Regulations don't differentiate so if approved they can't specify it is for electric vehicles only. Mr. DaCosta advised he thinks they can do that.
  - The Authority asked if the service bay is enclosed. Mr. Markman replied it is and it will be used to change tires and alignments and electric tools will be used.

**2.4 GOVERNOR’S BEACH (Public Works Department) Block 11D Parcel 3 (P22-0526) (\$650,000) (NP)**

Application for public washrooms & outdoor showers.

**Appearance at 1:00**

**FACTS**

<i>Location</i>	West Bay Road in West Bay
<i>Zoning</i>	<b>Public Open Space</b>
<i>Notification result</i>	Objections
<i>Parcel size</i>	5.0 acres
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Vacant and Government House
<i>Proposed use</i>	Washrooms & Outdoor Showers

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

In addition to Building Permit requirements, conditions (1-7) listed below shall be met ***prior to the commencement of any site preparation works such as clearing, filling and grading*** and before permit drawings can be submitted to the Department of Planning.

- 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 shall submit a landscape plan which shows extensive landscape screening between the building and the adjacent property to the north and shall be subject to review and approval by the Central Planning Authority.
- 3) The applicant shall submit a construction operations plan to the satisfaction of the Director of Planning and must be prepared in accordance with the Central Planning Authority’s Construction Operations Plan Guidelines - Template B *found on the Planning Department’s website ([www.planning.ky](http://www.planning.ky)) under About/Draft Policies.*
- 4) The applicant shall submit a plan for turtle friendly lighting which minimizes impacts on sea turtles and is prepared in accordance with the Department of Environment’s guidelines and approved by the Central Planning Authority.
- 5) The applicant shall obtain written approval from the Department of Environment that there are no turtle nests on site that will be negatively impacted by the commencement of works.
- 6) Prior to the installation of the beachside construction fencing and the commencement of construction works, the property owner shall contact the Department of Environment to check for the presence of turtle nests and to ensure that no nests will be impacted by the installation of the embedded fencing or the commencement of construction works. The Department of Environment’s written approval must be received by the Planning Department prior to the issuance of the Building Permit.

- 7) Upon fulfillment of condition 5), beachside construction fencing associated with the works shall be positioned at least 100' from the high water mark setback, or greater if feasible (to minimise impacts on the turtle nesting habitat) and the fencing shall be erected so that it fully encloses the beach facing area of works and is embedded at least 2 feet into the beach profile to prevent turtles entering the construction site or digging under the fencing, during nesting season. The applicant is directed to liaise with the Department of Environment regarding guidance notes for the appropriate type of fencing. The Department of Environment will inspect the fencing and confirmation of the Department of Environment's written approval must be received by the Planning Department.
- 8) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area
- 9) Prior to undertaking any sanding or breaking down of polystyrene as part of the construction process, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the adjacent Marine Protected Area offshore.

- 10) 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.
- 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, conditions (12-14) shall be complied with before a final Certificate of Occupancy can be issued.

- 12) If a turtle lighting plan has been required, confirmation from the Department of Environment that the installed lighting complies with the plan, with final confirmation provided by the Authority or delegate.
- 13) All construction material shall be stockpiled landward of the beachside construction fencing.
- 14) Any sand that is excavated during construction shall be retained on-site and only with the prior consultation and approval of the DOE will beach quality sand shall be placed along the active beach profile. If there is an excessive quantity of sand that cannot be accommodated on-site, and the applicant would like to move such sand offsite, it shall be the subject to a separate application for planning permission and separate consultation with the National Conservation Council.

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

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

Reasons for the decision:

- 1) The proposed facility is situated in the Public Open Space (POS) zone.

Regulation 17(1) states that POS is available to the public generally for a variety of purposes including recreation and beaches. A portion of the subject parcel is actively used as a public beach.

Regulation 17(3) states that Authority shall permit development in the POS zone only if the development –

- (a) is compatible with the character and function of the zone; and
- (b) buildings forming part of such development are directly associated with, and promote, the principal purposes and actual use of the zone.

In this instance, the Authority is of the view that the proposed bathroom facility with outdoor showers is compatible with the character and function of a public beach situated in the POS zone. The facility will enhance the experience of users of the beach by providing a modern and clean bathroom facility. Further, the Authority is of the view that the proposed building is directly associated with the principal purpose and actual use of a public beach in the POS zone.

The Authority is of the view that the proposal is consistent with the goals of Regulation 17(4) in that:

- (a) the proposed facility will preserve the existing vegetation on site
  - (b) the facility will not be detrimental to the natural character or appearance of the land as it will be situated within a pocket of land where there is no existing vegetation
  - (c) traditional building materials will be used
  - (d) the Authority included a condition of approval requiring additional landscaping to be installed between the building and the northerly property line
  - (e) the building has a high standard of design and will use materials consistent with the character and heritage of the Islands
- 2) The Authority is of the view that the objections did not raise sufficient grounds for refusing permission. More specifically:
- The four previously proposed cabanas have been removed from the project
  - The previously proposed solid waste dumpster/enclosure has been removed from the project.
  - The facility will be connected to the public sewer line, there will be no disposal of waste material into the ground water

- The facility is setback 20' from the property line and another 20' from the building wall of The Pinnacle strata and the Authority is of the view that 40' is sufficient distance to dissipate any odours that may come from the facility especially when there will be a landscape buffer between the facility and the property line and it will be connected to the public sewer line – there will be no odours leaking from a septic tank.
- If a member of the public is using the public beach they are entitled to use the public bathroom/shower facility with no speculation as to whether they have a place of residence.
- There is no evidence that the facility will increase noise beyond the noise level currently associated with the use of the public beach.
- The unauthorized use of the facility is not within the remit of the Authority.
- There is no evidence that gray water will be used for irrigation.
- The facility does not alter the existing parking arrangement and that is a matter separate from consideration of the proposed facility.
- A sidewalk will be provided per the requirements of the National Roads Authority.
- The Authority has included a condition of approval requiring the applicant to provide landscape screening between the facility and the northerly property line. This will provide a sufficient visual and noise buffer in addition to the setback distances of both the adjacent development and the proposed development from the shared boundary.

### **AGENCY COMMENTS**

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

#### **Department of Environment**

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

*Offshore of the application site is a Marine Reserve (a Protected Area under the National Conservation Act (NCA), 2013). The site is also adjacent to a beach that has been designated as **critical turtle nesting habitat** in the National Conservation Council's Interim Directive for the designation of Critical Habitat of Green turtles (*Chelonia mydas*), Loggerhead turtles (*Caretta caretta*), Hawksbill turtles (*Eretmochelys imbricata*), Leatherback turtles (*Dermochelys coriacea*) and all other species that may occur in Cayman waters including Kemp's Ridley turtles (*Lepidochelys kempii*) (issued under Section 17 (7) of the National Conservation Act (2013)).*

*We support the revisions made to this application to limit the development on this site to restrooms and a mobility mat for beach access. We also support the inclusion of a turtle friendly lighting plan with the drawings. We believe that government should lead by example with respect to sustainability and environmental protection, and in this case, there has been*

*incorporation of feedback received from the National Conservation Council (NCC) and the inclusion of sustainability features (turtle friendly lighting).*

*We also note that the existing streetlighting at Governor's Beach has been converted to turtle friendly lighting in a collaborative project involving the DoE, CUC and the National Roads Authority. Government House (the Governor's house) and the two neighbouring properties to the north both participated in the DoE's turtle friendly lighting retrofit programme and are now turtle friendly. Therefore, the proposed development is set within a significant stretch of beach which has become turtle friendly and it is even more important for this government-led development to be turtle friendly. We also note that the Central Planning Authority has the opportunity to require turtle friendly lighting as part of any approval of modifications at the Westin, to the south of this site, which would lengthen this stretch of turtle friendly habitat.*

*As per Sections 41 (4) and (5) of the NCA, the designation of critical habitat means that adverse impacts to the habitat either have to be avoided or be able to be mitigated with the imposition of conditions of approval. It also means that the National Conservation Council is able to direct the inclusion of those conditions in any planning permission that may be given.*

*The main threats to sea turtles from development are:*

- Construction on the beach directly or indirectly impacting mature and hatchling sea turtles and turtle nests,*
- Development on the beach directly removing nesting areas from the critical habitat and indirectly impacting the critical habitat through modification and degradation of the natural beach,*
- Artificial lighting causing mature female turtles to be deterred from nesting or become disoriented as they attempt to return to the water causing them to become trapped or injured.*
- Artificial lighting causing hatchling turtles to crawl away from the sea, where they die from dehydration, exhaustion, predators or vehicles, and*
- Loss of coastal vegetation.*

### ***Construction Impacts***

*Operating heavy machinery during land clearing and construction presents a threat to nesting sea turtles. Construction works not only disturb the physical nesting habitat but heavy machinery and associated works can crush or bury baby sea turtles and turtle nests.*

*The excavation of the foundations may result in beach-quality sand. The sand is a key component of what makes the application site good for sea turtles. We recommend that any excavated sand is retained on-site.*

*Nesting sea turtles often use vegetation as a cue for nesting, and will crawl landwards up the beach until they reach the vegetation, or on a modified beach, a hard structure. When the vegetation is removed for construction, sea turtles can enter construction sites and be harmed. Figures 1 and 2 below show sea turtle tracks directly up to construction sites. The DoE has also been called to respond numerous times to sea turtles who have become trapped in construction sites. Figure 3 shows a sea turtle hatchling which was killed due to heavy equipment being operated on the beach.*



*Figures 1-2. Sea turtle tracks showing that the sea turtle has crawled up the beach until it reached a construction site (Source: DoE and Tammy Kelderman, 2021). The fence in Figure 1 is dangerous to sea turtles as it is sharp, rusty and not secure or embedded into the sand.*





*Figure 3. A dead sea turtle hatchling, which was killed by heavy equipment operating on the beach (Source: DoE, 2022).*

*For these reasons, construction fencing suitable for excluding turtles must be installed prior to the commencement of demolition and/or site works. Mesh fencing, Heras fencing, and chainlink fencing are all **unacceptable** as they can be dangerous to turtles and do not exclude them from the site. Mature green sea turtles weigh around 300 to 400 lbs and are capable and strong diggers.*

*Temporary beachside construction fencing must be:*

- Located as far landward as possible to leave room/habitat for the turtles to nest during the work;*
- Made from a sturdy/solid material like plywood with no gaps (i.e. not chainlink fencing or the orange plastic fencing with holes as hatchlings can crawl through these and adults can knock it down or become tangled);*
- Embedded at least 2 feet into the sand so that turtles cannot dig it out or crawl under;*
- Installed in a manner that any nailing of the wood will be done so that the sharp ends are located on the landside of the fencing to prevent injury to turtles; and*
- Inspected by the DoE after installation and written approval shall be obtained from the DoE that the installed fence is suitable for the exclusion of turtles.*

- *Suitable to contain all excavated material, construction materials and demolition waste landward of the fencing.*

*See Figure 4 below for an example of suitable construction fencing.*



*Figure 4. An example of suitable construction fencing to protect turtles (Source: DoE, 2022).*

*In this situation, the beachside fencing would only be required around the active construction work and public access could be retained throughout the construction phase. Including appropriate construction fencing would also protect members of the public from harm.*

### ***Artificial Lighting***

*Artificial lighting on and around turtle nesting beaches is one of the greatest threats to the survival of Cayman’s endangered sea turtle nesting populations. Bright lights on or near the beach can deter female turtles from nesting and cause baby turtles to crawl away from the sea, where they die from dehydration, exhaustion, predators or vehicles.*

*Turtle friendly lighting has been a legal requirement in ordinances in the United States for over 30 years. It is a proven solution to prevent the misorientation of sea turtles whilst safely and effectively lighting beachside properties. The Department strongly recommends the use of*



turtle friendly lighting on turtle nesting beaches. Figures 5-7 show examples of properties in Grand Cayman that have turtle friendly lighting installed.



Figures 5-7: Properties retrofitted to turtle friendly lighting along Seven Mile Beach, Grand Cayman (Source: DoE, various).

### ***Importance of Coastal Vegetation***

*Coastal habitat incorporates a variety of salt and wind-tolerant flora. Native coastal vegetation is becoming rarer as development on the coast increases. Coastal shrubland is high in ecological value, providing a biodiverse habitat for native wildlife in addition to stabilising the shoreline and reducing erosion. Once vegetation has been cleared, it often results in wind-borne erosion of the land and general coastal erosion. Coastal vegetation is therefore important for the integrity of the beach to ensure there is an appropriate nesting habitat for sea turtles in this proposed critical location. Beach vegetation is also thought to play an important role in sea turtle nest site selection, hatch success, hatchling fitness, sex ratio, and sea finding.*

*We strongly urge the applicant to retain as much mature native vegetation as possible, particularly along the coastal frontage of the site. We also encourage the applicant to plant and incorporate native species in their landscaping scheme.*

### **DIRECTED CONDITIONS**

*The site is adjacent to beach which has been designated as the critical habitat of a protected species under the NCA. Please note that a turtle friendly lighting plan has been submitted at this stage and has been approved, therefore no additional requirement for the submission of a plan is required. An inspection to ensure compliance with the approved plan is required.*

*Without appropriate controls, there would or would likely be an adverse effect on the designated sea turtle critical habitat, namely:*

- *Section 2(a) of the NCA: alterations that may impair the capacity of the area to function as a habitat beneficial to wildlife, and*
- *Section 2(j) alterations that may hinder or impede the movement or migration of wildlife.*

*On the basis of the above information, in the exercise of powers which have been conferred through express delegation by the National Conservation Council pursuant to section 3(13) of the National Conservation Act (2013), the Director of DoE **respectfully directs that the***

**following conditions be imposed by the Central Planning Authority or Planning Department,**  
*as part of any agreed proposed action for planning approval:*

***Prior to Any Site Works***

1. *Prior to the commencement of any site works such as clearing, filling, grading and road construction, the property owner shall contact the Department of Environment to check for the presence of turtle nests; written approval shall be obtained from the Department of Environment that no nests will be impacted by the commencement of works.*

***During Construction***

2. *Prior to the installation of the beachside construction fencing and the commencement of construction works, the property owner shall contact the Department of Environment to check for the presence of turtle nests and to ensure that no nests will be impacted by the installation of the embedded fencing or the commencement of construction works. The Department of Environment's written approval must be received by the Planning Department prior to the issuance of the Building Permit.*
3. *Prior to the commencement of works, beachside construction fencing associated with the works shall be installed and be positioned at least 100 ft from the Mean High Water Mark around the construction area. The fencing shall be erected so that it fully encloses the beach-facing area of works and is embedded at least 2 feet into the beach profile to prevent turtles from entering the construction site or digging under the fencing. The applicant shall liaise directly with the Department of Environment for requirements guidance regarding this fencing. The Department of Environment will inspect the fencing and confirmation of the Department of Environment's written approval must be received by the Planning Department before the commencement of works.*
4. *All construction materials including excavated materials and/or debris shall be stockpiled on the landward side of the construction fencing.*
5. *Any sand that is to be excavated during construction shall be retained on-site and beach-quality sand shall be placed along the active beach profile. Placement of the sand on the beach during turtle nesting season will require the written consent of the Department of Environment, to ensure that no nests will be impacted. If there is an excessive quantity of sand that cannot be accommodated on-site, and the applicant would like to move such sand offsite, it shall be the subject of a separate consultation with the National Conservation Council.*

***Prior to the Issuance of a Certificate of Occupancy***

6. *Lighting and/or specifications for visible light transmittance shall be installed and maintained in accordance with the turtle friendly lighting plan which has been reviewed and approved by the Department of Environment. Once construction is complete, prior to the issuance of the Certificate of Occupancy, the Department of Environment will inspect the installed lighting for compliance with the approved turtle friendly lighting plan. Confirmation of the Department of Environment's written approval of the installed exterior*

*lighting after the inspection must be received by the Planning Department prior to the issuance of the Certificate of Occupancy.*

*These conditions are directed to prevent the ‘take’ of sea turtles (Part 1 Schedule 1 species of the National Conservation Act) and adverse impacts on the critical habitat of sea turtles, which is defined in the Interim Directive for the designation of Critical Habitat of Green turtles (*Chelonia mydas*), Loggerhead turtles (*Caretta caretta*), Hawksbill turtles (*Eretmochelys imbricata*), Leatherback turtles (*Dermochelys coriacea*) and all other species that may occur in Cayman waters including Kemp’s Ridley turtles (*Lepidochelys kempii*) (issued under Section 17 (7) of the National Conservation Act (2013)).*

*A person aggrieved by a decision of the National Conservation Council to impose a condition of approval may, within 21 days of the date on which the decision is received from the Central Planning Authority/Department of Planning, appeal against the decision of the Council to the Cabinet by serving on the Cabinet notice in writing of the intention to appeal and the grounds of the appeal (Section 39 of the National Conservation Act, 2013). We trust that this information will be relayed to the applicant in the Department of Planning’s decision letter.*

### **Water Authority Cayman**

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

#### *Wastewater Treatment:*

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

- *The developer shall notify the Water Authority’s Engineering Department at 949-2837 EXT: 3000, as soon as possible to ensure that:*
- *the site-specific connection requirements are relayed to the developer,*
- *any existing sewerage appurtenances on the property can be clearly marked to prevent damage (for which the developer would be held responsible), and*
- *the Authority can make necessary arrangements for connection.*
- *The developer shall be responsible for providing the site-specific sewerage infrastructure required for connection to the WBBSS. The site’s wastewater infrastructure shall be designed and installed to the Authority’s specifications. Copies of the Authority’s specifications are available at the Water Authority’s office on Red Gate Road, or the web:*  
[http://www.waterauthority.ky/upimages/pagebox/Guidelines-Sewer\\_1425464500\\_1426308023.pdf](http://www.waterauthority.ky/upimages/pagebox/Guidelines-Sewer_1425464500_1426308023.pdf)
- *The developer shall submit plans for the infrastructure to the Authority for approval.*
- *The Authority shall make the final connection to the WBBSS, the cost of which shall be borne by the developer.*

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

#### *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**

*The NRA has no objections or concerns regarding the proposed development.*

### **Fire Department**

The Fire Department has stamp approved the drawings.

### **Department of Environmental Health**

*The following were not shown on the drawing:*

*-The location of the garbage enclosure.*

*-The location of the cabanas.*

*-The applicant must submit drawings showing the locations for the abovementioned.*

### **OBJECTION LETTERS**

See Appendix B

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The subject parcel is located on West Bay Road, north of the Governor's house.

The property is presently vacant and the application is for outdoor showers, restrooms, and a mobility mat. The plans that were originally submitted included 4 cabanas, those have since been removed.

It is noted that there are existing garbage bins located on the property.

#### **Zoning**

The subject parcel is split zoned Hotel/Tourism and Public Open Space, but the area where the structure is proposed is zoned Public Opens Space.

#### **Specific Issues**

##### **1) HWM setback**

Since the proposed structure is zoned Public Open Space, the required HWM setback is 75' per Regulation 8(10)(b). In this instance, the structure is setback 192' from the HWM.

At 1:00pm, Dudley Ramsay and Cathy Seymour appeared on behalf of the applicant. Jean Karmitz, Patricia Karmitz and Michael Baulk appeared as objectors. Summary notes are provided as follows:

- Mr. Ramsay provided several comments:
  - They have received the objections from the neighbouring owners at the Pinnacle
  - The plans have been revised per comments from NRA, DOE and DEH
  - 4 cabanas were removed per DOE
  - It is now a smaller footprint
  - They removed the garbage enclosure that had been designed for front load vehicles
  - They will install a sidewalk per NRA to match what exists in front of the Governor's house
  - They have worked with Lands and Survey to retain existing vegetation so as not to destroy the integrity of the site
  - Based on Water Authority's recommendations they have a dedicated connection to the existing water source and they have a septic tank for private sewage disposal, but if the septic tank is negated they can connect to the sewer line at the main road
- The Authority advised the matter isn't up for debate, they have to connect to the sewer line as outlined in the comments from the Water Authority.
- The Authority asked for input from the objectors.
- Mr. Karmitz noted he hasn't seen this drawing. The Authority asked if the plan changed and Mr. Ramsay replied no. Mr. Karmitz noted the plan he saw showed the building up to the fence, but if it has moved then he doesn't have a problem.
- Ms. Karmitz asked where is the fence on the plan and the Authority explained it is shown in purple.
- Mr. Karmitz asked why don't they put the restroom facility in the middle of the site. He noted that the Government doesn't want it on their side, but they don't want it on their side either.
- Mr. Baulk advised he represents The Pinnacle Strata. He explained they don't object to the bathrooms, they are better than what is there now, but they ask that it be relocated to the centre so you can drive around it.
- The Authority noted that there is a mobility mat and you can't drive over it and that will happen if the bathrooms are relocated.
- Mr. Baulk noted they just want it moved away from the boundary, especially for those on the south side of The Pinnacle.
- There was a general discussion about how far to relocate the bathrooms and if it is feasible.
- The Authority noted this is a 5-acre site and if they moved the bathrooms up against the Governor then it is impacting only one owner, not several.
- Ms. Karmitz noted that if it is moved it would be less noisy.

- Mr. Baulk noted that one of the objectors raised a concern if the facility will be open to the public at night then it will get mis-used so how will this be managed to prevent loitering.
- Mr. Ramsay explained in his experience other Government facilities are locked up and secured, but he can't speak to another Ministry's process for securing it after hours.
- The Authority asked if the objectors would be okay with it being further south with more vegetation and Mr. Baulk replied he thinks so.
- Ms. Karmitz noted that if vegetation was planted in between as a buffer then that would be better.
- The Authority asked if there is vegetation on The Pinnacle side and Mr. Baulk replied some seagrape and Mr. Karmitz replied there is a fence.
- The Authority noted that 20' is quite a big setback and asked if vegetation is added is that not enough.
- Ms. Karmitz noted there are other issues like gray water, odour, spreading of microbes as well as nuisance. The Authority sought clarity if she means if the bathrooms are not hooked up properly to the public sewer and she replied yes.
- The Authority noted The Pinnacle's site would have to be lower than this site to be contaminated. Ms. Karmitz replied she's not sure of the slope, but believes they are on the same level. She noted they have an investment and are concerned about what goes next door, they don't want their investment to be devalued. She noted that an increase in noise and odour and the impact on value are not invalid concerns. The Authority noted unless it is stagnant, any odour will drift away from them due to prevailing north easterly winds.
- Ms. Karmitz noted it has to be hooked up to the sewer line.
- The Authority noted 20' is a good distance and asked if they introduce vegetation like Oleander would that help.
- Ms. Karmitz replied at some point 30' was raised.
- The Authority noted this isn't a designated parking lot and the more the bathrooms are pulled forward the more issues will be created for parking.
- The Authority explained that obviously everyone would want toilets further away from them, but they need to look at the ramifications for the site, for example mobility mats can't be driven over and that is a problem.
- Ms. Seymour explained she is the Project Manager and provided several comments:
  - from where the plans started to where they are now there was a big sacrifice
  - there used to be a playground and cabanas, but they were removed from the plans
  - all of the trees on site have been pinned down by GPS
  - if it is pulled forward it will interfere with the natural driving circle
  - there was a concern about line of sight, but who would see it but the people on the ground floor and they already have a fence
  - she sees it as a win-win with a big sacrifice to get here today



- the mobility mat is the biggest issue if it is brought forward
- they can strike a balance with more vegetation
- the prevailing winds are from the NE so anything would blow toward the parking area and the Governor's house
- the site is above West Bay Rd so they will use gravity, they don't need a lift station
- they want to see the portable toilets removed
- Mr. Baulk noted bringing it south any distance would be better. Ms Seymour suggested 5' and Mr. Baulk and Ms. Karmitz agreed with that suggestion.
- Mr. Baulk noted they would like some assurance that there will be security in the evening, it is a real concern.
- Ms. Karmitz noted she doesn't think the Governor would want people milling around.
- Ms. Seymour advised that issue can be written into the operations plan.
- The Authority noted that moby mats are best used in a straight line so they should get rid of the jog
- The Authority noted that there is a fence and landscaping along the shared boundary so the ground floor residents of The Pinnacle are already buffered from the proposed facility whereas the residents on the upper floors will actually see more of the structure if it is moved any further south on the site.

**2.5 EVELIN MENA (Brewster's Designs) Block 24E Parcel 486 (P23-0584) (\$60,000) (NP)**

Application for a temporary house.

**Appearance at 1:30**

**FACTS**

<i>Location</i>	Prospect Drive in Prospect
<i>Zoning</i>	<b>Low Density Residential</b>
<i>Notification result</i>	Not Applicable
<i>Building Area</i>	672 square feet
<i>Current use</i>	Vacant

**BACKGROUND**

August 16, 2023 (**CPA/17/23; Item 2.7**) – The Authority resolved to adjourn the subject application and invite the applicant to address the Authority in person regarding the fact that a duplex was previously approved on the property.

February 1, 2023 (**CPA/3/23; Item 2.18**) – The Authority resolved to grant planning permission for a duplex on the property. (P22-0677)

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

- 1) During the meeting, the applicant advised that she doesn't want to proceed with the temporary house and will put the cost of building the temporary house towards building the previously approved duplex.

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The subject parcel is located on Prospect Lane in Prospect.

The property is presently vacant and has planning permission for a duplex.

The applicant is seeking planning permission for a temporary house with 672 square feet of area.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) Temporary Nature of the Application**

The Authority has found over the years that many temporary houses or structures end up becoming permanent. It is noted that the permission for a duplex is relatively recent and the owner has the option to build in stages.

## **SUPPLEMENTARY ANALYSIS**

There have been no changes to the plans.

At 1:30m Ms. Mena appeared as the applicant. Summary notes are provided as follows:

- Ms. Mena provided several comments:
  - She had a vision of building a duplex to live in one side and rent the other for the mortgage
  - She went to the bank to see what she would qualify for and at that time she was working for the RCIP and her fiancé was working
  - The process took a long time and her fiancé's father died and they lost the business so they had to re-assess
  - The bank will only lend \$100,000 and that is not enough so they decided to apply for a temporary structure and they have the funds to build one out of pocket
  - In 2 to 2.5 years they plan to apply for a mortgage for their son
  - They still want to do the duplex
- The Authority asked if they have thought about the cost of the temporary house and taking that money and putting it into the shell of the duplex and live in half and finish the other half when the money is there.
- Ms. Mena replied they thought about that, but haven't been able to find a contractor who will do it, she spoke to two, but can't find one to build just half.

- The Authority explained that they would have to build the shell and get a Certificate of Completion and then finish one unit and get a Certificate of Occupancy for that unit then at a later date finish the other side.
- Ms. Mena noted that she thought it would be possible.
- The Authority noted that if she gets approval for a temporary house it would have to be removed prior to a C.O. for the duplex so they would be throwing money away. The Authority advised her to speak to other contractors.
- Ms. Mena asked if she would have to do plumbing and electrical for both. The Authority replied they would have to be roughed in. They would have to put in the conduit for electrical and then pull the wires later for the second unit.

**2.6 GEORGE P. EVANS (Brewster’s Designs) Block 45A Parcel 202 (P23-0058) (\$30,000) (NP)**

Application for an after-the-fact shed, containers & porch.

**Appearance at 2:00**

**Kenneth Ebanks declared a conflict and was placed in the Zoom waiting room.**

**FACTS**

<i>Location</i>	Chisholms Drive in North Side
<i>Zoning</i>	<b>Medium Density Residential</b>
<i>Notification result</i>	No objections
<i>Parcel size proposed</i>	22,298.4 square feet
<i>Parcel size required</i>	20,000 square feet
<i>Current use</i>	House & Ancillary Buildings

**BACKGROUND**

August 16, 2023 (CPA/17/23; Item 2.9) – The Authority resolved to adjourn the matter and invite the applicant to address the Authority in person regarding the after the fact nature of the application.

**Decision:** It was resolved to grant planning permission for the after-the-fact shed and porch only, subject to the following conditions:

- 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.
- 2) The shipping/storage containers shall be removed from site no later than 6 months from the date of this decision.

The applicant is reminded to keep the site tidy.

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) With the exception of the rear setback, which is addressed below, the application complies with the Development and Planning Regulations (2022 Revision).
- 3) The proposed application does not comply with the minimum required rear setback per Regulation 9(7)(i) of the Development and Planning Regulations (2022 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setback as follows:
  - a) The characteristics of the proposed development are consistent with the character of the surrounding area;
  - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
  - c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.
- 4) In order to improve the visual appearance of the site, the Authority has included a condition that the shipping/storage containers must be removed from site within 6 months.

**APPLICANT'S VARIANCE LETTER**

**Re: Duplex – Block45A/Parcel 202 Record # P23-0058**

Dear Sir/Madam

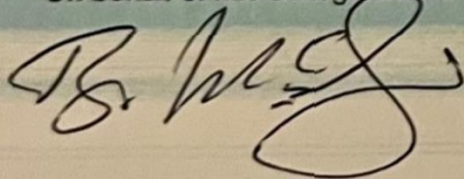
We write on be-half of our client, we are requesting a variance for 240 sq. ft. storage building that was built without planning approval and have been there for years and the present owner had owned the whole property, then sold the back section, and it so happen that without thinking before the required amount of land line fell near to the storage shed. The structure is a wooden building and is built outside the planning setbacks. The setbacks are 9ft. from rear boundary, which is a lot less than the planning requirements.

We kindly ask for permission to keep the building as is and have spoken to neighbors and served notices by registered mail to the adjoining land owners.

Sincerely,

Brewster McCoy

On behalf of Mr. George Evans

A handwritten signature in black ink, appearing to read 'B. McCoy', is written over the typed name. The signature is fluid and cursive, with a large loop at the end.

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The subject parcel is located on Chisholms Drive in North Side.

The property contains a total of one house and four outbuildings.

The applicant is seeking after the fact permission for the following items:

- two 8 x 10 containers
- one 8 x 20 container
- one 12 x 10 storage shed
- a 120 sq ft porch addition on the front of the house

### **Zoning**

The property is zoned Medium Density Residential.

### **Specific Issues**

#### **1) After the fact Nature of the Application**

The Planning Department would note that this is an after the fact application for all of the structures listed above.

#### **2) Proposed Rear Setback (9'11" vs 20')**

The proposed detached storage shed located to the rear of the house has a 9'11" setback to the rear boundary.

Regulation 8(7)(i) requires a minimum 20' setback.

The applicant has submitted a variance letter and the Authority should consider whether a variance is appropriate in this instance.

#### **3) Visual appearance**

The Authority is asked to determine if the visual appearance of the containers and shed detracted from the amenity of the area and if so, if mitigation measures are required.

## **SUPPLEMENTARY ANALYSIS**

There have been no changes to the plans.

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

- Mr. McLaughlin advised he is here for his client, not personally and he's not sure how to proceed as he hasn't done this before.
- The Authority advised that the application is for several after-the-fact items.
- Mr. McLaughlin advised yes, his client did it and paid the penalty. He explained Ms. Parchment came to the site and explained what had to be done then they paid \$2.50 not \$0.25 and then went to court and now they have to come here. He advised they have dealt with everything so he's not sure why he is here.
- The Authority explained that his client built illegally and he was summonsed to Court and he may have paid a fine, but he still doesn't have planning permission, that's why he is here to ask for planning permission.

- Mr. McLaughlin explained that there had been a 20' x 20' storage shed on site, but it was destroyed when a tree fell on it during a hurricane. He noted his client rebuilt it and made it prettier. The Authority asked how long ago was it built and Mr. McLaughlin replied 1 – 2 years ago and they brought in an architect to meet requirements. He explained his client said he needs permission from the Planning Board and asked if that is what this is about. The Authority replied yes. Mr. McLaughlin advised he is an immigration lawyer.
- The Authority asked why are the containers needed.
- Mr. McLaughlin replied his client has a construction company so he needs it for storage. He noted that there are hurricane straps and Ms. Parchment saw them. He explained he just needs them to tell what to do to get it done.
- There was a general discussion as Mr. McLaughlin didn't realize Mr. Ebanks was present via Zoom and when Mr. Ebanks began to speak to the application, Mr. McLaughlin advised that he believes Mr. Ebanks has a conflict of interest and is biased due to the history of family ownership of the property. Mr. Ebanks was placed in the Zoom waiting room and participated no further with the application.
- There was another discussion to clarify that Mr. McLaughlin is here to address only this application not another matter for a different client on a different property.
- There was another discussion with Mr. McLaughlin to clarify what exactly is on the site.
- The Authority noted that the visual appearance of the containers is a concern. Mr. McLaughlin noted they could move the containers elsewhere on the site, but the Authority explained the visual appearance is still an issue no matter where they are moved.
- Mr. McLaughlin noted there seems to be options, they can remove the containers in 6 months or improve the appearance in 6 months, they need direction. He explained he will leave it to the Board to direct them. He then noted that his client has spent a lot of money and it is not resolved, it is not fair. He explained he has had seven appearances in Court on the matter and the Judge said they have to get it resolved.

**2.0 APPLICATIONS**  
**(Items 2.7 to 2.29)**

**2.7 MAXIMILIANO IEZZI (Duro Architecture and Design) Block 5B Parcel 131 (P22-0138) (\$500,000) (MW)**

Application for four apartments.

**FACTS**

<i>Location</i>	West Church St., West Bay
<i>Zoning</i>	<b>Neighbourhood Commercial</b>
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	0.1 ac. (4,356 sq. ft.)
<i>Parcel size required</i>	20,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed building size</i>	4,927.5 sq. ft.
<i>Total building site coverage</i>	44.7%
<i>Allowable units</i>	CPA Discretion
<i>Proposed units</i>	4
<i>Allowable bedrooms</i>	CPA Discretion
<i>Proposed bedrooms</i>	4
<i>Required parking</i>	6
<i>Proposed parking</i>	8

**BACKGROUND**

N/A

**Decision:** It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss concerns regarding:

- 1) Zoning
- 2) Unit density (4 vs. CPA Discretion)
- 3) Bedroom density (4 vs. CPA Discretion)
- 4) Lot size (4,356 sq. ft. vs. 20,000 sq. ft.)
- 5) Lot width (36'-3" vs. CPA Discretion)
- 6) Lack of landscaping along driveway
- 7) Building aesthetics



## **AGENCY COMMENTS**

The Authority received and considered comments from the Water Authority, National Roads Authority, Department of Environmental Health and Department of Environment.

### **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, based on the following calculations:*

<b>BUILDING</b>	<b>UNITS/BLDG</b>	<b>GPD/UNIT</b>	<b>GPD</b>
<i>Proposed Apartments</i>	<i>4 x 1-Bed + Den Units</i>	<i>225gpd/1-Bed + Den</i>	<i>900</i>
<b>TOTAL</b>			<b>900 GPD</b>

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

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

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

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

**Water Supply**

*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**

*As per your memo dated March 14<sup>th</sup>, 2022 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

**Road Capacity Issues**

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

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

*Based on these estimates, the impact of the proposed development onto West Church Street is considered to be minimal.*

**Access and Traffic Management Issues**

*The NRA asks the CPA to offset the garbage enclosure by 6 feet to accommodate any future road widening along West Church Street.*

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

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

A six (6) foot sidewalk shall be constructed on West Church Street, within the property boundary, to NRA standards. Please have applicant show on site plan.

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 Abbey Way. Suggested dimensions of the 'hump' would be a width of 6 feet and a height of 2-4 inches. Trench drains often are not desirable.
- Curbing is required for the parking areas to control stormwater runoff.
- Roof water runoff should not drain freely over the parking area or onto the surrounding property. Note that unconnected downspouts are not acceptable. We recommend piped connection to catch basins or alternative stormwater detention devices. Catch basins are to be networked, please have the applicant provide locations of such wells along with details of depth and diameter prior to the issuance of any Building Permits.
- Sidewalk detail needs to be provided as per NRA specifications. See <https://www.caymanroads.com/upload/files/3/Sidewalk%20&%20Curbing%20Details.pdf>

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

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

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

**Department of Environmental Health**

**Solid Waste Facility:**

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

<i>Number of Containers</i>	<i>Minimum Dimensions (feet)</i>		
	<i>Width</i>	<i>Length</i>	<i>Height</i>
<b>4</b>	<b>5.00</b>	<b>5.00</b>	<b>2.5</b>

**Department of Environment**

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

*The application site is predominately man-modified and of limited ecological value. The DoE recommends the retention of mature trees for shade and 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 Cayman Islands, requiring less maintenance and less supplemental irrigation, meaning once it is established, landscaping with native vegetation is a very sustainable and cost-effective choice. Landscaping with native vegetation also has a positive impact on our islands’ biodiversity by providing habitat and food for native fauna.*

**Fire Department**

Approved for Planning Permit Only 07 Jun 22

**APPLICANT’S LETTER**

*With respect to our submission for a 4,928 sf fourplex on 5B 131 located on Elizabeth Street in, West Bay, Grand Cayman. We hereby request variances as follows:*

- 1. Minimum lot size from 0.25 acres to 0.15 acres*
- 2. Minimum lot width from 100 feet to 36 feet 3 inches*
- 3. Unit density from – proposed 4*

#### 4. Bedroom density – proposed 8

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

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

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

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

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

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The application is for a 4 apartments located on West Church St., West Bay.

#### **Zoning**

The property is zoned Neighbourhood Commercial.

#### **Specific Issues**

##### **1) Zoning**

Neighbourhood Commercial zones are zones in which the primary use is a less intense form of development of that permitted in a General Commercial zone and which caters principally for the needs of persons resident in, or in the vicinity of, the zone (Regulation 13(1)(b) 2022 Revision)

Also, residential development may be permitted in this zone provided it is not on the ground floor (Regulation 13(9)). In this instance, the building has been designed with parking spaces and a ground floor foyer entry area with stair access to the second floor. The living accommodations are on the second and third floors. The Authority needs to determine if this design meets the intent of Regulation 13(9).

##### **2) Unit & bedroom density**

Although residential development may be allowed in the Neighbourhood Commercial Zone, the Regulations do not include any guidance regarding density.

This application includes (4) 1-bedroom apartments with a den/ office proposed on the second & third floors, the proposed unit density is more than double of what is permitted in a Low Density Residential zone of 15 units per acre (1.5 units) & (2.4 bedrooms).

### 3) Lot size

Regulation 8((9) states “after the 6<sup>th</sup> May, 2002, the minimum lot size in a Commercial zone or Industrial zone shall be 20,000 sq. ft.” Although the proposed parcel was first registered on April 1, 1974 the parcel is currently 15,644 sq. ft. less than required.

### 4) Lot width

Although the current Regulations do not specify lot width requirements within a Neighbourhood Commercial zone, the Authority should note the current existing lot width is 36’-3” which would be 63’-9” less than the 100’ that would be required in any other zone for an apartment development.

### 5) Lack of landscaping along driveway

The driveway is situated along the property line therefore there is little to no space for a landscape buffer.

## 2.8 RUTH FERREIRA DE ARANTES (Ian Barnes) Block 4E Parcel 342 (P21-0813) (\$400,000) (MW)

Application for three apartments.

### **FACTS**

<i>Location</i>	Capt. Allies Rd., West Bay
<i>Zoning</i>	<b>Low Density Residential</b>
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	0.31 ac. (13,068 sq. ft.)
<i>Parcel size required</i>	25,000 sq. ft.
<i>Current use</i>	vacant
<i>Proposed building size</i>	2,874 sq. ft.
<i>Total building site coverage</i>	21.99%
<i>Allowable units</i>	4
<i>Proposed units</i>	3
<i>Allowable bedrooms</i>	7
<i>Proposed bedrooms</i>	4
<i>Required parking</i>	5
<i>Proposed parking</i>	5

### **BACKGROUND**

N/A

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

Conditions (1-7) listed below shall be met *prior to the commencement of any site preparation works such as clearing, filling and grading* and before permit drawings can be submitted to the Department of Planning.

- 1) The applicant shall submit revised plans showing the visual appearance of the building improved to the satisfaction of the Director of Planning.
- 2) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 3) 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 per the Water Authority's specifications.
- 4) 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.
- 5) The applicant shall provide proof that a Stormwater Management plan has been submitted to the National Roads Authority (NRA). **The applicant should liaise directly with the NRA in submitting the stormwater management plan.**
- 6) The applicant shall submit a landscape plan which shall be subject to review and approval by the Central Planning Authority. *It is suggested that the landscape plan be prepared following the recommendations of the Draft Cayman Islands Landscape Guidelines, found on the Planning Department's website ([www.planning.ky](http://www.planning.ky)) under About/Draft Policies.*
- 7) The applicant shall submit a construction operations plan to the satisfaction of the Director of Planning and must be prepared in accordance with the Central Planning Authority's Construction Operations Plan Guidelines - Template B *found on the Planning Department's website ([www.planning.ky](http://www.planning.ky)) under About/Draft Policies.*

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

- 8) The applicant shall submit the Stormwater Management plan required in condition 5) which has been designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority.
- 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) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area
- 11) Prior to undertaking any sanding or breaking down of polystyrene as part of the construction process, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the adjacent Marine Protected Area offshore.

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

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

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

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

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) Per Regulation 9(8) of the Development and Planning Regulations (2022 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.
- 3) With the exception of the lot size, which is addressed below, the application complies with the Development and Planning Regulations (2022 Revision).
- 4) The proposed application does not comply with the minimum required lot size per Regulation 9(8)(f) of the Development and Planning Regulations (2022 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.
- 5) The Authority is of the view that the visual appearance of the building can be improved and a condition of approval has been included to address this issue.



**AGENCY COMMENTS**

The Authority received and considered comments from the Water Authority, National Roads Authority, Department of Environmental Health and Department of Environment.

**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:*

<b>BUILDING</b>	<b>UNITS/BLDG</b>	<b>GPD/UNIT</b>	<b>GPD</b>
<i>1</i>	<i>2 x 1-Bed Units</i>	<i>150gpd/1-Bed Unit</i>	<i>300</i>
	<i>1 x 2-Bed Units</i>	<i>225gpd/2-Bed Unit</i>	<i>225</i>
<b>TOTAL</b>			<b>525</b>

- *The septic tank shall be constructed in strict accordance with the Authority’s standards. Each compartment shall have a manhole to allow for inspection and service. Manholes shall extend to or above grade and be fitted with covers that provide a water-tight seal and that can be opened and closed by one person with standard tools. Where septic tanks are located in traffic areas, specifications for a traffic-rated tank and covers are required.*
- *Treated effluent from the septic tank shall discharge to an effluent disposal well constructed by a licensed driller in strict accordance with the Authority’s standards. The minimum well casing diameter for this development shall be 4’’. Licensed drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.*
- *To achieve gravity flow, treated effluent from the septic tank shall enter the disposal well at a minimum invert level of 4’6’’ 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) Manholes 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**

The comments below were received based on the original set of plans. Since receiving the comments, the applicant submitted revised plans – the building has been re-oriented on the site and the driveway has been shifted about 30’ further along Capt Allies Road. The revised plans were circulated to the NRA, but updated comments have not yet been received.

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

**Road Capacity Issues**

*The traffic demand to be generated by a residential development of three (3) 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 Capt. Allies Road 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>
<b>20</b>	<b>2</b>	<b>1</b>	<b>1</b>	<b>2</b>	<b>1</b>	<b>1</b>

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

**Access and Traffic Management Issues**

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

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

A six (6) foot sidewalk shall be constructed on Capt. Allies Road, within the property boundary, to NRA standards . Please have applicant revise site plan.

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 Abbey Way. Suggested dimensions of the 'hump' would be a width of 6 feet and a height of 2-4 inches. Trench drains often are not desirable.
- Curbing is required for the parking areas to control stormwater runoff.
- Roof water runoff should not drain freely over the parking area or onto the surrounding property. Note that unconnected downspouts are not acceptable. We recommend piped connection to catch basins or alternative stormwater detention devices. Catch basins are to be networked, please have the applicant provide locations of such wells along with details of depth and diameter prior to the issuance of any Building Permits.
- Sidewalk detail needs to be provided as per NRA specifications. See <https://www.caymanroads.com/upload/files/3/Sidewalk%20&%20Curbing%20Details.pdf>

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

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

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

## **Department of Environmental Health**

### **Solid Waste Facility:**

*1. This development require 3 (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.*

**Table 1: Minimum Enclosure Dimensions**

<b>Number of Containers</b>	<b>Minimum Dimensions (feet)</b>		
	<b>Width</b>	<b>Length</b>	<b>Height</b>
<b>3</b>	<b>2.50</b>	<b>7.50</b>	<b>2.50</b>

## **Department of Environment**

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

*The site is man-modified and of limited ecological value. Best management practices should be adhered to during construction to reduce impacts on the environment. In particular control measures should be put in place to address pollution from expanded polystyrene (EPS) beads on construction sites, for example those used in insulating concrete forms (ICF). Polystyrene is not biodegradable, and the EPS beads can be consumed by wildlife when it enters the food chain. These beads are very difficult to remove once they enter the environment and they do not naturally break down.*

*If the Central Planning Authority or Planning Department is minded to grant planning permission for the proposed works, we recommend the inclusion of the following condition in the approval:*

*1) If the construction uses insulating concrete forms (ICFs) or other polystyrene materials, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the environment.*

*We also recommend that native plants are incorporated into the landscaping scheme. Native plants are best suited for the conditions of the site, including the temperature and amount of*

*rainfall. They are climate-appropriate and require less maintenance and irrigation. Landscaping with native vegetation also provides ecological benefits by creating habitat and food for native fauna such as birds and butterflies, promoting biodiversity and providing valuable ecosystem services.*

## **Fire Department**

Approved for planning permission 20 Jan 23

### **APPLICANT'S LETTER**

*We have applied on behalf of Ms. Ruth Ferreira De Arantes to Construct three apartments on the above-mentioned block and parcel number,*

*Not with standing regulation 8 (13) (b) (i) the characteristics of the proposed development are consistent with the character of the surrounding area;*

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

*Also, notwithstanding regulation 8 (13) (d) in the case of an application where lesser setbacks are proposed for a development or a lesser lot size is proposed for a development, the adjoining property owners have been notified of the application.*

*With the registered area of this parcel being 0.31-acre Area (13,504 Sq. Ft.). Which the proposed development falls short of the required minimum area required for the development of apartments in the medium density residential zoning, the area which the parcel falls short as mentioned above we would like to request the lot size variance be granted to allow the proposed apartment to be approved as submitted.*

*We would appreciate the board's favorable decision to the above-mentioned variance requests.*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The application is for three apartments located on Capt. Allies Rd., West Bay.

#### **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.

(a) Detached & semi-detached houses.

(b) Duplexes

(c) In locations considered as suitable by the Authority guest houses and apartments.

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

- 4E 406:- Apartments (BB Apartments)
- 4E 613:- Apartments (Crescent Palms)
- 4E 638:- Apartments (Crescent Gardens)
- 4E 637:- Apartments (Crescent Elegance)
- 4E 577:- Apartments
- 4E 600(A):- Apartments Coral Isle
- 4E 376:- Duplex
- 4E 381:- Duplex
- 4E382:- Duplex

**2) Lot size**

Regulation 9(8)(f) of the Development & Planning Regulations (2022 Revision) states “*the minimum lot size for guest houses and apartments is 25,000 sq. ft.*” The proposed lot would be approximately 13,068 sq. ft. a difference of 11,932 sq. ft.

**3) Aesthetics**

The proposed building is a simply rectangle with a flat roof and the Authority may wish for the proposed elevations to be redesigned in such a way that the building would be more consistent with similar developments in the vicinity which are more traditional in nature with traditional architectural details and either gable or hip roofs.

**2.9 RICHARD BROWN (GMJ Home Plan Ltd.) Block 4B Parcel 531 (P23-0612) (\$455,000) (EJ)**

Application for three apartments.

**FACTS**

<i>Location</i>	Velma Banks Road, West Bay
<i>Zoning</i>	<b>HDR</b>
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.1493 ac. (6,503 sq. ft.)
<i>Parcel size required</i>	5,000 sq. ft.
<i>Current use</i>	Shed
<i>Proposed building size</i>	2,592 sq. ft.
<i>Total building site coverage</i>	19.91%
<i>Allowable units</i>	3
<i>Proposed units</i>	3
<i>Allowable bedrooms</i>	6
<i>Proposed bedrooms</i>	3
<i>Required parking</i>	5
<i>Proposed parking</i>	6

## **BACKGROUND**

2008 – house approved, permit not issued

2018 – house approved, permit issued but expired

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

Conditions (1-6) listed below shall be met *prior to the commencement of any site preparation works such as clearing, filling and grading* and before permit drawings can be submitted to the Department of Planning.

- 1) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 2) If not already shown on the site plan, the applicant shall submit a site plan that shows the location, dimensions and **size** of the wastewater treatment system including the disposal system per the Water Authority's specifications.
- 3) If not already shown on the site plan, the applicant shall submit a site plan showing tire stops for the parking spaces and the parking area curbed and surfaced with asphalt or concrete.
- 4) The applicant shall provide proof that a Stormwater Management plan has been submitted to the National Roads Authority (NRA). **The applicant should liaise directly with the NRA in submitting the stormwater management plan.**
- 5) The applicant shall submit a landscape plan which shall be subject to review and approval by the Central Planning Authority. *It is suggested that the landscape plan be prepared following the recommendations of the Draft Cayman Islands Landscape Guidelines, found on the Planning Department's website ([www.planning.ky](http://www.planning.ky)) under About/Draft Policies.*
- 6) The applicant shall submit a construction operations plan to the satisfaction of the Director of Planning and must be prepared in accordance with the Central Planning Authority's Construction Operations Plan Guidelines - Template B *found on the Planning Department's website ([www.planning.ky](http://www.planning.ky)) under About/Draft Policies.*

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

- 7) The applicant shall submit the Stormwater Management plan required in condition 4) which has been designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority.
- 8) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 9) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area
- 10) Prior to undertaking any sanding or breaking down of polystyrene as part of the construction process, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is

completely captured on-site and does not impact the surrounding areas or pollute the adjacent Marine Protected Area offshore.

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

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

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

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

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

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision). This determination includes the specific assessment that per Regulation 9(8) of the Development and Planning Regulations (2022 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**

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

#### **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:

<b>BUILDING</b>	<b>UNITS/BLDG</b>	<b>GPD/UNIT</b>	<b>GPD</b>
1-Building	3 x 1-Bed Units	150gpd/1-Bed Units	450
<b>TOTAL</b>			450

- The septic tank shall be constructed in strict accordance with the Authority’s standards. Each compartment shall have a manhole to allow for inspection and service. Manholes shall extend to or above grade and be fitted with covers that provide a water-tight seal and that can be opened and closed by one person with standard tools. Where septic tanks are located in traffic areas, specifications for a traffic-rated tank and covers are required.
- Treated effluent from the septic tank shall discharge to an effluent disposal well constructed by a licensed driller in strict accordance with the Authority’s standards. The minimum well casing diameter for this development shall be 4’’. Licensed drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.
- To achieve gravity flow, treated effluent from the septic tank shall enter the disposal well at a minimum invert level of 4’7” above MSL. The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.

**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). Site Built Tanks shall be coated with Epoxytec CPP or ANSI/NSF-61 certified equivalent.
- 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.

**Traffic Rated Tank and Covers**

The drawings indicate the septic tank is proposed to be located within a traffic area. **Therefore, a traffic rated tank and covers are required.** The Water Authority requires that manhole covers be traffic rated heavy duty to meet AASHTO H-20 loadings of 16,000lb wheel loads and sealed

with a gasket or O-ring. Covers and frames shall be manufactured from ductile iron or gray iron complying with the requirements of ASTM A-48 Class 35.

**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**

As per your memo dated September 27th, 2023 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 2,592 sq. ft. has been assessed in accordance with ITE Code 220 - Apartment. The anticipated traffic to be added onto Velma Banks 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>
20	2	0	1	2	1	1

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

**Access and Traffic Management Issues**

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

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

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

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

**Stormwater Management Issues**

The applicant is encouraged to implement state-of-the-art techniques that manage stormwater runoff **within the subject parcel** and retain existing drainage characteristics of the site as much as is feasible through innovative design and use of alternative construction techniques.

However, it is critical that the development be designed so that post-development stormwater runoff is no worse than pre-development runoff. To that effect, the following requirements should be observed:

- The applicant shall demonstrate, prior to the issuance of any Building Permits, that the Stormwater Management system is designed to embrace storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and ensure that surrounding properties and/or nearby roads are not subject to stormwater runoff from the subject site.
- The stormwater management plan shall include spot levels (existing and finished levels) with details of the overall runoff scheme. Please have applicant provide this information prior to the issuance of a building permit.
- Construct a gentle 'hump' at the entrance/exit (along the entire width of each driveway) in order to prevent stormwater runoff from and onto Velma Banks 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 Act (2005 Revision). For the purpose of this Act, Section 16(g) defines encroachment on a road as "any artificial canal, conduit, pipe or raised structure from which any water or other liquid escapes on to any road which would not but for the existence of such canal, conduit, pipe or raised structure have done so, whether or not such canal, conduit, pipe or raised structure adjoins the said road;"

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

## **Department of Environmental Health,**

### **Solid Waste Facility:**

- 1) This development require 3 (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.

**Table 1: Minimum Enclosure Dimensions**

<i>Number of Containers</i>	<i>Minimum Dimensions (feet)</i>		
	<i>Width</i>	<i>Length</i>	<i>Height</i>
<i>4</i>	<i>5.00</i>	<i>5.00</i>	<i>2.50</i>

**Department of Environment**

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

*The application site is man-modified and of limited ecological value. We recommend that native plants are incorporated into the landscaping scheme. Native plants are best suited for the conditions of the site, including the temperature and amount of rainfall. They are climate-appropriate and require less maintenance and irrigation. Landscaping with native vegetation also provides ecological benefits by creating habitat and food for native fauna such as birds and butterflies, promoting biodiversity and providing valuable ecosystem services.*

*Best management practices should be adhered to during construction to reduce impacts on the environment. In particular control measures should be put in place to address pollution from expanded polystyrene (EPS) beads on construction sites, for example those used in insulating concrete forms (ICF). Polystyrene is not biodegradable, and the EPS beads can be consumed by wildlife when it enters the food chain. These beads are very difficult to remove once they enter the environment and they do not naturally break down.*

*If the Central Planning Authority or Planning Department is minded to grant planning permission for the proposed development, we recommend the inclusion of the following conditions in the approval:*

- 1) If the construction uses insulating concrete forms (ICFs) or other polystyrene materials, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the environment.*

**Fire Department**

Stamped approve plan submitted.

**PLANNING DEPARTMENT ANALYSIS**

**General**

The proposed three (one-bedroom) two-storey apartments is located on Velma Banks Drive in West Bay.

**Zoning**

The property is zoned High Density Residential.

## Specific Issues

### 1) Suitability

The proposed apartments are in an area that is a mixture of houses, duplexes (4B 534, 568, 569 and 570) and vacant parcels. Andy's Auto is located about 390' to the west. The Authority is asked to consider if the proposal meets regulations 9 (6) for a suitable location.

### 2.10 CP DEVELOPMENTS LTD. (Alan O'Connell) Block 19A Parcel 62 (P23-0714) (\$12,000) (MW)

Application for an 8' high chain link fence with 20' wide rolling gate.

#### FACTS

<i>Location</i>	Blue Lagoon Dr., George Town
<i>Zoning</i>	<b>Light Industrial</b>
<i>Notification result</i>	No objections
<i>Parcel size proposed</i>	0.4605 ac. (20,059.38 sq. ft.)
<i>Current use</i>	Vacant

#### BACKGROUND

January 15, 2007 – Warehouses & Retail– the application was considered and it was resolved to grant planning permission.

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

- 1) The applicant is required to submit a revised site plans showing the gate with a minimum 12' setback from the roadside parcel boundary as required by Regulation 8(18).
- 2) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted because with a condition of approval requiring the gate to be setback 12' the application complies with the Development and Planning Regulations (2022 Revision).
- 3) The Authority is satisfied with the height of the fence as it is consistent with other similar fences situated in an industrial zone.

## **AGENCY COMMENTS**

The Authority received and considered comments from the National Roads Authority.

### **National Roads Authority**

*As per your memo dated October 18<sup>th</sup>, 2023 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

***The NRA has no objections or concerns regarding the revised proposed 8' high chain-link fence with a 20' wide rolling gate, and setbacks of 6ft and 1ft respectively.***

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

## **APPLICANT'S LETTER**

*The above-mentioned planning application is scheduled to be heard by the CPA this Wednesday, November 8th, 2023, as per the published agenda. I note that there have been no objections from the National Roads Authority or any of the neighboring properties but the agenda notes to discuss application for the following reasons:*

*1) Gate roadside setback (6' vs. 12')*

*2) Fence height (8' vs. 6')*

*I wish to provide some additional context before this application is considered.*

*I briefly spoke to Ron about this before submitting the planning application and I was informed that barbed wire fences are generally not looked upon favorably by the CPA, unless in specific circumstances. With this information in mind, I opted to submit for an 8ft fence in order to deter threat of burglaries and protect the vehicles and trailers being stored on the land but without seeking a barbed wire fence.*

*In terms of the rolling gate setback, as you can see from the images enclosed, there is plenty of precedent along Sparky Drive for rolling gates to be flush with the chain-link fence along the prescribed 6ft setback. Furthermore, my parcel of land is at the very end of Sparky Drive where there is no through traffic. People have been abandoning vehicles along my property boundary which already blocks the access to my property (see image enclosed). I have had to pay to remove derelict vehicles, containers and trailers from my property.*

*I ask that the CPA look favorably on this application as it stands, so that I can enjoy uninterrupted access to my property while being able to secure its boundaries, no different to the other properties highlighted.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for an 8' high chain link fence with 20' wide rolling gate to be located on the corner of Blue Lagoon Dr. & Sparky's Dr., George Town.

### **Zoning**

The property is zoned Light Industrial.

## Specific Issues

### 1) Gate roadside setback

Regulation 8(18) of The Development and Planning Regulations (2022 Revisions) states “*vehicular gates adjacent to a road shall be setback a minimum 12’ from the roadside parcel boundary*”. The proposed rolling gate would be setback approximately 6’-0” from the roadside boundary. The Authority is aware there is no discretion to vary the setback requirement.

### 2) Fence height

The CPA fence guideline 4.4.2 stipulates that “*In commercial, industrial and institutional zones, no part of a semi-transparent wall or fence should exceed 72” in height, except for where provided within these regulations*”- The proposed boundary fence would be 8’ in height a difference in height of 2’-0”.

The Authority should assess if there is sufficient reason and an exceptional circumstance that exists to warrant granting planning permission for the rolling gate roadside setback & fence height.

## 2.11 **EDDY FERRUFINO (Envision Design Associates) Block 27E Parcel 95 (P23-0007) (\$109,940) (EJ)**

Application for an after-the-fact storage building, workshop with storage and porch addition.

### FACTS

<i>Location</i>	Montrose Way, Savannah
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.2870 ac. (12,501 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	House & ATF structures
<i>Proposed building size</i>	956 sq. ft.
<i>Total building site coverage</i>	24%

### BACKGROUND

1997 – the Department granted permission for a two-bedroom house.

November 10, 2009 – after-the-fact house addition approved

September 5, 2022 – enforcement notice issued (CE22-0139) for the atf structures now applied for

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

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

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) With the exception of the rear and side setbacks, which are addressed below, the application complies with the Development and Planning Regulations (2022 Revision).
- 3) The proposed application does not comply with the minimum required rear and side setbacks per Regulations 9(8)(i) and (j) of the Development and Planning Regulations (2022 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setbacks as follows:
  - a) The characteristics of the proposed development are consistent with the character of the surrounding area;
  - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
  - c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.

### **APPLICANT'S LETTER**

*Please accept this letter as a request for a variance for the above mentioned residence. This property is located in the Newlands area (Bodden Town District), in a Low Density residential area. The surrounding areas are residential properties.*

*The above mentioned owners are requesting a variance for one 144sq storage shed outside of the setback requirements, as well as a 326sq workshop. There was an existing storage for their childrens' items and they simply aligned the 2 structures with this building. This storage building has been standing for over 20 years.*

*This lot is a size of 12,489 square feet. With the After-the-Fact and the Pre-existing structures as mentioned at a current size of 24% coverage area, this proposal meets the requirements of allowable coverage area of 30%. However, the setback requirements have been met with these structures, hence the need for a request for a setback variance.*



## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The after-the-fact structures; storage shed (144 sq. ft.), workshop with storage (326 sq. ft.) and 486 sq. ft. porch addition to an existing house located on Montrose Way in Savannah. The atf porch addition to the house meets all planning regulations.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) Minimum rear setbacks**

The atf storage shed and workshop with storage is existing at 4'9" & 4'1" vs 20' therefore not meeting regulations 9 (8)(i) for rear setbacks; consequently, the applicant is seeking a setback variance for both atf structures.

#### **2) Minimum side setbacks**

The applicant is seeking a right-side setback variance for the atf storage at 4'9" vs 10' therefore not meeting regulations 9 (8)(j).

#### **2.12 WINSTON SOLOMON (Kensington Architectural Designs) Block 13D Parcel 74 (P23-0510) (\$25,000) (NP)**

Application for a fence.

### **FACTS**

<i>Location</i>	Corner of Eastern Avenue & Ebony Lane in GT
<i>Zoning</i>	General Commercial
<i>Current use</i>	Funeral Home & Fence
<i>Proposed Use</i>	Replacement Fence

**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) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted as the wall is in keeping with the character of the area and will not detract from the ability of the surrounding owners from enjoying the amenity of their land.

## **AGENCY COMMENTS**

The Authority received and considered comments from the National Roads Authority.

### **National Roads Authority**

*As per your memo dated October 11th, 2023 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

*The NRA has no objections or concerns regarding the replacement of the old fence with a 4' high concrete fence with wooden slats.*

## **APPLICANT'S LETTER**

*We are writing on behalf of the applicant, Winston Solomon with regards to the following:*

- ***Variance - to allow four-foot fence replacement of an old six- foot fence and setback encroachment as listed below to remain:***

*We are requesting permission for the subject matter per the drawings provided and respectfully give the following reasons Per section regulation 8(18) requires fences to be setback 4 feet from road edged:*

*MR Winston Solomon stated that the fence has been built long before he bought the property 22 years the age of the property is approximately 45years and some of the issues he currently having to name a few on numerous occasions founded vehicles from the Near-by bar parked at nights on the premises hindering his staff from delivering human reminds to the funeral home. On two separate occasions he found his hearse glass smash and most recently there was a break in and all his offices vandalized.*

*The application complies with all other relevant Planning requirements.*

*We look forward to your favorable response to this variance request.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The proposed four foot high fence would be located along the Eastern Avenue and Ebony Lane frontages and would replace an existing 6 foot high fence in the same location.

It is noted that the other two sides of the property have existing chainlink fences that will not be affected by the subject application.

### **Zoning**

The property is zoned General Commercial.

### **Specific Issues**

#### **1) Proposed fence setback from roads**

Regulation 8(18) requires that walls and fences be setback a minimum of four feet from the roadside property boundaries.

In this instance the proposed replacement fence would be in the same location as the existing fence with a 0 foot setback.

**2.13 DONNET DAWKINS (Platinum Crew) Block 28C Parcel 308 (P23-0424) (\$22,000) (MW)**

Application for an after-the-fact change of use of an attached garage into a dwelling unit to create a duplex and after-the-fact covered entry.

**FACTS**

<i>Location</i>	Lovedale Dr., Bodden Town
<i>Zoning</i>	<b>Low Density Residential</b>
<i>Notification result</i>	No objections
<i>Parcel size proposed</i>	0.2872 ac. (12,510.432 sq. ft.)
<i>Parcel size required</i>	12,500 sq. ft.
<i>Current use</i>	Existing residence with covered porch & pool
<i>Proposed building size</i>	436 sq. ft.
<i>Total building site coverage</i>	24.98%
<i>Required parking</i>	2
<i>Proposed parking</i>	4

**BACKGROUND**

N/A

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

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

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) With the exception of the side setback, which is addressed below, the application complies with the Development and Planning Regulations (2022 Revision).
- 3) The proposed application does not comply with the minimum required side setback per Regulation 9(8)(j) of the Development and Planning Regulations (2022 Revision). The

Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setbacks as follows:

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

### **APPLICANT'S LETTER**

*I am requesting a variance for the above address to seek relief of the propose ATF covered porch area side setback encroachment For the reasons below. The propose single family dwelling will allow the owner,*

*(1). The strict application of the requirements of this zoning chapter would deprive the property owner of rights and privileges currently enjoyed on this site and by other property owners in the same zoning district. I am requesting a reduction in the required side setback to 8'-3'' the covered porch footprint to remain as is currently.*

*(2). Granting the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located.*

*(3). The granting of the variance will have no effect on my adjoining properties. This zoning relief requested will not cause any detriment to the common good. As the literal interpretation and strict application of the applicable zoning requirements of this chapter would cause substantial undue and unnecessary hardship to the current property owner not just a casual/discretionary inconvenience to the property owner.*

*(4). The requested variance would be consistent with the spirit and purpose of this chapter and the district of Savannah as this extended covered porch being built will blend with the new homes in the neighborhood and will be well within the spirit of the street and community.*

*Thank you for your consideration.*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The application is for an ATF modification to floor layout to create a duplex and atf covered entry located on Lovedale Dr., Bodden Town.

#### **Zoning**

The property is zoned Low Density Residential.

#### **Specific Issues**

##### **1) Side setback**

Regulation 9(8)(j) states “*the minimum side setback is 10' for a building of one storey.*” The ATF covered entry is currently 8'-3” from the side boundary a difference of 1'-9”.

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

**2.14 CORPORATE SUITES LTD. (Cayman Survey Associates) Block 14E Parcels 120, 632, & 635 (P23-0772) (\$11,000) (NP)**

Application for a subdivision & combination with a result of 3 lots in total.

**FACTS**

<i>Location</i>	South Church Street & Walkers Road, GT
<i>Zoning</i>	<b>NC &amp; LDR</b>
<i>Notification Results</i>	No objectors
<i>Parcel size</i>	4.06 acres
<i>Parcel size required</i>	10,000 sq. ft. for dwellings 0.5 acres for hotels & apartments
<i>Parcel width required</i>	80 feet for dwellings 100 feet for hotels & apartments
<i>Proposed lot sizes</i>	0.4 acres, 2.63 acres, & 0.94 acres
<i>Current use</i>	Vacant

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

- 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.
- 2) There shall be no land clearing, excavation, filling or development of the resultant subdivided parcels without planning permission for such works being granted.

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) With the exception of the width of lot A, which is addressed below, the application complies with the Development and Planning Regulations (2022 Revision).
- 3) The width of lot A does not comply with the minimum required lot width per Regulation 9(8)(g) of the Development and Planning Regulations (2022 Revision). The Authority is of

the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser lot width as follows:

- a) The width of the parcel on South Church Street already exists and the subdivision does not alter that fact; 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 that a 22' wide right-of-way is sufficient to serve the needs of the proposed LDR lot.

### **AGENCY COMMENTS**

The Authority received and considered comments from the Department of Environment, National Roads Authority & Water Authority.

#### **Department of Environment**

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

*The application site consists of predominately primary dry forest and shrubland, although it is surrounded by man-modified and fragmented habitat. Primary habitat is mature habitat in its natural state, otherwise uninfluenced by human activity where ecological processes are not significantly disturbed. These habitats are often very old, existing long before humans and may consist of many endemic and ecologically important species. Primary habitat is in severe decline and becoming a scarce and highly threatened resource as a result of land conversion for human activities.*

*We note that the application is for a subdivision, we would **not** support the clearing of this site at this time. Land clearing should be reserved until the development of individual lots is imminent (through the granting of planning permission for development on those particular lots). This allows the opportunity for the individual lot owners to retain as much native vegetation as possible. Clearing the entire site prematurely removes the choice from the individual lot owners and removes the value the habitat could provide in the time between the preparation of a subdivision and the development of an individual lot.*

*Primary habitat and native vegetation can be retained and used in a variety of ways on a property:*

- *It can be retained along parcel boundaries and between buildings to serve as privacy, noise and sound buffers and screening.*
- *It can be incorporated into the landscaping schemes for low-maintenance low-cost landscaping. Native plants are best suited for the conditions of the site, including the temperature and amount of rainfall. They are climate-appropriate and require less maintenance and irrigation.*
- *It can serve as an amenity, providing green space and shade for those who live nearby or on the property.*
- *It can remain as a habitat for endemic wildlife such as anoles, birds and butterflies. This habitat helps to contribute to the conservation of our local species.*

- *It can assist with drainage, directly through breaking the momentum of rain, anchoring soil, and taking up of water and indirectly through keeping the existing grade and permeable surfaces.*
- *It can help reduce carbon emissions by leaving the habitat to act as a carbon sink and allow natural processes to remove carbon dioxide from the atmosphere. Destroying native vegetation releases carbon stored in the plant material, soil and peat.*
- *When located in an area of wider primary habitat, wildlife corridors can be created connecting areas of a habitat that would have otherwise been isolated through development, allowing for the movement of animals and the continuation of viable populations.*

*If the Central Planning Authority, or Planning Department is minded to grant planning permission for the proposed subdivision, the DoE recommends the inclusion of the following condition in any planning permission to minimise impacts to this valuable habitat:*

1. *There shall be no land clearing, excavation, filling or development of the resultant parcels without planning permission for such works being granted.*

### **National Roads Authority**

*As per your memo September 25th, 2023 the NRA has reviewed the above-mentioned planning proposal.*

*The NRA has no objections or concerns regarding the above proposed three lot subdivision consisting of 2 residential lots and 1 commercial lot.*

### **Water Authority Cayman**

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

#### *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.*

#### *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.*

## **APPLICANTS LETTER**

*Please find attached our phased scheme to develop the above captioned parcels as follows:*

- *Phase 1. In referring to Page 1 of our scheme. Our client intends to purchase Lot "B" (as shown in cyan) as subdivided from 14E 120.*
- *Phase 2. Once the Transfer of Land has been Registered, Lot "B" will be Combined with 14E 632 & 635 to make Lot "C" (as shown in green). Please refer to Page 2 of our scheme.*
- *Phase 3. Simultaneously, we will then subdivide Lot "C" to separate the Neighbourhood Commercial Zoning from the Low-Density Zoning. Please refer to Page 3 of our scheme.*

*Unfortunately, there exists along our client's eastern boundary an approx. 5' wide "Buffer Strip", which prevents direct access to Ellery Merren Drive. This "Buffer Strip" which is now part of 14E 107 was created in 1997 by excising land from the Gazetted Public Road and returning it to the Merren Estate. This has resulted in those lots fronting the west side of Ellery Merren Drive being deprived of direct access.*

*We understand that access will have to be provided through the Neighbourhood Comm. Lot to the Low- Density Lot, but as yet we do not have a design for this part of the project to show this on Page 3.*

*Due to the width of the parent parcel 14E 120 we require a Variance for the width for Lot "A" and similarly, we require a Variance for that part of Lot "LDR" at the north west corner for the same reason.*

*We make specific reference to Regulation 8(13)(b), and believe this will not have a detrimental effect on the adjacent properties.*

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

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The subject properties are located between South Church Street and Walkers Road, directly south of Ellery Merren Drive in George Town.

The property is currently vacant and the proposal is to create three new lots following a series of subdivisions and combinations.

The end result of the application would be that the westernmost lot would have 0.4 acres, the centre lot would have 2.63 acres, and the easternmost lot would have 0.94 acres.

### **Zoning**

The properties are zoned Neighbourhood Commercial and Low Density Residential.



## Specific Issues

### 1) Width of the proposed western and centre lots (56' vs 80')

The existing width of Block 14E Parcel 120 is 56 feet along South Church Street.

Regulation 8(8)(g) states that the minimum lot width in a Low Density Residential Zone is 80 feet.

The proposed western lot and centre lot would both have a minimum width of 56', but the centre lot does widen to 187' near Walkers Rd.

The Authority should discuss the request for lot width variances and whether they are appropriate in this instance.

### 2) Proposed width of the right of way over the easternmost lot (24' vs 30')

The application proposes a minimum 24' wide right of way over the easternmost lot in favour of the centre lot since access to Ellery Merren Drive is not permitted.

The Authority would typically request a minimum 30' wide right of way.

The Authority should discuss the width of the proposed right of way.

## 2.15 CF HIGH SCHOOL (Kariba Architecture) Block 20E Parcel 87 H7 (P23-0674) (\$4.0 million) (NP)

Application for a High School, fence & sign.

**Danette McLaughlin declared a conflict and left the meeting room.**

### FACTS

<i>Location</i>	Linford Pierson Highway, George Town
<i>Zoning</i>	<b>Low Density Residential</b>
<i>Notification Results</i>	No Objections
<i>Parcel size</i>	1.96 acres
<i>Parcel size required</i>	CPA Discretion
<i>Current use</i>	Vacant
<i>Proposed use</i>	High School
<i>Proposed Building Footprint</i>	22,336 sq. ft.
<i>Proposed Building Area</i>	22,336 sq. ft.
<i>Parking Required</i>	35 ITE
<i>Parking Proposed</i>	40

### BACKGROUND

March 9, 2022 (CPA/07/22; 2.2) – 12 lot raw land strata subdivision approved

March 9, 2022 (CPA/07/22; 2.1) – Primary School approved on 20E 87 H5

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

Conditions (1-6) listed below shall be met *prior to the commencement of any site preparation works such as clearing, filling and grading* and before permit drawings can be submitted to the Department of Planning.

- 1) The applicant shall provide proof that the site boundaries have been set out on the ground by a licensed land surveyor.
- 2) If not already shown on the site plan, the applicant shall submit a site plan that shows the location, dimensions and **size** of the wastewater treatment system including the disposal system per the Water Authority's specifications.
- 3) If not already shown on the site plan, the applicant shall submit a site plan showing tire stops for the parking spaces and the parking area curbed and surfaced with asphalt or concrete.
- 4) The applicant shall provide proof that a Stormwater Management plan has been submitted to the National Roads Authority (NRA). **The applicant should liaise directly with the NRA in submitting the stormwater management plan.**
- 5) The applicant shall submit a landscape plan which shall be subject to review and approval by the Central Planning Authority. *It is suggested that the landscape plan be prepared following the recommendations of the Draft Cayman Islands Landscape Guidelines, found on the Planning Department's website ([www.planning.ky](http://www.planning.ky)) under About/Draft Policies.*
- 6) The applicant shall submit a construction operations plan to the satisfaction of the Director of Planning and must be prepared in accordance with the Central Planning Authority's Construction Operations Plan Guidelines - Template B *found on the Planning Department's website ([www.planning.ky](http://www.planning.ky)) under About/Draft Policies.*

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

- 7) The applicant shall submit the Stormwater Management plan required in condition 4) which has been designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority.
- 8) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 9) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area
- 10) Prior to undertaking any sanding or breaking down of polystyrene as part of the construction process, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the adjacent Marine Protected Area offshore.

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

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

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

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

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

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision). Further in this regard, the Authority concurs with the assessment of the Planning Department regarding the zoning of the site. Finally, the Authority is of the view that the size of the sign and height of the fence are acceptable in this instance.

**AGENCY COMMENTS**

The Authority received and considered comments from the Water Authority, Fire Department and Department of Environment.

**Water Authority Cayman**

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

Wastewater Treatment and Disposal

*The developer, or their agent, shall 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 5,440 US gallons per day (gpd), based on the following calculations.*

BUILDING	UNITS/BLDG	GPD/BLDG	GPD
CF High School	Classroom 10 x 642 sq. ft.	6,420 x 0.75	4,815

		(school factor - no cafeteria or gym)	
	Science Room 1 x 833 sq. ft.	833 x 0.75 (school factor - no cafeteria or gym)	624.75
TOTAL			5,439.75

- *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. The minimum well casing diameter for this development shall be 6". 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 4'6" 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.*

#### Water Supply

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

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

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

#### **Fire Department**

The Fire Department has submitted stamp approved drawings for the proposal.

#### **Department of Education**

Comments not yet received.

#### **National Roads Authority**

Comments not yet received.

## **Department of Environment**

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

*The site previously consisted of seasonally flooded mangrove vegetation and is located in the South Sound Drainage Basin. It is now man-modified. Therefore, it is recommended that a stormwater management plan which incorporates Sustainable Drainage Systems (SuDS) is developed for site. SuDs are drainage solutions that provide an alternative to the direct channeling of surface water through pipes and deep wells. By mimicking natural drainage regimes, SuDS aim to reduce surface water flooding, improve water quality and enhance the amenity and biodiversity value of the environment. SuDS achieve this by lowering flow rates, increasing water storage capacity, and reducing the transport of pollution to the water environment*

*We also recommend that native plants are incorporated into the landscaping scheme. Native plants are best suited for the conditions of the site, including the temperature and amount of rainfall. They are climate-appropriate and require less maintenance and irrigation. Landscaping with native vegetation also provides ecological benefits by creating habitat and food for native fauna such as birds and butterflies, promoting biodiversity and providing valuable ecosystem services.*

*Best management practices should be adhered to during construction to reduce impacts on the environment. In particular control measures should be put in place to address pollution from expanded polystyrene (EPS) beads on construction sites, for example those used in insulating concrete forms (ICF). Polystyrene is not biodegradable, and the EPS beads can be consumed by wildlife when it enters the food chain. These beads are very difficult to remove once they enter the environment and they do not naturally break down.*

*Lastly, wherever possible, sustainable design and energy efficiency features are included in projects such as this one. We especially encourage renewable energy installations given that the Cayman Islands has a target of 70% of energy generation being renewably sourced by the year 2037 (Cayman Islands National Energy Policy 2017-2037). Photovoltaic solar panels in particular could be installed on suitable roof space or over the proposed parking spaces.*

*If the Central Planning Authority or Planning Department is minded to grant planning permission for the proposed development, we recommend the inclusion of the following conditions in the approval:*

- 1) If the construction uses insulating concrete forms (ICFs) or other polystyrene materials, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the adjacent marine environment.*

## **APPLICANT'S LETTER**

*Please see attached the planning submission binder for the proposed CF High School, located in Buttonwood Park, Block 20E Parcel 87.*

*The total covered footprint of the proposed School is 22,336 square feet equating to a site coverage of 26.1%. The site is on an approved strata lot which can be referenced in the Buttonwood Park subdivision planning application, P21-1304. A1-01 shows the entirety of the*

*approved subdivision depicting the approved access road from Linford Pierson Highway, the proposed School's location, and the approved Island Primary School application. The site coverage of the proposed in relation to the entire parcel is 2.33%.*

*The site layout incorporates a one-way system with 40 parking spaces including two accessible spaces. In addition, there is an area for pick up and drop off. The High School has a capacity of 150 students and 22 staff members. The number of parking spaces has been calculated based on the precedent set by the approved Island Primary School (P21-1295). The ratio of 0.2 spaces per occupant means that the proposed 40 parking spaces meets the parking requirements set by the CI Planning Department for the total number of occupants in the School. As a note, the students will not be able to drive so the parking spaces are solely for staff and visitors.*

*Perimeter fencing to the property boundaries and between the parking area and school are annotated on the site plan. Retaining walls due to the differing levels of the proposed design and the adjacent undeveloped land are also included on the site plan. The School is located to the south of the site setback 20' from the rear and side boundaries, and 25'-6" from the front boundary. There is a large playing field which will be used for multiple sports to the north of the site.*

*Also indicated on the site plan is a proposed 6' high rendered concrete block wall which will feature the CF High School sign; this is not an illuminated sign.*

*The floor plans (A2-01 and A2-02) show 10 'blocks' which include 10 classrooms, a science centre, a library / multi-use room, reception and office block, staff area and a student washroom block. These are all connected by an open walkway which will be covered to protect from the elements.*

*As shown in the elevations and 3D render, the proposed design is a contemporary single storey structure. Featuring individual classroom blocks, high level windows and mono pitched roofs, it is the client's aim to create a welcoming environment for both students and staff.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The subject property is located in George Town on the Linford Pierson Highway, west of Mangrove Point apartment complex and north of Vela apartments. It is directly south of the recently constructed Island Primary School.

The property is presently vacant.

The proposal is for a new one-storey high school with 150 students and 22 staff.

The ITE High School parking ratio used was 0.23 parking spaces per student, which results in 35 parking spaces being required. The applicant is proposing 40 parking spaces.

There is also a six foot high perimeter fence proposed.

### **Zoning**

The property is zoned Low Density Residential.

## Specific Issues

### 1) Zoning

The site is zoned LDR, however, the concept for the subdivision from inception was for educational and recreational purposes. As noted in the Background section of the report, a Primary School has already been approved within the subdivision and it has been constructed. It would appear that the use of land within the subdivision for educational purposes has already been determined to be acceptable.

### 2) Sign area

The applicant is proposing a sign with 36 square feet of area.

CPA sign guidelines state that the maximum area of a free-standing sign should be 32 square feet.

The Authority should discuss whether the proposed sign is satisfactory for this project.

### 3) 6' fence

The applicant is proposing a six foot high fence. The proposed fence would be located on the lot boundaries, except for the west boundary where it will be setback 20 feet from the boundary to allow for a walking trail. The Authority should determine if a 6' fence height is acceptable in this instance.

## 2.16 SHARMEE MCFIELD (Abernethy & Associates) Block 53A Parcel 95 (P23-0774) (\$1,000) (NP)

Application for a 4-lot subdivision.

### FACTS

<i>Location</i>	Unnamed private road south of North Side Road
<i>Zoning</i>	Low Density Residential
<i>Notification Results</i>	No objectors
<i>Parcel size</i>	43,560 sq ft
<i>Parcel size required</i>	10,000 sq. ft. for dwellings
<i>Parcel width required</i>	80 feet for dwellings
<i>Proposed lot sizes</i>	10,048 sq ft to 12,300 sq ft
<i>Proposed lot widths</i>	2 @ 12' & 2 @ 91'
<i>Current use</i>	Vacant

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

- 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.
- 2) There shall be no land clearing, excavation, filling or development of the resultant subdivided parcels without planning permission for such works being granted.

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) With the exception of the width of lots 3 and 4, which is addressed below, the application complies with the Development and Planning Regulations (2022 Revision).
- 3) The width of lots 3 and 4 where they meet the access road does not comply with the minimum required lot width per Regulation 9(8)(g) of the Development and Planning Regulations (2022 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser lot width as follows:
  - a) Lots 3 and 4 are “flag” shaped lots and an inherent feature of this design is that the portion of the lot fronting the access road is widen enough to allow for a driveway which then leads to the larger portion of the lot that meets or exceeds the lot width requirement; and
  - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare.

### **AGENCY COMMENTS**

The Authority received and considered comments from the Water Authority, Department of Environment and National Roads Authority.

#### **Water Authority Cayman**

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

##### 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.*

##### 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.*



## **Department of Environment**

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

*The application site consists of man-modified but mainly consists of old regrowth from the 1990s. Old regrowth can still possess ecological value, especially if the land was not filled and it began to regrow prior to the spread of invasive species.*

*We note that the application is for a subdivision, we would **not** support the clearing of this site at this time. Land clearing should be reserved until the development of individual lots is imminent (through the granting of planning permission for development on those particular lots). This allows the opportunity for the individual lot owners to retain as much native vegetation as possible. Clearing the entire site prematurely removes the choice from the individual lot owners and removes the value the habitat could provide in the time between the preparation of a subdivision and the development of an individual lot.*

## **National Roads Authority**

*As per your email dated September 25th, 2023, the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

*While the NRA will not object to the development, it is to be noted that there are points along the road granting access to the proposed development where the road width is less than thirty (30) feet. Please see the attached, bearing in mind that the measurements were taken from the registry map.*

## **APPLICANTS LETTER**

*The proposed subdivision of 53A 95 includes flag-shaped lots which result in a small proportion of the proposed parcels not meeting the minimum lot width of 80' as set out in 9(8)(g) of the Development and Planning Regulations (2022 Revision).*

*Consequently, we kindly ask the Authority to consider our variance request, taking into account the following points:*

- (a) The immediate area lacks a clear defined character due to the diverse range of lot sizes. Although the road frontage width is somewhat undersized, we believe this variance is warranted, given that the rest of the lots meet the width requirement, and there is ample developable area remaining.*
- (b) Our proposal will not have any adverse or material detrimental impact on the well-being of those residing or working in the vicinity, adjacent properties, the neighbourhood, or public welfare.*
- (c) The proposed subdivision complies with all other aspects of the Development and Planning Regulations.*
- (d) The resultant lot sizes facilitate future development aligning with the provisions of Section 2.6 of the Development Plan 1997.*

*We appreciate your consideration of our request for variance and are open to further discussions or providing any additional information that may be required. Please do not hesitate to contact us if you need any clarification or have any questions.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The subject property is located on an unnamed private road that is located south of North Side Road in North Side.

The property is presently vacant.

The proposal is to divide the existing parcel into four lots, with two lots have 91 feet of frontage on the private road and two lots having 12 feet of frontage on the private road.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) Width of the proposed lots (67.7' & 66.9' vs 80')**

Two of the proposed lots would have a lot width of 12 feet.

Regulation 9(8)(g) states that the minimum lot width for a detached house or duplex shall be 80 feet.

The Authority should discuss whether variances for lot width are warranted in this instance.

#### **2) Width of existing access road**

As NRA has noted, portions of the existing access road fall below 30' with the narrowest point being 23.1'. The Authority should determine if the existing access road can accommodate three additional lots.

### **2.17 MARTINA WATLER (Abernethy & Associates) Block 28B Parcel 303 (P23-0687) (\$4,269) (EJ)**

Application for a three-lot subdivision.

### **FACTS**

<i>Location</i>	Chime Street, Newlands
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.9358 ac. (40,763 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Lot-1 = 15,339 sq. ft. or 0.3521 acre Lot-2 = 10,900 sq. ft. or 0.2502 acre Lot-2 = 14,455 sq. ft. or 0.3318 acre

## **BACKGROUND**

September 27, 2023 (CPA/23/23; Item 2.21) - The Authority adjourned the application in order to circulate to agencies for comments.

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

- 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.
- 2) Prior to the subdivision plan being finalized, the existing house on the property shall be demolished.

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision).
- 3) The Authority considered DOE's comments regarding land clearing, but given that the site is man modified and has only limited re-growth did no consider there to be any ecological impact that required imposing such a condition.

## **AGENCY COMMENTS**

The Authority received and considered comments from the Water Authority, National Roads Authority and Department of Environment.

### **Water Authority**

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

#### **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.*

#### **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*

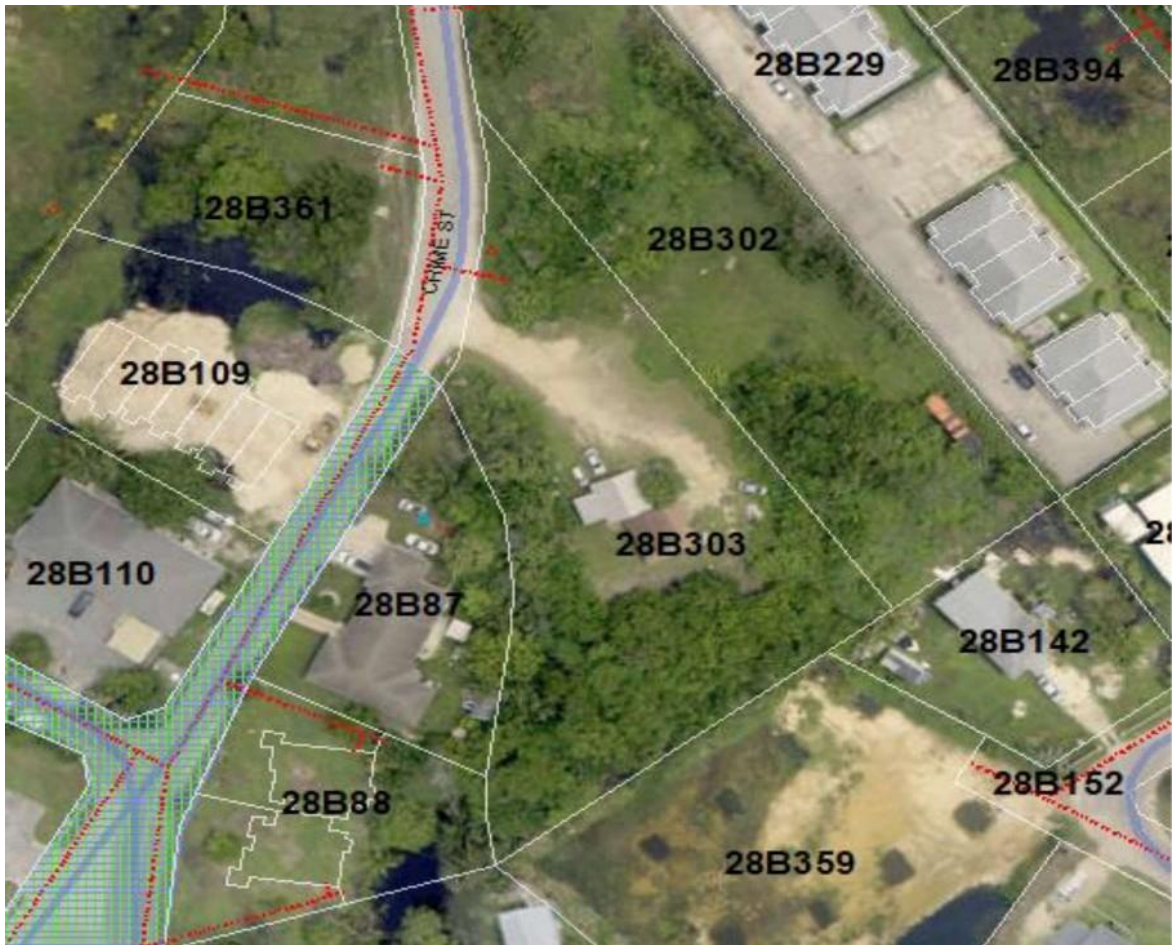
Standard Detail Drawings for meter installations are available via the following link to the Water Authority's web page: <http://www.waterauthority.ky/water-infrastructure>.

**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.**

### **National Roads Authority**

As per your memo October 2<sup>nd</sup>, 2023, the NRA has reviewed the above-mentioned planning proposal.

The NRA is concerned that the proposed three lot subdivision is not a vacant lot, but has an existing residential dwelling home located in the centre of which the subdivision is to be divided, with partial of the residential dwelling home positioned over the 24ft vehicular right of way. See pictured below. Applicant is required to re-adjust the subdivision, provide a proper road parcel to lot 2, and resubmit.



## **Department of Environment**

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

*The site is man-modified with some regrowth. We note that the application is for a subdivision, we would **not** support the clearing of this site at this time. Land clearing should be reserved until the development of individual lots is imminent (through the granting of planning permission for development on those particular lots). This allows the opportunity for the individual lot owners to retain as much native vegetation as possible. Clearing the entire site prematurely removes the choice from the individual lot owners and removes the value the habitat could provide in the time between the preparation of a subdivision and the development of an individual lot.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The proposed three-lot subdivision located off Chime Street in Spotts-Newlands.

### **Zoning**

The property is zoned Low Density Residential.

### **Specific Issues**

#### **1) Right-of-Way**

The proposed lots meet the regulations for minimum lots size; however, the proposed 24' right-of-way runs along the west boundary of lot-1 serving lot-2 and lot-3; the Authority is asked to consider if it is satisfied with the proposed 24' VROW.

## **SUPPLEMENTARY ANALYSIS**

On September 27, 2023 (CPA/23/23; Item 2.21), the Authority adjourned the application in order to circulate to agencies for comments. Those comments have been provided above. Although not raised on September 27, there is an existing house on the site and it is situated where the new lot lines converge. The applicant's surveyor has advised that the house is derelict and will be demolished.

### **2.18 RENEE MYLES (Abernethy & Associates) Block 32C Parcel 56 (P19-0172) (\$3,017.00) (EJ)**

Application for a two-lot subdivision.

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

### **FACTS**

<i>Location</i>	Off Shamrock Road, Lower Valley
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No objectors

<i>Parcel size proposed</i>	2.222 ac. (96,790 sq. ft.)
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Lot-1 = 21,815 sq. ft. or 0.5008 acres Lot-2 = 75,053 sq. ft. or 1.7229 acres

**BACKGROUND**

September 27, 2023 (**CPA/23/23; Item 2.20**) - The Authority adjourned the application in order to circulate to agencies for comments.

**Decision:** It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss concerns regarding access to proposed lot 2 and the status of the existing right-of-way traversing the property.

**AGENCY COMMENTS**

The Authority received and considered comments from the Water Authority, National Roads Authority and Department of Environment.

**Water Authority**

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

**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.*

**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.*

**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.*

### **National Roads Authority**

*The NRA has no objections or concerns regarding the above proposed two lot subdivision.*

### **Department of Environment**

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

*The application site is man-modified and of limited ecological value.*

*We note that the application is for a subdivision, we would **not** support the clearing of this site at this time. Land clearing should be reserved until the development of individual lots is imminent (through the granting of planning permission for development on those particular lots). This allows the opportunity for the individual lot owners to retain as much native vegetation as possible. Clearing the entire site prematurely removes the choice from the individual lot owners and removes the value the habitat could provide in the time between the preparation of a subdivision and the development of an individual lot.*

*If the Central Planning Authority or Planning Department is minded to grant planning permission for the proposed subdivision, the DoE recommends the inclusion of the following condition in any planning permission to minimise impacts to this valuable habitat:*

- 1. There shall be no land clearing, excavation, filling or development of the resultant parcels without planning permission for such works being granted.*

### **APPLICANT'S LETTER**

*Please find attached the amended proposed subdivision plan. The purchaser of Lot 1 is the proprietor of 32C 264 and her mother is the proprietor of 32C 263. They are both willing to grant a 24' vehicular right of way through their parcels over the existing 24' VROW to Lot 1.*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The proposed two-lot subdivision located off Shamrock Road and adjacent to Midnight Road.

#### **Zoning**

The property is zoned Low Density Residential.

#### **Specific Issues**

##### **1) Right-Of-Way**

The proposed lots meet the regulations for minimum lots size for houses and duplexes; however, there is right-of-way over 32C465 from Shamrock Road and link to Midnight Road but no confirmation as to the size; therefore, the applicant is seeking permission for a 24' Vehicular Right of Way over the eastern boundary of 32C63 and 32C64 only in order

to access proposed lot 1. The Authority is asked to consider if it is satisfied with the proposed 24 VROW.

**SUPPLEMENTARY ANALYSIS**

On September 27, 2023 (CPA/23/23; Item 2.20) - The Authority adjourned the application in order to circulate to agencies for comments.

**2.19 RUCKER RESIDENCE (Trio Architecture) Block 33D Parcel 15 (P23-0730) (\$4.0 million) (NP)**

Application for a house.

**FACTS**

<i>Location</i>	Rum Point Drive in North Side
<i>Zoning</i>	<b>Low Density Residential</b>
<i>Notification result</i>	Not Applicable
<i>Parcel size</i>	21,780 square feet
<i>Parcel size required</i>	10,000 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed use</i>	House

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

In addition to Building Permit requirements, conditions (1-6) listed below shall be met ***prior to the commencement of any site preparation works such as clearing, filling and grading*** and before permit drawings can be submitted to the Department of Planning.

- 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 shall submit a plan for turtle friendly lighting which minimizes impacts on sea turtles and is prepared in accordance with the Department of Environment’s guidelines and approved by the Central Planning Authority.
- 3) The applicant shall obtain written approval from the Department of Environment that there are no turtle nests on site that will be negatively impacted by the commencement of works.
- 4) Prior to the installation of the beachside construction fencing and the commencement of construction works, the property owner shall contact the Department of Environment to check for the presence of turtle nests and to ensure that no nests will be impacted by the installation of the embedded fencing or the commencement of construction works. The Department of Environment’s written approval must be received by the Planning Department prior to the issuance of the Building Permit.
- 5) Upon fulfillment of condition 2), beachside construction fencing associated with the works shall be positioned at the minimum required high water mark setback, or greater if feasible (to minimise impacts on the turtle nesting habitat) and the fencing shall be erected so that it fully encloses the beach facing area of works and is embedded at least 2 feet into the beach



profile to prevent turtles entering the construction site or digging under the fencing, during nesting season. The applicant is directed to liaise with the Department of Environment regarding guidance notes for the appropriate type of fencing. The Department of Environment will inspect the fencing and confirmation of the Department of Environment's written approval must be received by the Planning Department.

- 6) The construction drawings for the proposed swimming pool filtration system shall be submitted to the Department of Environmental Health. The applicant shall also submit to the Director of Planning the requisite signed certificate certifying that if the pool filtration system is constructed in accordance with the submitted plans it will conform to public health requirements.
- 7) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area
- 8) Prior to undertaking any sanding or breaking down of polystyrene as part of the construction process, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the adjacent Marine Protected Area offshore.
- 9) 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.

- 10) 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.
- 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, conditions (12-14) shall be complied with before a final Certificate of Occupancy can be issued.

- 12) If a turtle lighting plan has been required, confirmation from the Department of Environment that the installed lighting complies with the plan, with final confirmation provided by the Authority or delegate.
- 13) All construction material shall be stockpiled landward of the beachside construction fencing.
- 14) Any sand that is excavated during construction shall be retained on-site and only with the prior consultation and approval of the DOE will beach quality sand shall be placed along the active beach profile. If there is an excessive quantity of sand that cannot be accommodated on-site, and the applicant would like to move such sand offsite, it shall be the subject to a separate application for planning permission and separate consultation with the National Conservation Council.
- 15) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s)**.

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

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) Based on information provided by the Department of Environment it was determined that there would be no adverse effect of granting planning permission per Section 41(3) of the National Conservation Act. Further, the Authority considered and imposed all of the recommended conditions provided by the Department of Environment.
- 3) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision).

## **AGENCY COMMENTS**

The Authority received and considered comments from the Department of Environment.

### **Department of Environment**

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

### **Site Overview**

*As seen in Figure 1 and Figure 2 below, the application site is man-modified but is environmentally sensitive. The beach on site is a turtle nesting beach and there have been recent turtle nests on the adjacent parcels. All marine turtle species are protected at all times under Part 1 of Schedule 1 of the National Conservation Act (NCA).*



*Figure 1. Application site with the parcel boundary highlighted in red (Aerial Imagery Source: UKHO, 2021).*



Figure 2. Proposed development plans on application site with the parcel boundary highlighted in red (Aerial Imagery Source: UKHO, 2021; Site Plan Source: Mike Stroh, 2023).

### **Threats to Sea Turtles**

The main threats to sea turtles from development on turtle nesting beaches are:

- *Loss of coastal vegetation;*
- *Construction on the beach directly or indirectly impacting mature and hatchling sea turtles, and*
- *Artificial lighting causing mature females to be deterred from nesting and hatchling turtles to crawl away from the sea, where they die from dehydration, exhaustion, predators or vehicles.*

### **Coastal Vegetation**

*Although the vegetation on the site is regrowth, it can still form an important coastal feature. Coastal habitat incorporates a variety of salt and wind-tolerant flora. Once vegetation has been cleared, it often results in wind-borne erosion of the land and general coastal erosion. Coastal vegetation is therefore important for the integrity of the beach and to ensure there is an appropriate nesting habitat for sea turtles. Beach vegetation is also thought to play an important role in sea turtle nest site selection, hatch success, hatchling fitness, sex ratio, and their ability to find the sea. We recommend that the on-site coastal vegetation is incorporated into the landscaping scheme, particularly on the seaward side, to reduce the potential for erosion and to promote turtle nesting.*



### *Construction Impacts*

*Operating heavy machinery during land clearing and construction presents a threat to nesting sea turtles. Construction works not only disturb the physical nesting habitat but heavy machinery and associated works can crush or bury baby sea turtles and turtle nests.*

*The excavation of the foundations will likely result in a large quantity of sand. The sand is a key component of what makes the application site good for sea turtles. We recommend that any excavated sand is retained on-site.*

*Nesting sea turtles often use vegetation as a cue for nesting, and will crawl landwards up the beach until they reach the vegetation, or on a modified beach, a hard structure. When the vegetation is removed for construction, sea turtles can enter construction sites and be harmed. Figures 3 to 6 show sea turtle tracks directly up to construction sites. The DoE has also been called to respond numerous times to sea turtles who have become trapped in construction sites. Figure 7 shows a sea turtle hatchling which was killed due to heavy equipment being operated on the beach.*



*Figures 3-4. Sea turtle tracks showing that the sea turtle has crawled up the beach until it reached a construction site (Source: DoE and Tammy Kelderman, 2021). The fence in Figure 3 is dangerous to sea turtles as it is sharp, rusty and not secure.*



*Figures 5-6. DoE photos showing turtle tracks within a construction site on a turtle nesting beach. This site did not have temporary beachside construction fencing to prevent turtles from entering the site. The turtle could have or may have been injured by construction materials and debris on-site (Source: DoE, 2023).*



*Figure 7. A dead sea turtle hatchling, which was killed by heavy equipment operating on the beach (Source: DoE, 2022).*



*For these reasons, construction fencing suitable for excluding turtles must be installed prior to the commencement of demolition and/or site works. Mesh fencing, Heras fencing, and chainlink fencing are all **unacceptable** as they can be dangerous to turtles and do not exclude them from the site. Mature green sea turtles weigh around 300 to 400 lbs and are capable and strong diggers.*

*Temporary beachside construction fencing (as shown in Figure 8) must be:*

- *Located as far landward as possible to leave room/habitat for the turtles to nest during the work;*
- *Made from a sturdy/solid material like plywood with no gaps (i.e. not chainlink fencing or the orange plastic fencing with holes as hatchlings can crawl through these and adults can knock it down or become tangled);*
- *Embedded at least 2 feet into the sand so that turtles cannot dig it out or crawl under;*
- *Installed in a manner that any nailing of the wood will be done so that the sharp ends are located on the landside of the fencing to prevent injury to turtles; and*
- *Inspected by the DoE after installation and written approval shall be obtained from the DoE that the installed fence is suitable for the exclusion of turtles.*
- *Suitable to contain all excavated material, construction materials and demolition waste landward of the fencing.*



*Figure 8. An example of suitable construction fencing to protect turtles (Source: DoE, 2022).*

### *Artificial Lighting*

*Artificial lighting on and around turtle nesting beaches is one of the greatest threats to the survival of Cayman's endangered sea turtle nesting populations. Bright lights on or near the beach can deter female turtles from nesting and cause baby turtles to crawl away from the sea, where they die from dehydration, exhaustion, predators or vehicles.*

*Turtle friendly lighting has been a legal requirement in ordinances in the United States for over 30 years. It is a proven solution to prevent the misorientation of sea turtles whilst safely and effectively lighting beachside properties. The Department strongly recommends the use of turtle friendly lighting on turtle nesting beaches. Figures 9-11 show examples of properties in Grand Cayman that have turtle friendly lighting installed.*





Figures 9-11. Properties retrofitted to turtle friendly lighting along Seven Mile Beach, Grand Cayman (Source: DoE, various).

### **Construction Impacts on the Environment**

*Best management practices should be adhered to during construction to reduce impacts on the surrounding environment, namely the turtle nesting beach. In particular, construction-related debris must not enter the marine environment. Poor construction management practices can degrade the environment by:*

- *Polluting the marine environment with wind-borne debris. Practices such as sanding down ('keying') polystyrene, Styrofoam or insulating concrete forms (ICFs) which are used as part of wall finishing and window moulding can result in polystyrene waste materials getting blown into the sea in significant quantities (See Figures 12 to 14), and*
- *Washing stockpiled aggregates, loose material or bulk material into the marine environment, causing turbidity and impacting water quality (see Figures 15 and 16).*

*The Department has witnessed and experienced complaints from members of the public regarding pollution from expanded polystyrene (EPS) beads on construction sites around the island. EPS is used in a variety of applications, including thermal insulation in buildings, civil engineering applications and decorative mouldings and panels. During construction, once EPS is cut, tiny microbeads are blown into the air, polluting neighbouring yards, stormwater drains, and nearby water bodies. Polystyrene is not biodegradable, and the EPS beads can be consumed by wildlife when it enters the food chain. EPS beads that make their way to the sea can be mistaken by fish and birds as fish eggs and have the potential to cause blockages in their digestive systems. These beads are very difficult to remove once they enter the water and they do not naturally break down.*



*Figures 12-14. DoE site visit photos showing the bits of white polystyrene material littering local development sites. The beads from the first two images made their way into the adjacent Marine Reserve and neighbouring properties. Developers attempted to remedy the situation by cleaning neighbouring pools and yards daily but it was impossible to collect all of the beads, especially once they entered the marine environment.*



*Figures 15-16. The DoE responded to a complaint from the public that this stockpiled material was causing considerable turbidity and siltation of the marine environment.*

*It is a straightforward measure and good-practice to avoid stockpiling materials too close to the marine environment, however this practice still occurs, causing adverse effect on the marine environment. Therefore, we strongly recommend that this management practice is secured by a condition to prevent adverse effects on the valuable turtle nesting beach and offshore marine environment.*

### **Recommended Conditions**

*If the Central Planning Authority or Planning Department is minded to grant planning permission for the proposed development, the DoE strongly recommends the inclusion of the following conditions to minimise the potential adverse effects on the marine environment and the turtle nesting beach:*

#### *Prior to Any Site Works*

- 6) Prior to the commencement of any site works such as clearing, filling, grading and road construction, the property owner shall contact the Department of Environment to check for the presence of turtle nests; written approval shall be obtained from the Department of Environment that no nests will be impacted by the commencement of works.*

#### *Prior to the Issuance of a Building Permit*

- 7) Prior to the issuance of a Building Permit, the applicant shall prepare and submit a plan for review and approval to the Department of Environment for turtle friendly lighting, which minimises the impacts on sea turtles. Guidance on developing a lighting*

*plan can be found in the Department of Environment's Turtle Friendly Lighting: Technical Advice Note (September 2018) available from <https://doe.ky/marine/turtles/tfl/>. The DoE's written approval must be received by the Planning Department prior to the issuance of the Building Permit.*

- 8) Prior to the installation of the beachside construction fencing and the commencement of construction works, the property owner shall contact the Department of Environment to check for the presence of turtle nests and to ensure that no nests will be impacted by the installation of the embedded fencing or the commencement of construction works. The Department of Environment's written approval must be received by the Planning Department prior to the issuance of the Building Permit.*
- 9) Prior to the issuance of a Building Permit, beachside construction fencing associated with the works shall be installed and be positioned a minimum of 75 ft from the Mean High Water Mark. The fencing shall be erected so that it fully encloses the beach-facing area of works and is embedded at least 2 feet into the beach profile to prevent turtles from entering the construction site or digging under the fencing. The applicant shall liaise directly with the Department of Environment for requirements guidance regarding this fencing. The Department of Environment will inspect the fencing and confirmation of the Department of Environment's written approval must be received by the Planning Department prior to the issuance of the Building Permit.*

#### *During Construction*

- 10) All construction materials shall be stockpiled at a minimum of 75 feet from the Mean High Water Mark (MHWM) to reduce the possibility of run-off washing material and debris into the marine environment causing turbidity and impacting important marine resources.*
- 11) If the construction uses insulating concrete forms (ICFs) or other polystyrene materials, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the adjacent marine environment.*
- 12) All construction materials including excavated materials and/or debris shall be stockpiled on the landward side of the construction fencing.*
- 13) Any sand that is to be excavated during construction shall be retained on-site and beach-quality sand shall be placed along the active beach profile. Placement of the sand on the beach during turtle nesting season will require the written consent of the Department of Environment, to ensure that no nests will be impacted. If there is an excessive quantity of sand that cannot be accommodated on-site, and the applicant would like to move such sand offsite, it shall be the subject of a separate consultation with the National Conservation Council.*

#### *Prior to the Issuance of a Certificate of Occupancy*

14) *Lighting and/or specifications for visible light transmittance shall be installed and maintained in accordance with the turtle friendly lighting plan which has been reviewed and approved by the Department of Environment. Once construction is complete, prior to the issuance of the Certificate of Occupancy, the Department of Environment will inspect the installed lighting for compliance with the approved turtle friendly lighting plan. Confirmation of the Department of Environment's written approval of the installed exterior lighting after the inspection must be received by the Planning Department prior to the issuance of the Certificate of Occupancy.*

**PLANNING DEPARTMENT ANALYSIS**

**General**

The subject parcel is located on Rum Point Drive in North Side.

The property is presently vacant and the application is for a house.

The proposed house complies with all applicable Regulations.

**Zoning**

The property is zoned Low Density Residential.

**Specific Issue**

**1) DOE Comments**

The application could be approved administratively but the DOE has submitted comments with a series of recommended conditions.

The Authority should discuss the DOE's recommended conditions.

**2.20 TRIO ARCHITECTURE (Trio Architecture) Block 14D Parcel 445 (P23-0544) (\$125,000) (NP)**

Application for a private exercise pavilion.

**FACTS**

<i>Location</i>	Linford Pierson Highway in George Town
<i>Zoning</i>	<b>Medium Density Residential</b>
<i>Parcel size</i>	42,701.8 sq. ft.
<i>Parcel size required</i>	7,500 sq. ft.
<i>Current use</i>	Vacant
<i>Proposed use</i>	Private Gym
<i>Building size</i>	1,259 sq. ft.

**BACKGROUND**

June 27, 2018 (CPA/15/18; item 2.3) - 9 lot subdivision approved

**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 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) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area.
- 4) Prior to undertaking any sanding or breaking down of polystyrene as part of the construction process, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the adjacent Marine Protected Area offshore.
- 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) Only the building footprint and driveway can be cleared of vegetation. Any other land clearing will require a separate application for planning permission.

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

- 7) The access road (s) abutting the parcel shall be constructed with asphalt and approved by the Central Planning Authority. 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.

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

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

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision). Further in this regard, the Authority is satisfied that the exercise pavilion can function as an ancillary use for the future primary development of the site.

### **AGENCY COMMENTS**

The Authority received and considered comments from the National Roads Authority, Department of Environment, Water Authority and Fire Department.

#### **National Roads Authority**

##### **Memorandum 1**

*As per your memo dated July 25th, 2023 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

##### ***General Issue***

- *The proposed driveway is located on an un-built section of road. The applicant will need to construct the road to meet minimal NRA specification for subdivision roads (including drainage conveyance requirement), up to the subject parcel.*
- *Reversing into a road is discouraged and therefore the parking lot should be redesigned with access to parking stalls internally, where the road is not being used as the manoeuvring area.*
- *Entrance and exit curves shall have no less than fifteen (15) feet radius curves, and have a width of twenty-four (24) ft.*



**Road Capacity Issues**

The traffic demand to be generated by the above proposed development of 1,254sq. ft. has been assessed in accordance with ITE Code 492 – Fitness/Health Club. The anticipated traffic to be added onto Linford Pierson is as follows:

<b>Expected Daily Trip</b>	<b>AM Peak Hour Total Traffic</b>	<b>AM Peak In 50%</b>	<b>AM Peak Out 50%</b>	<b>PM Peak Hour Total Traffic</b>	<b>PM Peak In 57%</b>	<b>PM Peak Out 43%</b>
<b>33</b>	<b>1</b>	<b>1</b>	<b>1</b>	<b>4</b>	<b>2</b>	<b>2</b>

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

**Access and Traffic Management Issues**

One-way driveway aisles with diagonal parking shall be a minimum of twenty (20) ft. wide. Two-way driveway aisles shall be a minimum of twenty-two (22) ft wide.

A six (6) foot sidewalk shall be constructed on Linford Pierson, 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 Linford Pierson. 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 Act (2005 Revision). For the purpose of this Act, Section 16(g) defines encroachment on a road as*

*"any artificial canal, conduit, pipe or raised structure from which any water or other liquid escapes on to any road which would not but for the existence of such canal, conduit, pipe*

#### **Memorandum 2**

*As per your memo dated September 5th, 2023 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

*The NRA is content with the adjustments; however, the applicant is required to pave directly to the boundary mark and the NRA will pave to the connection of Linford Pierson Highway. Please note all other conditions still apply as referenced in memorandum dated August 1st, 2023.*

#### **Department of Environment**

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

*The application site consists of primary dry forest and shrubland forming part of the former extent of the Ironwood Forest. It has come separate from the main forest due to development and habitat fragmentation. Dry forest is in severe decline in George Town and is of extremely high environmental, heritage and social value. The Ironwood Forest is a unique ancient-growth forest with a high diversity of rare and endemic plants including the critically endangered bromeliad known as Old George (*Wittmackia caymanensis*) and the Ghost Orchid (*Dendrophylax fawcettii*). These plant species are listed in Part 1 of Schedule 1 to the National Conservation Act (NCA), 2013, as being 'protected at all times'. These species are endemic to Grand Cayman, meaning they are uniquely Caymanian and do not naturally occur anywhere else in the world. In addition, a fire in 2021 in the Ironwood Forest caused the loss of 26% of the global population in one event. Habitat loss and other anthropogenic influences may cause the extinction of this species.*



*The private exercise pavilion is a small area of the total footprint, which allows the opportunity to retain the native forest outside of the development footprint. The DoE strongly recommend that land clearing is limited to the footprint proposed, which includes the private exercise pavilion, parking lot, and road onto Linford Pearson Highway. Keeping the remaining forest would provide a privacy, noise and sound buffer. It would allow it to remain as a habitat for endemic wildlife such as anoles, birds and butterflies. This habitat helps to contribute to the conservation of our local species.*

*The applicant has been notified of an individual Old George on the adjacent parcel (Figure 1). It is extremely rare, critically endangered, and protected at all times. We have noted the coordinates of this plant and although it is outside of the parcel boundaries, we are concerned that poor construction practices, especially clearing by mechanical means, could impact this specimen. The DoE have notified the applicant of our recommendation of a 5 metre buffer (16 ft) around this plant where no works and/or clearing shall occur (Figure 2). If this plant is harmed, intentionally or accidentally, it will be an offence under the National Conservation Act (2013). If contact prior to any site clearance, the DoE can identify and mark out this species, or train the contractors in its importance and identification.*



*Figure 1: Old George specimens (Part I Schedule 1 Protected Species) located on the parcel adjacent to the application site (Source: DoE, 2023).*





Figure 2: The location of the proposed works in relation to the known Old George (Source: DoE, 2023).

Best management practices should be adhered to during construction to reduce impacts on the environment. In particular control measures should be put in place to address pollution from expanded polystyrene (EPS) beads on construction sites, for example those used in insulating concrete forms (ICF). Polystyrene is not biodegradable, and the EPS beads can be consumed by wildlife when it enters the food chain. These beads are very difficult to remove once they enter the environment and they do not naturally break down.

If the Central Planning Authority or Planning Department is minded to grant planning permission, the DoE recommends the inclusion of the following condition to minimise impacts to this valuable habitat:

1. If the construction uses insulating concrete forms (ICFs) or other polystyrene materials, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the environment.

## Water Authority Cayman

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

### Wastewater Treatment & Disposal

- *The developer shall provide a septic tank(s) with a capacity of at least (1,000) US gallons for the proposal.*
- *The septic tank shall be constructed in strict accordance with the Authority's standards. Each compartment shall have a manhole to allow for inspection and service. Manholes shall extend to or above grade and be fitted with covers that provide a water-tight seal and that can be opened and closed by one person with standard tools. Where septic tanks are located in traffic areas, specifications for a traffic-rated tank and covers are required.*
- *Treated effluent from the septic tank shall discharge to an effluent disposal well constructed by a licensed driller in strict accordance with the Authority's standards. The minimum well casing diameter for this development shall be 4". Licensed drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.*
- *To achieve gravity flow, treated effluent from the septic tank shall enter the disposal well at a minimum invert level of 4'7" above MSL. The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.*

*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). Site Built Tanks shall be coated with Epoxytec CPP or ANSI/NSF-61 certified equivalent.*
- 2) All dimensions and materials shall be provided for any site-built tanks.*
- 3) Manhole extensions are permitted up to a maximum of 24" below finished grade.*
- 4) Detailed specifications including make and model for (H-20) traffic-rated covers for septic tanks proposed to be located within traffic areas.*
- 5) A detailed profile cross-section of the wastewater system clearly showing the plumbing from building stub out to the effluent disposal well achieving the minimum invert connection specified above. (Alternatively details of proposed lift station shall be required)*
- 6) The Water Authorities updated 2020 effluent disposal well specifications.*
- 7) A 30ft horizontal separation between the effluent disposal well and any stormwater drainage wells.*

### Water Supply

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

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

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

**Fire Department**

The Fire Department has approved the drawings.

**PLANNING DEPARTMENT ANALYSIS**

**General**

The subject property is located on the Linford Pierson Highway in George Town.

The property is undeveloped.

The proposal is to construct a free-standing private gym (1,254 square feet) for private use.

**Zoning**

The property is zoned Medium Density Residential.

**Specific Issue**

**1) Timing of Development**

There is no development on the property and a private gym is proposed without a primary structure.

The Authority should discuss the timing of the development and the fact that there will be no primary use on the property.

**2.21 MICHAEL TAYLOR (Dwayne Construction Ltd) Block 48E Parcel 110 (P22-1106) (\$1.5 million) (NP)**

Application for a duplex.

**FACTS**

*Location*

Claries Avenue in Bodden Town

*Zoning*

**Low Density Residential**

<i>Notification Results</i>	No objections
<i>Parcel size</i>	13,068 sq ft
<i>Parcel size required</i>	12,500 sq ft
<i>Current use</i>	Vacant
<i>Proposed use</i>	Duplex
<i>Building Footprint</i>	3,550 sq ft
<i>Building Area</i>	5,800 sq ft

## **BACKGROUND**

May 24, 2023 (**CPA/12/23; Item 2.3**) – The Authority resolved to adjourn the application after the applicant’s agent appeared in person and advised that he would apply for a duplex instead of three apartments.

October 11, 2023 (CPA/24/23; item 2.3) – The Authority resolved to adjourn the application again for the applicant to submit revised plans that clearly depict a duplex, not three apartments.

**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 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) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area.
- 4) Prior to undertaking any sanding or breaking down of polystyrene as part of the construction process, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the adjacent Marine Protected Area offshore.

- 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) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision).

**PLANNING DEPARTMENT ANALYSIS**

**General**

The subject property is located on Claries Avenue in Bodden Town.

The original proposal was for three townhouses with 6 parking spaces.

**Zoning**

The property is zoned Low Density Residential.

**SUPPLEMENTARY ANALYSIS**

The applicant’s agent has now submitted revised plans for a traditional duplex on the subject property and it meets all of the applicable Regulations.

**2.22 THE CAYMAN ISLANDS CIVIL SERVICE ASSOCIATION CO-OP CREDIT UNION LTD. (Greg Abernethy & Associates) Block 14D Parcel 451 (P23-0686) (\$4,993) (NP)**

Application for a 3-lot subdivision.

**FACTS**

<i>Location</i>	Huldah Avenue in George Town
<i>Zoning</i>	<b>Neighbourhood Commercial</b>
<i>Notification Results</i>	No objectors
<i>Parcel size</i>	8.97 acres
<i>Parcel size required</i>	20,000 sq. ft.
<i>Parcel width required</i>	CPA Discretion
<i>Proposed lot sizes</i>	49,238 sq ft, 197,470 sq ft, 143,925 sq ft

**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) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision). Further, the Authority determined that LPP is not required as the previously approved mixed use development that these lots will accommodate provides adequate amenities.

### **AGENCY COMMENTS**

The Authority received and considered comments from the Department of Environment, Water Authority and National Roads Authority.

#### **Department of Environment**

*This review is provided by the Director of the Department of Environment under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Act, 2013). The Department of Environment confirms that we have no comments at this time*

#### **Water Authority Cayman**

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

##### **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.*

##### **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.*

### **National Roads Authority**

*The NRA has no objections or concerns regarding this proposal.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The subject property is located west of Huldah Avenue and east of Elroy Arch Road in George Town.

Proposed lot 3 contains the Co-op Credit Union that fronts upon Huldah Avenue.

Proposed lot 1 would be on the corner of Smith Rd and Elroy Arch Rd and proposed lot 2 would front only on Elroy Arch Road.

Regulation 8(9) requires new lots in a Commercial zone to have a minimum 20,000 square feet. Each of the proposed lots would comply with this requirement.

### **Zoning**

The property is zoned Neighbourhood Commercial.

### **Specific Issues**

#### **1) Whether LPP is required**

Regulation 28(1) states that according to the size of the subdivision, the Authority may require the applicant to set aside 5% of the gross area of the land being developed for public purposes.

The Authority should discuss if LPP is required in this instance.



**2.23 LEIDER VIAMONTE ARGUELLES (John Bernard) Block 28B Parcel 307 (P23-0656) (\$288,000) (EJ)**

Application for a house.

**FACTS**

<i>Location</i>	Harwood Lane, Newlands
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.4244 ac. (18,486 sq. ft.)
<i>Parcel size required</i>	20,000 sq. ft.
<i>Current use</i>	House
<i>Proposed building size</i>	1,200 sq. ft.
<i>Total building site coverage</i>	9.97%

**BACKGROUND**

January 4, 2017 (**CPA/01/17; item 2.15**) – the CPA granted permission for a two-bedroom house.

January 23, 2018 – the Department modified planning permission to allow site layout change to house.

**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 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) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area.
- 4) Prior to undertaking any sanding or breaking down of polystyrene as part of the construction process, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the adjacent Marine Protected Area offshore.

- 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) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) With the exception of the lot size, which is addressed below, the application complies with the Development and Planning Regulations (2022 Revision).
- 3) The proposed application does not comply with the minimum required lot size per Regulation 9(8)(d) of the Development and Planning Regulations (2022 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.

### **APPLICANT'S LETTER**

See Appendix C

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The proposed one-bedroom, two-storey house is located on Harwood Lane on Newlands.

#### **Zoning**

The property is zoned Low Density Residential.

#### **Specific Issues**

##### **1) Lot size variance**

The proposed one-bedroom, two-storey house is proposed on a parcel which has an existing house; therefore, the proposed is seeking a lot size variance 18,486 sq. ft. vs 20,000 sq. ft.; consequently, not meeting regulations 9 (8)(d) as 10,000 sq. ft. is required for each house.

**2.24 ELDON RANKINE (TAG) Block 14E Parcel 626 (P23-0721) (\$2,000) (NP)**

Application to modify planning permission to relocate the septic tank.

**FACTS**

<i>Location</i>	East Boulevard in George Town
<i>Zoning</i>	<b>High Density Residential</b>
<i>Notification Results</i>	No Objections
<i>Parcel size</i>	11,761.2 sq ft
<i>Parcel size required</i>	5,000 sq ft
<i>Current use</i>	Vacant
<i>Proposed use</i>	Townhouses
<i>Building Footprint</i>	2,668 sq. ft.
<i>Building Area</i>	2,668 sq. ft.

**BACKGROUND**

January 18, 2023 (CPA/02/23; Item 2.9) – The Authority granted planning permission for 5 one bedroom apartments on the property (P22-0783).

**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/02/23; item 2.9 be modified to relocate the septic tank.

All other conditions of CPA/02/23; item 2.9 remain applicable.

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be modified as the application complies with the Development and Planning Regulations (2022 Revision).

**APPLICANT’S LETTER**

*Further to the application submitted in relation to the above-referenced Project, we hereby request a setback variance which requires a minimum of 10 feet side setback per Planning Regulation 9(6)(i).*

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; Regulation 8 (13)(b)(ii), unusual terrain characteristics limit the site’s development potential; or Regulation 8 (13)(b)(iii), the proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare :**

*The previously approved septic tank was planned to be located in the driveway with a drivable grade lid. However, considering that having the septic tank in the driveway would disrupt traffic and isn't the most practical location for maintenance, our client has decided to relocate it to a new position beside the building. The new location will still maintain a safe distance of approximately 9 feet 7 inches from the nearest boundary line.*

*We kindly request that the CPA Board consider this relocation request favorably, considering the irregular shape of the lot. Furthermore, it's worth noting that the neighboring property (14E 415) has expressed no objections to the new septic tank location, as indicated in the no objection letter we have provided.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The subject property is located on East Boulevard in George Town.

The property is currently vacant and the proposal is to relocate the location of the septic tank only.

### **Zoning**

The property is zoned High Density Residential.

### **Specific Issues**

#### **1) Side setback (9’5” vs 10’)**

Regulation 9(6)(j) requires a minimum side setback of 10’. The applicant’s site plan indicates a side setback of 9’ 7 ¼”, but the setback was measured incorrectly as it was not perpendicular to the property boundary. When measured correctly the setback is 9’5”. Although not mentioned in the applicant’s letter, the septic tank would abut one of the land strata lots and cannot be shifted any further to achieve a 10’ setback.

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

## **2.25 SHAVONNIE HISLOP (ARCO Ltd.) Block 20E Parcel 288 (P23-0636) (\$50,000) (EJ)**

Application for swimming pool.

### **FACTS**

*Location*

Clarence Drive or Crewe Road

*Zoning*

**MDR**

<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.36 ac. (15,681 sq. ft.)
<i>Parcel size required</i>	7,500 sq. ft.
<i>Current use</i>	Two-Houses
<i>Proposed building size</i>	7,500 sq. ft.

### **BACKGROUND**

December 24, 2002 – the Department granted permission for a one-bedroom house.

July 15, 2004 – the Department granted permission for a three-bedroom house.

July 15, 2004 – the Department modified permission from house to detached double garage.

April 13, 2007 – the Department granted permission for a garage addition.

February 27, 2009 – the Department granted permission for a garage addition.

**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 construction drawings for the proposed swimming pool filtration system shall be submitted to the Department of Environmental Health. The applicant shall also submit to the Director of Planning the requisite signed certificate certifying that if the pool

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

- 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) 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) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 5) The applicant shall obtain a Certificate of Completion **prior to the utilization of the pool.**

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) With the exception of the rear setback, which is addressed below, the application complies with the Development and Planning Regulations (2022 Revision).
- 3) The proposed application does not comply with the minimum required rear setback per Regulation 9(7)(i) of the Development and Planning Regulations (2022 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setbacks as follows:
  - a) The characteristics of the proposed development are consistent with the character of the surrounding area;
  - b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
  - c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.

### **APPLICANT'S LETTER**

*The proposed pool for Ms. Shavonnie Hislop private home is located on the back yard of the property with a designed shape that follows the foot print of the house.*

*The pool has an L shape with sides of 12', 24', 24'-8", 11'-4", 12'-8", 12'-8" and a stone deck over a concrete slab around it.*

*Because the rear boundary of the plot is not parallel with the house a small portion of the deck will encroach into the 20' rear set back.*

*We found important to keep a deck all around the entire area of the pool for reasons of safety for children and elderly. It is important to note that the deck will be no more than 6 inches above the garden area.*

*I would like to respectfully request to the Central Planning Authority the granting of a variance **to build the small portion of the deck that encroaches the rear set back** as shown in the plans.*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The proposed swimming pool is located on Clarence Drive or Crewe Road.

### **Zoning**

The property is zoned Medium Density Residential.

### **Specific Issues**

#### **1) Minimum rear setback**

The proposed swimming pool meets all planning regulations; however, the deck is proposed at 15'3" vs 20' from the rear boundary therefore not meeting regulations 9 (7)(i); consequently, the applicant is seeking a rear setback variance.

#### **2.26 CRICKET SQUARE LTD. (Chalmers Gibbs Architects) Block 14CJ Parcel 183 (P23-0545) (\$250,000) (MW)**

Application for an addition to an existing prep kitchen; an extension to a wooden walkway (uncovered); relocate the existing LPG tanks & relocate existing temporary structures.

### **FACTS**

<i>Location</i>	Elgin Ave, George Town
<i>Zoning</i>	<b>General Commercial</b>
<i>Notification result</i>	No Objectors
<i>Parcel size proposed</i>	7.95 ac. (346,302 sq. ft.)
<i>Parcel size required</i>	20,000 sq. ft.
<i>Current use</i>	Existing commercial development
<i>Proposed building size</i>	813 sq. ft.
<i>Total building site coverage</i>	21.66%
<i>Required parking</i>	4.065
<i>Proposed parking</i>	1,679

### **BACKGROUND**

N/A

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

- 1) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.
- 2) If during construction of the building insulating concrete forms (ICFs) are used, measures such as screens or other enclosures along with vacuuming shall be put in place to ensure that any shavings or foam waste is completely captured on site and does not impact the surrounding area.
- 3) Prior to undertaking any sanding or breaking down of polystyrene as part of the construction process, measures (such as screens or other enclosures along with vacuuming) shall be put in place to ensure that any shavings, foam waste or polystyrene debris is completely captured on-site and does not impact the surrounding areas or pollute the adjacent Marine Protected Area offshore.
- 4) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
- 5) The applicant shall obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying the building(s)**.

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

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision).

### **AGENCY COMMENTS**

The Authority received and considered comments from the Water Authority, Department of Environmental Health and the Fire Department and OfReg Fuels.

#### **Water Authority**

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

#### **Wastewater Treatment:**

*The existing development is served by a KEE aerobic wastewater treatment system with a design treatment capacity of 10,600gpd.*

- *The design capacity of the existing wastewater treatment system can accommodate the wastewater flows from the proposed prep kitchen addition, given that the treatment*



*system is being operated and maintained as designed to produce an effluent that meets the Authority's discharge limits.*

- *If a Drain Tempering Valve (DTV) is not currently installed within this commercial dishwashing system, WAC requirement for this project is as follow: **A DTV shall be installed at the outlet coming from the dishwasher, prior to entering into the grease interceptor.***

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

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

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

### **Department of Environmental Health**

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

#### *Restaurant*

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

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

**Fire Department**

Approved for Planning Permit Only 13 Oct 23

**OfReg**

Approved 6 Oct 23

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for an addition to existing prep kitchen; 813 sq. ft., extension to wood walkway (uncovered), relocate existing LPG tanks & relocate existing temporary structures located on Elgin Ave., George Town.

**Zoning**

The property is zoned General Commercial.

**2.27 EVELYN MCTAGGART (Bennetts Design Concepts) Block 32C Parcel 12 (P23-0599) (\$5,000) (EJ)**

Application to modify planning permission to relocate building A.

**FACTS**

<i>Location</i>	Indigo Drive, off Will T Road
<i>Zoning</i>	<b>LDR</b>
<i>Notification result</i>	None
<i>Parcel size proposed</i>	1.71 ac. (74,622 sq. ft.)
<i>Parcel size required</i>	25,000 sq. ft.
<i>Current use</i>	Apartments under construction

**BACKGROUND**

February 16, 2022 (CPA/05/22; Item 2.4) – the CPA granted permission for 15-apartments.

**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/05/22; item 2.4 be modified to relocate Building A.

All other conditions of CPA/05/22; item 2.4 remain applicable.

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be modified as the application complies with the Development and Planning Regulations (2022 Revision).

### **AGENCY COMMENTS**

The Authority received and considered comments from the National Roads Authority.

#### **National Roads Authority**

*As per your memo dated September 7th, 2023 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

*The NRA has no issues or concerns with the above regarding the relocation of Building A. However, all other conditions still apply as noted in memorandum dated November 11th, 2021.*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The application is to relocate building A from the west side to the east side of the property which is located on Indigo Drive off Will T Road, Lower Valley. The applicant is seeking permission to relocate the approve building #1 (now A) from the western side of the property to the eastern side; the proposed meets all planning regulations and there are no concerns with the proposal.

#### **Zoning**

The property is zoned Low Density Residential.

**2.28 JOHN GRIGG (Frederick & McCrae) Block 12D Parcel 95 (P23-0864) (\$425,000) (NP)**

Application for a change of use from commercial to restaurant/bar.

**FACTS**

<i>Location</i>	Camana Bay
<i>Zoning</i>	<b>General Commercial</b>
<i>Notification Results</i>	No objections
<i>Parcel size</i>	200 acres
<i>Parcel size required</i>	CPA Discretion
<i>Current use</i>	Vacant commercial space
<i>Proposed Use</i>	Bar

**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)**.

Reasons for the decision:

- 1) The Authority considered all information contained in the Agenda including agency comments, any objections and any other representations made pertaining to the application.
- 2) The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2022 Revision).

**PLANNING DEPARTMENT ANALYSIS**

**General**

The subject property is located on Forum Lane in Camana Bay.

The application is for a change of use from commercial space to a bar.

The area of the proposed change of use is 1,650 square feet.

**Zoning**

The property is zoned General Commercial.

**Specific Issues**

**1) Parking**

Given the parking ratio for a restaurant/bar vs office/retail, the change of use will require an additional 3 parking spaces. The Camana Bay shared parking analysis, which is up to date as of November 1, 2023, indicates there is a surplus of 51 spaces for day use and 2,141 for evening/weekends. This analysis includes the new parking lot approved on October 11, 2023.

**2.29 ADRIAN & ORLEE EBANKS (TSC Architecture) Block 5C Parcel 244 (P23-0497) (\$780,000) (EJ)**

Application for a duplex.

**FACTS**

<i>Location</i>	Boggy Sand Road, West Bay
<i>Zoning</i>	<b>LDR (with Historic Overlay)</b>
<i>Notification result</i>	No objectors
<i>Parcel size proposed</i>	0.29 ac. (12,632 sq. ft.)
<i>Parcel size required</i>	12,500 sq. ft.
<i>Current use</i>	Two-Houses
<i>Proposed building size</i>	3,120 sq. ft.
<i>Total building site coverage</i>	13.88%
<i>Required parking</i>	2
<i>Proposed parking</i>	2

**BACKGROUND**

March 26, 2004 – Planning permission was granted for a house.

August 30, 2023 (CPA/19/23; item 2.7) – the application was adjourned for the Authority to give further consideration to the historical implications of the application.

**Decision:** It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss concerns regarding the design of the building not being in keeping with the architectural traditions of the Islands as well as the applicant's proposed plans for the existing house.

**AGENCY COMMENTS**

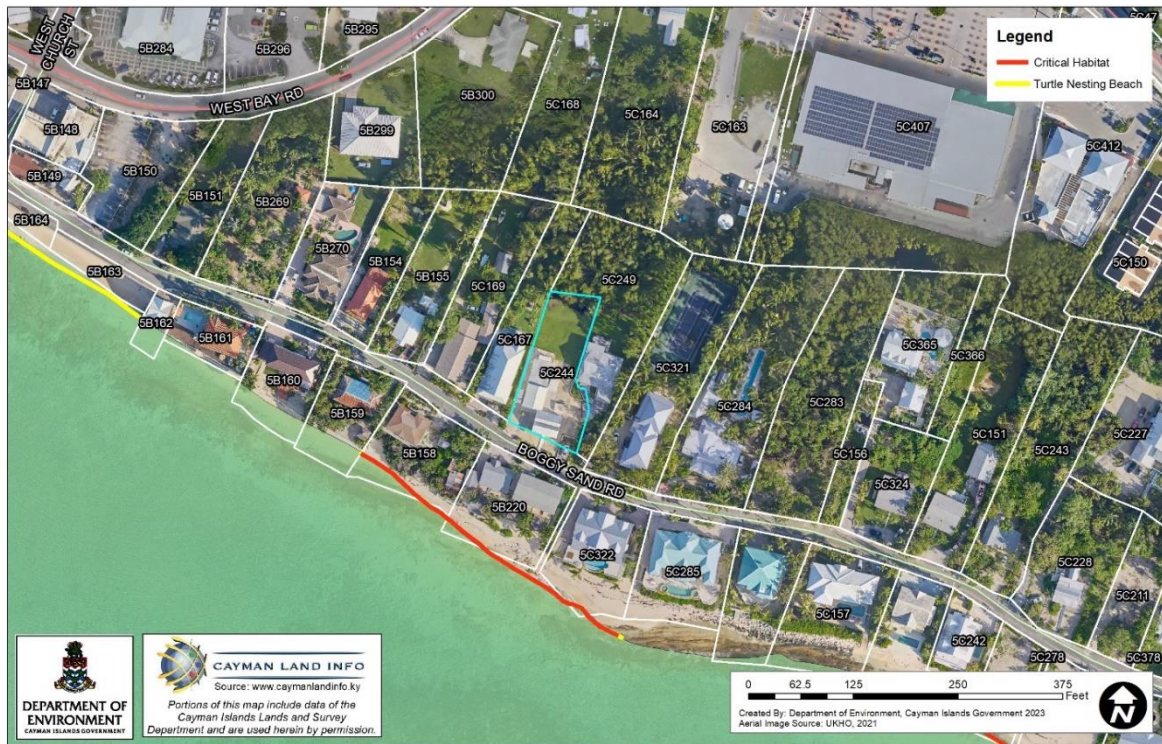
The Authority received and considered comments from the Department of Environment.

## Department of Environment

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

### Site Overview

*The subject parcel is man-modified, with an established traditional Caymanian house on the property. The subject parcel is also located across Boggy Sands Road from designated Critical Habitat under the Interim Directive for the designation of Critical Habitat of Green turtles (*Chelonia mydas*), Loggerhead turtles (*Caretta caretta*), Hawksbill turtles (*Eretmochelys imbricata*), Leatherback turtles (*Dermochelys coriacea*) and all other species that may occur in Cayman waters including Kemp's Ridley turtles (*Lepidochelys kempii*) and hybrids (2020) issued under section 17 (7) of the National Conservation Act (2013) (refer to Figure 1).*



*Figure 1. The location of the subject parcel (outlined in blue) in relation to designated Sea Turtle Critical Habitat (Aerial Imagery Source: UKHO, 2021).*

*Artificial lighting on and around turtle nesting beaches is one of the greatest threats to the survival of Cayman's endangered sea turtle nesting populations. Bright lights on or near the beach can deter female turtles from nesting and cause baby turtles to crawl away from the sea where they die from dehydration, exhaustion, predators or vehicles.*

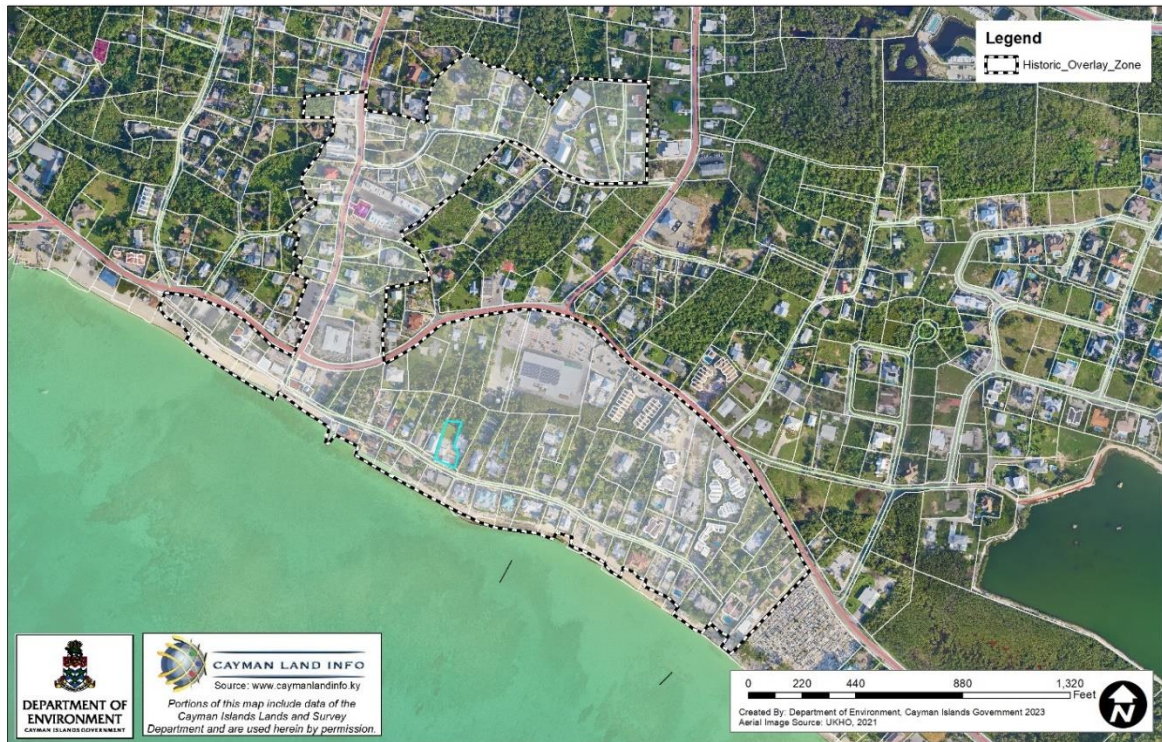
*Turtle friendly lighting has been a legal requirement in ordinances in the United States for over 30 years. It is a proven solution to prevent the misorientation of sea turtles whilst safely and effectively lighting beachside properties. The Department strongly recommends the use of turtle friendly lighting on turtle nesting beaches.*



### ***Historic Overlay Zone***

*The subject parcel is located within a Historic Overlay Zone (refer to Figure 2). Under the Development and Planning Regulations (2022), the following requirements are stated:*

- 16. (1) In a Historic Overlay zone, the Authority shall have a duty to promote and encourage the preservation of historic buildings and conserve their historic architectural heritage.*
- (2) In considering any application for permission to develop within a Historic Overlay zone, the Authority shall, in its discretion, ensure that the development-*
  - (a) confirms to the traditional workmanship, design, scale, massing, form, materials, decoration, colour and methods of construction of the buildings and the location of windows and doors in them; and*
  - (b) in its setting, reflects the historic pattern of development in the Islands.*



*Figure 2. The location of the subject parcel (outlined in blue) within the limits of the Historic Overlay Zone (Aerial Imagery Source: UKHO, 2021).*

*There is a traditional Caymanian house already located on the parcel, which the planning application drawings make no reference to. This property house is listed on the National Trust for the Cayman Islands' Heritage Register under WB 003-01 as Herbert Parson's House. It was constructed using ironwood stilts, shiplap timber and a zinc roof. The date of construction is not known although it appears to long pre-date any available aerial imagery for the area.*

*There is no reference to this existing house on the planning submission drawings, but it is clear from the application drawings that the existing buildings are incompatible with the*

*proposed development and that it would be required to be demolished to accommodate the proposed duplex. The proposed development has no characteristics that would be in keeping with the established historical, architectural or cultural character of the area (refer to Figure 3). Heritage is finite, and to demolish this historic house for construction of the proposed duplex would be in direct contradiction to the intent and aims of the Historic Overlay Zone. The importance of protecting heritage assets was also reflected in the draft National Planning Framework, 2018.*



*Figure 3. Side by side comparison of the proposed duplex (left) with the existing traditional building on site (right). Note that the proposed duplex has no characteristics that are in keeping with the established historical, architectural or cultural character of the area (Source: Submitted plans, 2023 / DoE, 2023).*

*The existing buildings are a good example of traditional Caymanian architecture and heritage on a road within a Historic Overlay Zone (refer to Figure 4).*





*Figure 4. Aerial view of the subject parcel (Source: DoE, 2023)*

*The proposed development leaves a large area of space in the rear of the parcel. The historic house should remain in situ, visible from the road frontage and within its existing context, and the northern part of the parcel (away from Boggy Sand Road) could potentially accommodate additional sensitive development. The historic house should be preserved for the benefit of the community and the cultural heritage of the area.*

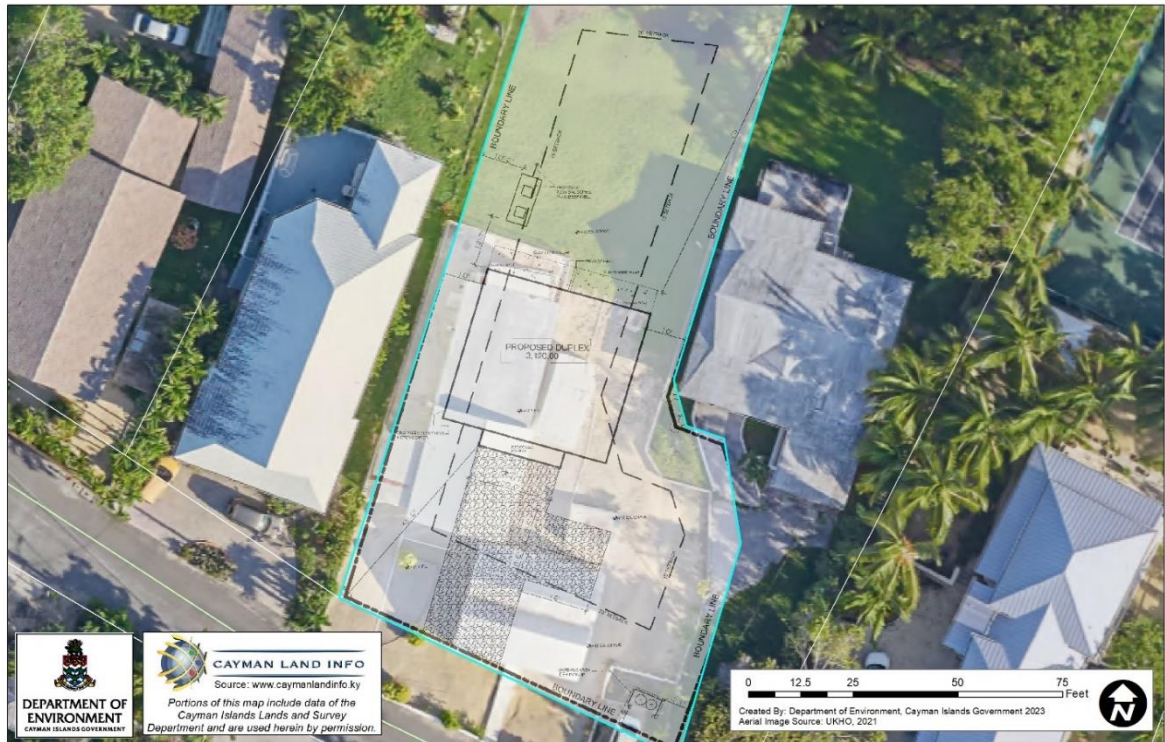


Figure 5. Proposed site plan overlaid on 2021 Aerial Imagery (Aerial Imagery Source: UKHO, 2021). Note that the footprint of the existing dwelling falls within the area of the proposed driveway / parking area.

### **Recommendations**

For reasons highlighted above, it would be inappropriate to approve the application at this time given that:

- The Central Planning Authority (CPA) has a duty to promote and encourage the preservation of historic buildings and conserve their historic architectural heritage within a Historic Overlay Zone. Therefore, the CPA has a duty to consider the heritage of the traditional Caymanian House (Herbert Parson's house).
- The CPA also has a duty to consider the proposed development in the context of the Historic Overlay Zone and the purpose of this zone under the Development and Planning Regulations.
- There is no mention of the fate of the existing house on the property in the application drawings, and no cover letter was provided.

In light of the above, the DoE recommends the following:

- We highly recommend that the applicant withdraws their application and takes the time to revisit the design for the proposed development to retain the historic properties and to propose a development in keeping with the unique characteristics and cultural heritage of the Historic Overlay Zone.

- *Considerations for preservation of the existing historic buildings on site should be made.*

### **DIRECTED CONDITIONS**

*The site has the potential to impact Critical Habitat under the Interim Directive for the designation of Critical Habitat of Green turtles (*Chelonia mydas*), Loggerhead turtles (*Caretta caretta*), Hawksbill turtles (*Eretmochelys imbricata*), Leatherback turtles (*Dermochelys coriacea*) and all other species that may occur in Cayman waters including Kemp's Ridley turtles (*Lepidochelys kempii*) and hybrids (2020) issued under section 17 (7) of the National Conservation Act (2013)*

*Without appropriate controls, there would or would likely be an adverse effect on the designated sea turtle critical habitat, namely:*

- *Section 2(a) of the NCA: alterations that may impair the capacity of the area to function as a habitat beneficial to wildlife, and*
- *Section 2(j) alterations that may hinder or impede the movement or migration of wildlife.*

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

#### ***Prior to the Issuance of a Building Permit***

- 7. Prior to the issuance of a Building Permit, the applicant shall prepare and submit a plan for review and approval to the Department of Environment for turtle friendly lighting, which minimises the impacts on sea turtles. Guidance on developing a lighting plan can be found in the Department of Environment's Turtle Friendly Lighting: Technical Advice Note (September 2018) available from <https://doe.ky/marine/turtles/tfl/>. The DoE's written approval must be received by the Planning Department prior to the issuance of the Building Permit.*

#### ***Prior to the Issuance of a Certificate of Occupancy***

- 8. Lighting and/or specifications for visible light transmittance shall be installed and maintained in accordance with the turtle friendly lighting plan which has been reviewed and approved by the Department of Environment. Once construction is complete, prior to the issuance of the Certificate of Occupancy, the Department of Environment will inspect the installed lighting for compliance with the approved turtle friendly lighting plan. Confirmation of the Department of Environment's written approval of the installed exterior lighting after the inspection must be received by the Planning Department prior to the issuance of the Certificate of Occupancy.*

*These conditions are directed to prevent the ‘take’ of sea turtles (Part 1 Schedule 1 species of the National Conservation Act) and adverse impacts on the critical habitat of sea turtles, which is defined in the Interim Directive for the designation of Critical Habitat of Green turtles (Chelonia mydas), Loggerhead turtles (Caretta caretta), Hawksbill turtles (Eretmochelys imbricata), Leatherback turtles (Dermochelys coriacea) and all other species that may occur in Cayman waters including Kemp’s Ridley turtles (Lepidochelys kempii) (issued under Section 17 (7) of the National Conservation Act (2013)).*

*A person aggrieved by a decision of the National Conservation Council to impose a condition of approval may, within 21 days of the date on which the decision is received from the Central Planning Authority/Department of Planning, appeal against the decision of the Council to the Cabinet by serving on the Cabinet notice in writing of the intention to appeal and the grounds of the appeal (Section 39 of the National Conservation Act, 2013). We trust that this information will be relayed to the applicant in the Department of Planning’s decision letter.*

### **APPLICANT’S LETTER**

*This letter is written on behalf of Adrian and Orlee; they recently applied to the department for a 2- story Duplex on the referenced property. The total square footage is 3120. As required, notices were sent by registered mail to all owners within an 80 feet radius on July 12th, 2023. They request side setback variance and would like the board’s consideration.*

*As per section 8 (13) (b), (iii), there is sufficient reason to grant a side setback variance as exceptional circumstances exist, which may include the fact; the proposal will not be materially detrimental to persons residing or working in the vicinity to the adjacent property or the public welfare.*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The proposed duplex is located on Boggy Sand Road in West Bay.

#### **Zoning**

The property is zoned Low Density Residential.

#### **Specific Issues**

##### **1) Minimum Side Setbacks – 10’.0” vs 15’**

The proposed two-storey duplex is at 10’ vs 15’ which does not meet the Regulations 9 (8)(j) 10’ for the side for multi-storey; therefore, the applicant is seeking side setback for both sides.

##### **2) Historic Overlay Zone –**

The proposal will cause the existing homes to be demolished, bearing in mind that some structures on the site existing as far back as the 1958 aerial maps and giving that the subject parcels is in a Historic Overlay Zone and regulations 9 (1) states that “in a

Residential zone, the primary uses are residential and horticultural. Applicants for permission to effect any development in a Residential zone shall ensure that the massing, scale, proportion and design of such development is consistent with the **historic architectural traditions of the Islands.**

Additionally, regulations 16. (1) In an Historic Overlay zone, the Authority shall have a duty to promote and encourage the preservation of historic buildings and conserve their historic architectural heritage. (2) In considering any application for permission to develop within an Historic Overlay zone, the Authority shall, in its discretion, ensure that the development — (a) conforms to the traditional workmanship, design, scale, massing, form, materials, decoration, colour and methods of construction of the buildings and the location of windows and doors in them; and (b) in its setting, reflects the historic pattern of development in the Islands.

### **SUPPLEMENTARY ANALYSIS**

There have been no changes to the plans.

## **3.0 DEVELOPMENT PLAN MATTERS**

### **3.1 CHARLES WATLER RZ23-0003; Block 32D Parcels 320-322, 339-341 & 355, & Block 38E Parcels 637-638 (RM)**

#### **Appearance at 2:30**

Application for Amendment to Development Plan 1997 from Agricultural/Residential to Medium Density Residential.

#### **FACTS**

<b>Location:</b>	Lower Valley, Bodden Town
<b>Parcels:</b>	32D 320-322, 339-341 & 355 38E 637-638
<b>Current Zoning:</b>	Agricultural/Residential
<b>Proposed Zoning:</b>	Medium Density Residential
<b>Ownership:</b>	Private
<b>Total Parcel Size:</b>	47.37 Acres
<b>Subject Zoning Area:</b>	47.37 Acres

#### **BACKGROUND**

September 13, 2023 (CPA/21/23; item 3.3) – the following decision was rendered:



*After reviewing the proposal in light of Section 41(3) of the National Conservation Act (2014) (NCA), it was resolved to adjourn the application and invite the applicant to address the Authority regarding potential adverse effects of the proposal, as defined in Section 2 (a-1) of the NCA.*

*It was also noted that the Department of Environment erroneously indicated that the Authority might be minded to grant planning permission, when in fact, according to Section 10 of the Development and Planning Act (2020 Revision) an amendment of a development plan can only be approved by the Cayman Islands Parliament.*

**Point of procedure:**

- 1) The Authority reviewed the proposal to amend The Development Plan and directed the Department to forward the rezoning application for 60 day notification and advertising per Section 11 (2) in the Development and Planning Act (2021 Revision).

**APPLICANT'S LETTER**

*The applicant is seeking an amendment to the Development Plan from Agricultural/Residential to Medium Density Residential. This rezone concerns nine (9) adjoining parcels which are located to the west of Beach Bay Road in Lower Valley.*

*The applicant has submitted two letters explaining the purpose of the application. The agent's letter is as follows:*

*"Please find the attached application to re-zone the above parcels from Agricultural / Residential to Medium Density Residential. A subdivision for Low Density has already been approved, which met the requirement to prove that the land is not suitable for agriculture. The re-zoning to Medium Density Residential will create smaller parcels that will be more affordable for the general public."*

*Further explanation is provided within the applicant's letter, which is as follows:*

*"I refer to the accompanying rezoning application, which sets out the applicable parcels (the "Parcels") of the approved sub division P18-0070, to be changed to medium density residential.*

*We have recently completed phase 1 of this project comprising of 30 house lots where the minimum lot size is 10,000 sft. We developed this subdivision offering the lots to buyers to develop and construct homes themselves and targeted at mid-income levels. Whilst we have had fair interest in these lots we have received considerable requests for slightly cheaper and smaller lots due to the high costs associated with buying, building and financing housing in Cayman.*

*We recognise housing is a critically important issue in Cayman with many struggling to find reasonably priced housing, not only at the low income level but throughout the earnings spectrum as well. Unfortunately, housing is out of reach for many, particularly young Caymanians. We are therefore confident there is justification in making this application to seek a moderate increase in density so that lots can be offered at around 8,000 sft in size and therefore at lower prices. This would reduce the initial costs of purchasing the land by around 20% and open up the pool of potential buyers.*

### ***Rationale for Higher Density***

*Most of the potential buyers at the mid-level are interested in a house between 2,000 to 2,800 sft, there is very low demand for larger homes in the 4,000 sft region as in years past, as buyers are now more conscious of costs, ongoing maintenance and insurance. Modern design and building trends have also become more efficient and desirable for efficient and smaller dwellings which directly correlate to smaller house lot sizes. We therefore think a slightly smaller lot size would be beneficial and would utilise the Island's precious limited land space much more efficiently and give much needed help at reduced costs.*

*We have also received significant interest in duplex lots as this presents a great opportunity to better utilise the land and also offer some income production for families. The higher density would allow duplex lot sizes to be reduced to around 8,000 -10,000 sft which could easily accommodate a building of 2,800 sft with each unit at 1,400sft., rather than the current 12,500 sft.*

### ***Cost Differential***

*We expect our typical single house lot price would go from \$185,000 to \$145,000, a reduction of \$40,000 which over time would save much more than this with financing and compounding costs.*

*With regard to a duplex house lot, the potential price would go from \$225,000 to \$160,000, a reduction of \$65,000.*

### ***Climate Change Resiliency and Safety***

*Most of the subject parcels are about 35-40ft above sea level and the terrain is mostly flat rock or cliff rock and very dry. The parcel is situated on an elevated ridge and can therefore be considered some of the best suited land on Grand Cayman for housing. There would be low flooding risk offering much needed safety during heavy rains and hurricanes. As these events are predicted to become more frequent, having more housing located here will be beneficial to home owners and to the Government. Due to its terrain, the land is not well suited to farming as it is primarily rocky and dry. A review of the Hurricane Ivan flood map will illustrate there was no flooding during that storm on these Parcels.*

*I trust this letter will provide useful information for your review and please do not hesitate to contact me if you require further information. I do not envision that a moderately higher density, such as medium density, would deteriorate the surrounding area. Furthermore, I think there is genuine need for more medium density land for housing in Bodden Town, particularly in areas which do not need filling such as this parcel, considering our growing population, high costs of housing and climate change risks.*

*I am aware that only a few hundred feet from this parcel in Beach Bay is property which is zoned Hotel/Tourism, so there is already a precedent established for higher density in this area.*

*I also, respectfully, request that I be given an opportunity to attend any CPA meeting on this matter.”*

## **DEPARTMENT OF PLANNING ANALYSIS**

### **Background**

At a meeting of the Central Planning Authority held on June 27, 2018 (CPA/15/18; Item 2.1) the Authority resolved to grant planning permission for a 178 lot residential subdivision with two (2) road parcels and four (4) LPP parcels (P18-0070). The lot sizes in the approved subdivision range from 10,040 sqft to 15,680 sqft.

### **Site details**

The application concerns nine adjoining parcels, amounting to 47.37 acres in total, which are located to the west of Beach Bay Road in Lower Valley, Bodden Town. Block and Parcel 32D355 is by far the largest of the application parcels at 45.4 acres. The remaining 8 parcels included in the rezone application were created as part of the initial phases of the 2018 subdivision, and are typical low density residential parcels (being either 12,500 or 10,000 sqft.).

The subject parcels are undeveloped, consisting of pasture lands and woodland. The parcels benefit from being relatively elevated, at around 16ft above sea level on the west side and sloping up to around 32ft above sea level towards Beach Bay Road on the eastern boundary.



**Figure 1: View of site (image taken from south of subject property, facing north)**

### **Character and Land Uses of Surrounding Area**

The subject parcels are located within an area of Agricultural/Residential zoning that is itself surrounded by Low Density Residential zoning. There is no Medium Density Residential zoning in this area, the closest being in Bodden Town, approximately 5,770 ft



(1.75km) away to the east. There is however Hotel/Tourism zoning a short distance to the south of the subject parcels, approximately 570ft (0.17km) away, which are set to the location for the Mandarin Oriental Beach Bay Resort.

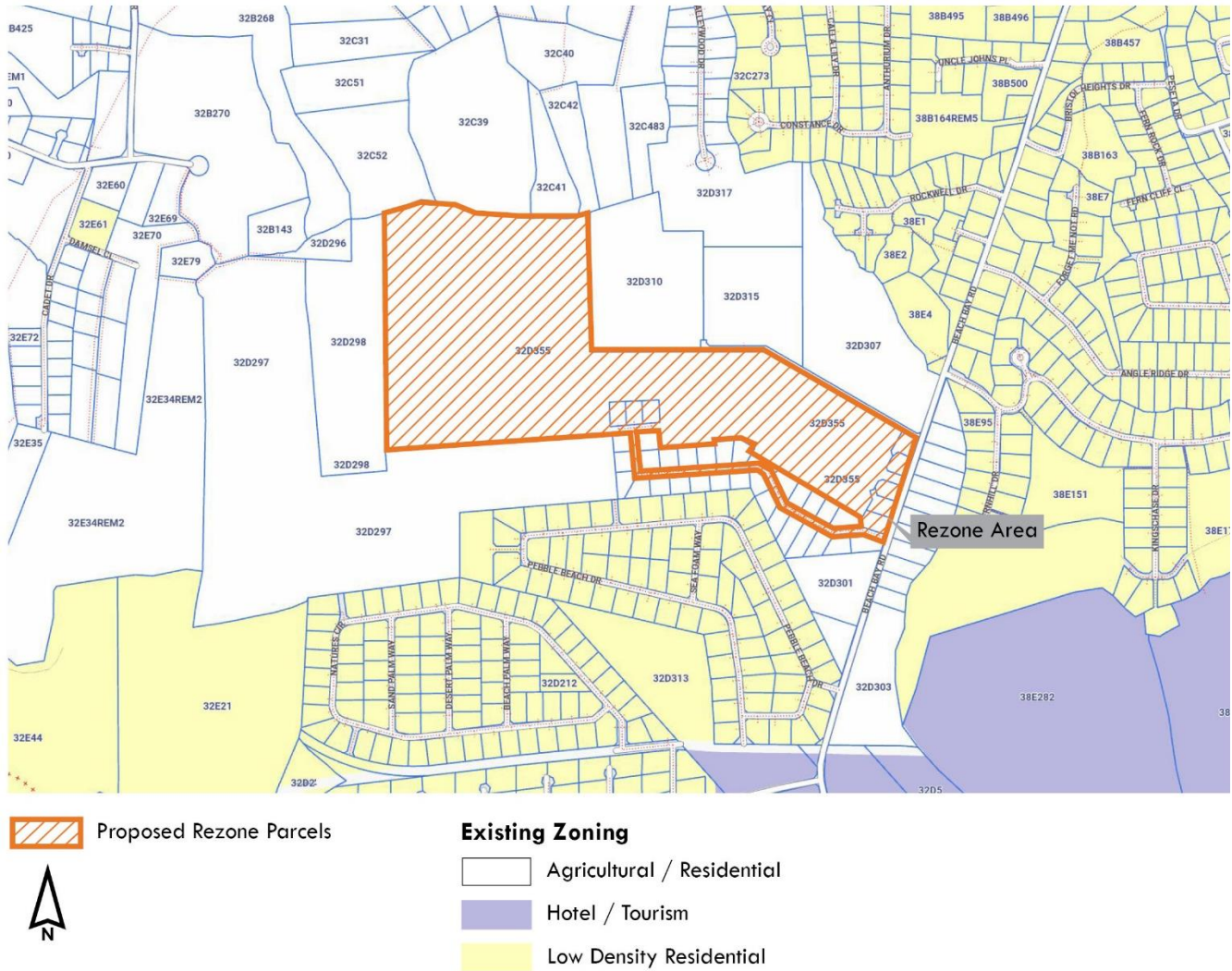


Figure 2: Zoning and location map (Source: [www.caymanlandinfo.ky](http://www.caymanlandinfo.ky))

### Zoning Considerations

Within the district of Bodden Town there are currently 7,152 ac of Agricultural/Residential zoning, although much of this is located within the Central Mangrove Wetlands. The proposed rezone would therefore represent just a 0.66% reduction in the overall total of Agricultural/Residential zoning in Bodden Town. Within Lower Valley however, the subject parcels are located within a 384 ac area of Agricultural/Residential zoning. The proposed rezone would therefore be a more significant 12.3% reduction in the overall total of Agricultural/Residential zoning in the local area.

In terms of Medium Density Residential (MDR) zoning, within the district of Bodden Town there is currently 325 ac with MDR zoning. The proposed rezone would therefore represent a 14.6% increase in MDR in the district.

According to data obtained as part of a 1996 University of the West Indies study (Agricultural Land Capability of the Cayman Islands, N. Ahmed, M.S.c., PH.D) a significant part of the proposed rezone area is situated within a Class 1 (best) area for agricultural capability. This is shown in figure 3. The approved subdivision for this area in 2018 however has demonstrated that the land is considered appropriate for residential development.

The subject parcels are not located over a water lens.

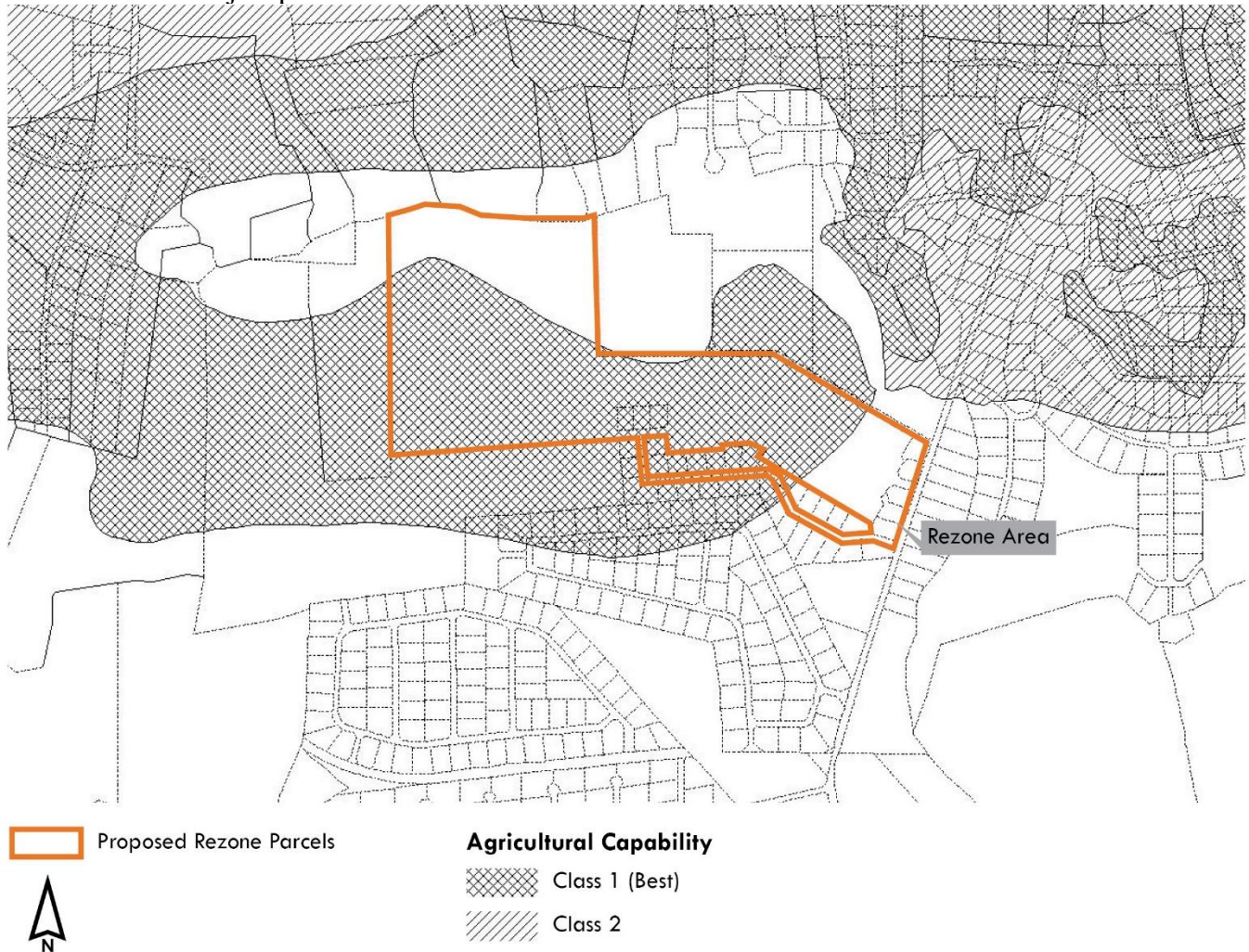


Figure 3: Agricultural Capability map (Source: [www.caymanlandinfo.ky](http://www.caymanlandinfo.ky))

### Zoning Figures and Comparison

The table below outlines the major requirement differences in the current and proposed zoning. While the subject parcels are currently zoned Agricultural/Residential, the lot sizes of the 2018 approved subdivision are more comparable to Low Density Residential zoning. This is in accordance with section 21 of the Development and Planning Regulations (2022 Revision) which permits development in Agricultural/Residential land that complies with



the requirements for Low Density Residential areas if the Authority is satisfied that any such land is not situated over a water lens and is not particularly suited to agriculture.

CATEGORIES/ZONES	AG / RES	LOW DENSITY RESIDENTIAL	MEDIUM DENSITY RESIDENTIAL
MINIMUM LOT SIZE (sqft)		10,000 for houses or 25,000 for apartments	7,500 for houses or 20,000 for apartments
MINIMUM ROAD SETBACK (ft)		20	20
MINIMUM REAR SETBACK (ft)		20	20
MINIMUM SIDE SETBACK (ft)		10 (1 storey) or 15 (2+ storeys)	10 (1 storey) or 15 (2+ storeys)
MINIMUM LOT WIDTH (ft)		80 for houses or 100 for apartments	60 for houses or 100 for apartments
MAXIMUM SITE COVERAGE		30%	30%
DENSITY	2 units per acre (houses)	15 units per acre / 24 bedrooms (apartments)	20 units per acre / 30 bedrooms per acre (apartments)
MAXIMUM BUILDING HEIGHT		3 storeys or 40 ft.	3 storeys or 40 ft.

Based on these figures, taken from the Development and Planning Regulations (2022 Revision), the development potential of the 47.37-acre subject property for apartments under the zoning of Medium Density Residential would be 947 units or 1,421 bedrooms.

### **AGENCY COMMENTS**

The Authority received and considered comments from the Department of Environmental Health, Department of Agriculture, Cayman Islands Fire Service, National Roads Authority and Department of Environment.

#### **Department of Environmental Health**

DEH has no objections to the proposed rezone.

#### **Department of Agriculture**

The Department of Agriculture has no objections.

#### **Cayman Islands Fire Service**

The Cayman Islands Fire Service adheres to the 2006 Fire Brigade Law, 1995 revision Fire Brigade law of the 1994 Standard Fire Prevention Code, the 1997 Fire Code, the and all relevant NFPA Codes.

As per 1994 Standard Fire Prevention Code 603.1.3.1 Water supply. Approved fire hydrants shall be provided for buildings to meet the necessary fire flow requirements as determined by the fire official. Where public water supply is inadequate or not available, an approved alternative water source meeting the fire flow requirements shall be provided. Fire flow performance tests shall be witnessed by the fire official, or representative, prior to final approval.

603.1.3.2 Location. The location and number of hydrants shall be designated by the fire official, but in no case shall distance between installed fire hydrants exceed 1,000 ft (305 m). Maximum distance from i- the nearest hydrant to the most remote exterior point of any building shall be 500 ft (152 m). The distance shall be measured on a roadway surface - meeting the fire department access requirements of 602.6.

### National Roads Authority

The NRA does not have any issues or concerns regarding the proposed re-zoning application from agricultural residential to medium density on Block 32D Parcels 320 – 322, 339 – 341 & 355 and Block 38E Parcels 637 – 638.

### Water Authority

Please be advised that the Water Authority has no objection to the proposed rezone. Requirements for water and wastewater will be determined when development of the parcel(s) is proposed.

### Department of Environment

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

The application site is predominately man-modified, but does contain an area of primary dry forest and woodland towards the northern boundary (refer to Figure 1). Primary habitat is mature habitat in its natural state, otherwise uninfluenced by human activity where ecological processes are not significantly disturbed. These habitats are often very old, existing long before humans and may consist of many endemic and ecologically important species. Primary habitat is in severe decline and becoming a scarce and highly threatened resource as a result of land conversion for human activities.

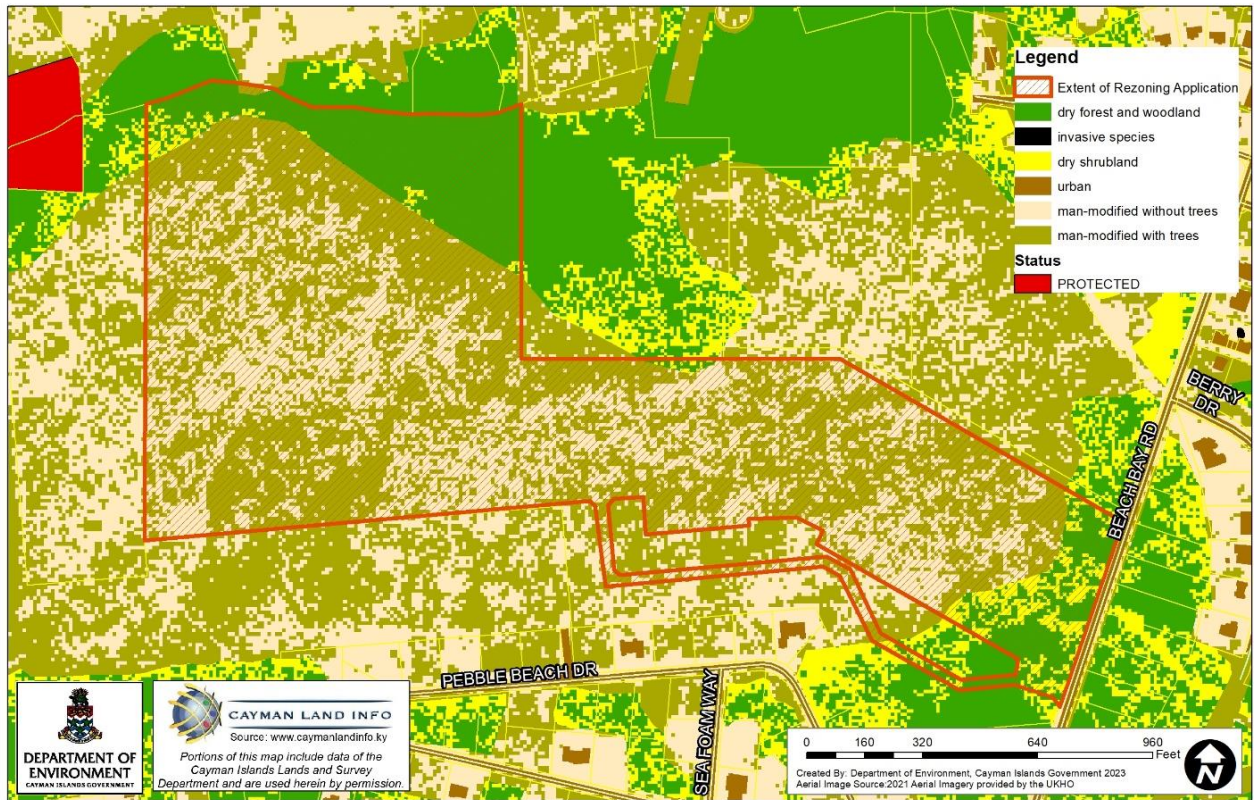


Figure 1: Land cover map of the proposed rezone area (Source: DoE, 2013).

We note that the application is for rezoning, as such, the DoE has no direct environmental concerns regarding the rezoning. There are, however, indirect issues related to the rezoning and potential future development of the land that are important to consider, particularly from a planning context. Higher density zoning will lead to increased population density and will place greater demands on existing infrastructure, services and resources. Future environmental impacts will depend on the ability of the existing infrastructure and resources to meet the demand of the increased population density. For example:

- Increased density is likely to increase the amount of impervious surfaces (including rooftops and paved areas) and lead to an increased risk of flooding which will require careful consideration of stormwater management.
- Higher density zoning also is likely to lead to increased vehicular traffic which can increase strain on existing transportation infrastructure, resulting in further congestion and increased carbon emissions.
- Although the area is largely man-modified, it does contain an area of primary dry forest. Higher density zoning is likely to result in the loss of green spaces at a faster rate, and this should be a consideration in future planning for the area.

As the applicant states in the cover letter, the proposed rezoning is in close proximity to an area zoned as Hotel/Tourism. Higher population density combined with the potential development of a hotel in the immediate vicinity is likely to significantly increase demand on existing infrastructure and should be carefully considered.

If the Central Planning Authority, or Planning Department is minded to grant planning permission for the proposed rezone, the DoE recommends the inclusion of the following condition in any planning permission:

1. There shall be no land clearing, excavation, filling or development of the rezoned parcels without planning permission for such works being granted.
2. Any future development, clearing, filling or excavation of the resultant rezoned parcels shall be the subject of a separate consultation with the Central Planning Authority and National Conservation Council.

At 2:30pm. Charles Watler appeared as the applicant and J. Samuel Jackson appeared as his Attorney. Summary notes are provided as follows:

- The Authority explained they are here to address Sections 41(3) and (a-1) of the National Conservation Act (NCA).
- Mr. Jackson advised he has a written submission explaining why they don't think those sections of the NCA apply to the rezone application. He provided copies of the submission (see Appendix D).
- Mr. Jackson proceeded to summarize his written submissions.
- In response to a question, Mr. Jackson advised the Authority is entitled to consult with the National Conservation Council (NCC), but not under Section 41(3) of the NCA. The Authority noted the consultation would have to be under section 11(1) of the Development and Planning Act (DPA) and Mr. Jackson noted that is correct.

- The Authority explained that on September 13, 2023 after reviewing the proposal in light of Section 41(3) of the National Conservation Act (2014) (NCA), it was resolved to adjourn the application and invite the applicant to address the Authority regarding potential adverse effects of the proposal, as defined in Section 2 (a-1) of the NCA. The Authority also noted at that meeting that the Department of Environment erroneously referred to the granting of planning permission. The Authority has already said the application needs to be considered under section 41(3)
- Mr. Jackson advised that the Authority can change its mind, it is not estopped. He noted that legally speaking there should be no reference to section 41(3).
- The Authority explained that the members thought the process was to consult with DOE under section 7 of the DPA and if the DOE memorandum is not sufficient to determine if there is adverse effect then section 2(a-1) of the NCA would have to be addressed.
- Mr. Jackson advised if that process is followed then the Authority is admitting that Section 41(3) applies to a rezone and it would be estopped from going back on that position. He advised that a rezone is a review process with a recommendation, not a decision.
- Mr. Watler explained they bought the land 50 years ago and use it for farming. They bulldozed it, but left the forest and they left 2.7 acres as Public Open Space. They also donated 2 acres to the Government about 1000' to the west. He explained the subdivision is in the area they bulldozed, the forest is left out.
- Mr. Jackson noted that the Authority can consult under Section 11(1) and make that clear, but it can also consult under Section 7 and if that section is used then consultation under section 11(1) isn't required.
- Mr. Watler noted that the Department of Agriculture has recommended the land is suitable for a subdivision.
- The Authority asked Mr. Watler and Mr. Jackson to step out of the meeting room for a few minutes while members deliberate on Mr. Jackson's arguments. They were invited in about 10 minutes later and there was a general discussion regarding "action" vs "decision".
- The Authority advised that it is satisfied with the information provided by Mr. Jackson and noted that the review of a rezone application is not an action per the NCA therefore there is no adverse effect.
- The Authority asked Mr. Watler and Mr. Jackson to address the application.
- Mr. Jackson advised he is not fully aware of all aspects of the application, but Mr. Watler and his colleague prepared a letter setting out the merits of the rezone. Copies were provided (see Appendix E).
- Mr. Jackson provide several comments:
  - There is a high fixed cost for the infrastructure in a subdivision, it is based on linear feet

- The costs of the lots is proportionate to the volume of lots
- The small the lots are the cheaper they can be sold for
- This is in the Agricultural/Residential zone which is a left over zone and 90% of and that is zoned that way is not arable land
- Is changing the zoning adverse to agricultural interests? The Department of Agriculture says it is not an issue.
- The rezone will allow smaller lots with a lower cost so young Caymanians can buy land
- They urge the Authority to recommend to Parliament to rezone the land
- Mr. Watler noted they bought the land many years ago and put in a subdivision. He explained they dug a trench for a water line 2.5’ wide and 3’ deep in the rock. He advised that 1900’ of water line and road cost 1 million dollars. He explained people go to the bank and can’t get financing for his lots so by rezoning the land he can sell the lots for \$155,000 down from \$185,000.

**3.2 DDOWN HOMES LTD RZ23-0001; Block 23B Parcels 108, 109, 110 & 111 (RM)**

**An appearance was scheduled for 3:00pm, but the applicant advised they wouldn’t be able to attend the meeting.**

Application for Amendment to Development Plan 1997 from Low Density Residential to Beach Resort Residential and relocation of Public Open Space.

**FACTS**

<b>Location:</b>	South Sound, George Town
<b>Parcels:</b>	23B108, 109, 110 and 111
<b>Current Zoning:</b>	Beach Resort Residential, Low Density Residential and Public Open Space
<b>Proposed Zoning:</b>	Beach Resort Residential and Public Open Space
<b>Ownership:</b>	Private
<b>Total Parcel Size:</b>	1.36 Acres
<b>Subject Zoning Area:</b>	1.36 Acres

**BACKGROUND**

September 13, 2023 (CPA/21/23; item 3.1) – the following decision was rendered:

*After reviewing the proposal in light of Section 41(3) of the National Conservation Act (2014) (NCA), it was resolved to adjourn the application and invite the applicant to address the Authority regarding potential adverse effects of the proposal, as defined in Section 2 (a-1) of the NCA.*



*It was further resolved to add Block 23B, Parcel 112 to the application.*

*It was also noted that the Department of Environment erroneously indicated that the Authority might be minded to grant planning permission, when in fact, according to Section 10 of the Development and Planning Act (2020 Revision) an amendment of a development plan can only be approved by the Cayman Islands Parliament.*

**Point of procedure:** The Authority reviewed the proposal to amend The Development Plan and directed the Department to forward the application to the Ministry of Planning, Agriculture, Housing and Infrastructure for onward transmission to Cabinet and Parliament for determination.

## **UPDATE**

The Central Planning Authority heard the request (RZ23-0001) during meeting 11 on the 10<sup>th</sup> of May 2023 (CPA/11/23; Item 3.1), and it was resolved to forward the application for 60 day notification and advertising per Section 11 (2) in the Development and Planning Act (2021 Revision). The notice period commenced on June 9<sup>th</sup> 2023 and concluded on August 8<sup>th</sup> 2023, during which time no letters of objection were received by the Department of Planning.

## **APPLICANT'S LETTER**

*The applicant is seeking an amendment to the Development Plan from Low Density Residential (LDR) to Beach Resort / Residential (BRR) and to relocate an area zoned Public Open Space (POS). This rezone concerns four adjoining parcels; Block 23B Parcels 108, 109, 110 and 111 which are located on South Sound Road.*

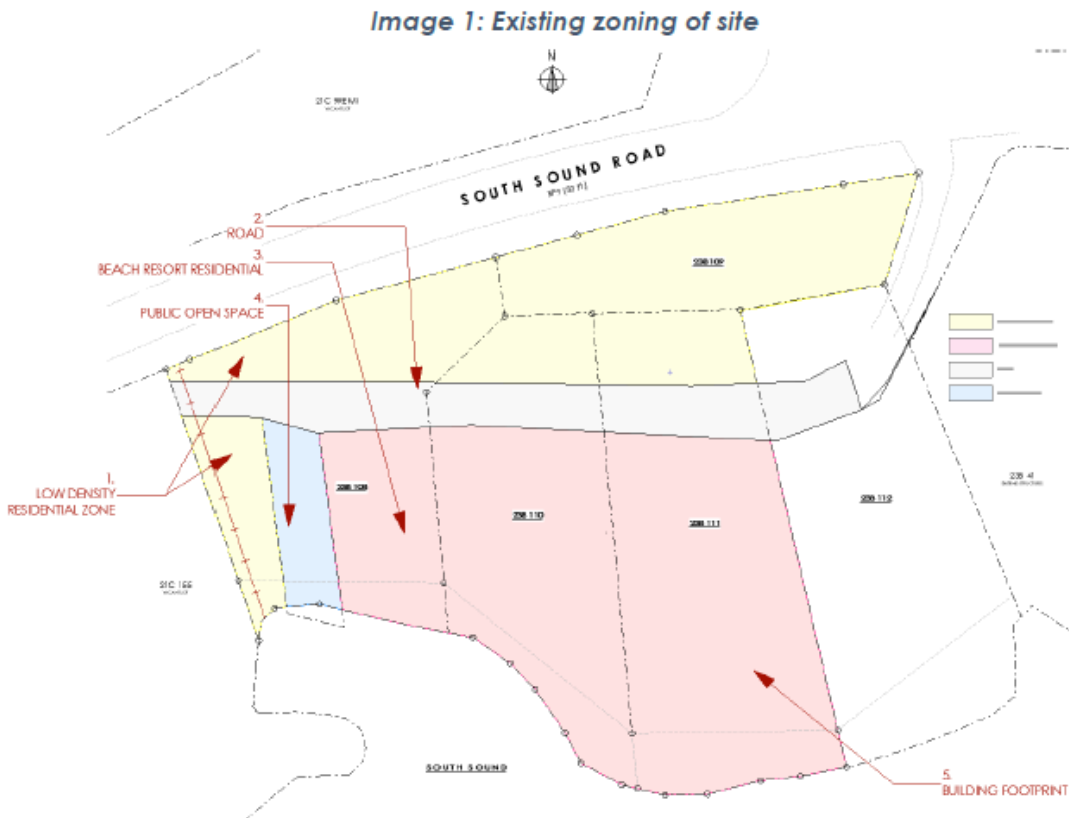
*The purpose of the application is explained in the applicant's letter, as follows:*

*"We are writing this letter on behalf of our client, the owner of the above parcel, Ddown Homes Ltd. The owner acquired the above parcel sometime in 2018 and was unaware of the split zoning of his parcels. We were recently engaged to design an apartment project for the said site, whilst working on the design we became aware of the split zoning of the parcels, currently, the parcels are zoned from Beach Resort Residential, Low-Density Residential, Public Road, and Public Open Space. This mixture of zoning caused significant complications with producing an efficient design with best utilization of the site., as each zoning type has different restrictions on height density setbacks etc. Below are the 2 main issues we have perceived on this site, hence our request for your assistance in addressing such concerns.*

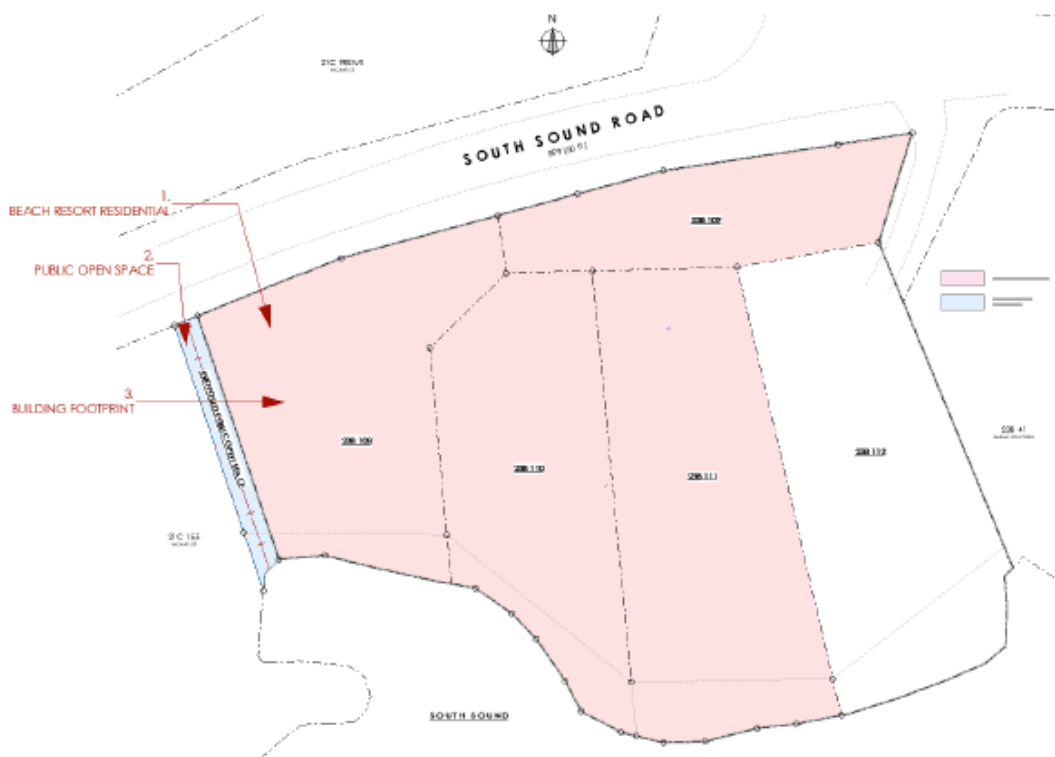
- 1. Public Open Space:** *the POS zoned area of land is located inside of Block 23B Parcel108 and does not currently connect to a road or other public easements or right of way. There is no direct access from any major or minor public road for the general public to utilize the potential of the said parcel. Use of the same parcel requires entry through the private property of the owner. Such would be intrusive for*

both the public and the private residents/guests of the development and exposes all parties, including the property owner, to undue risk and reduction in privacy. With this, we are proposing for a possible relocation of the POS zoning along the western boundary of the parcel allowing the public to access the beachfront from the public right of way, at the same time reducing, if not eliminating, the threat to privacy of all concerned parties. (See Image 1 and Image 2 for reference).

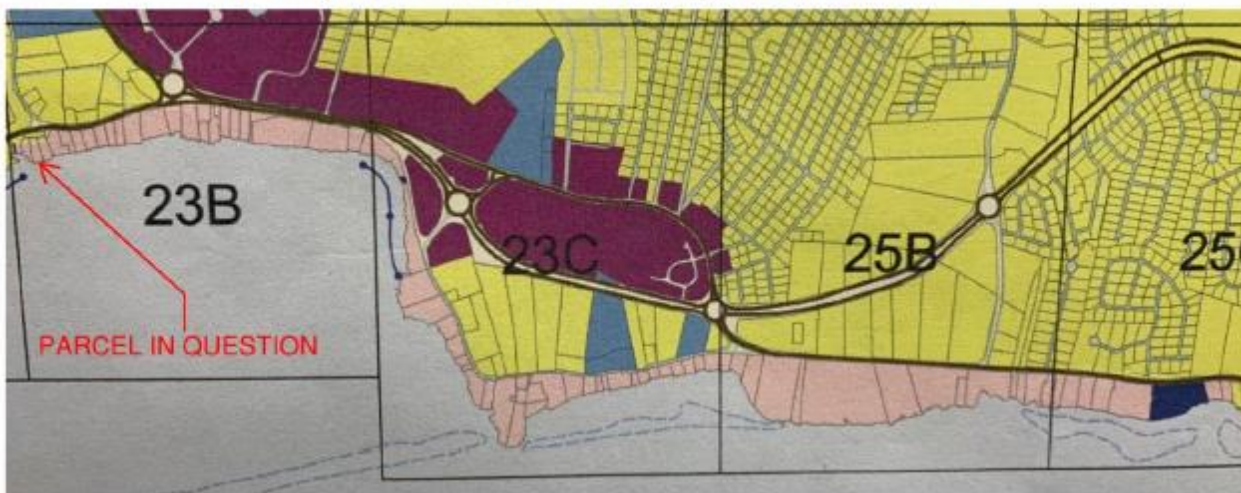
2. **Low-Density Residential Zone and Public Road:** It appears that the LDR zoned portion of the parcel and the assigned Public Road may have been an oversight and residual of the rezoning of lands as affected by the alignment of the South Sound Road. All the parcels and the lands along the access road on the beachfront side are zoned BRR (Beach Resort Residential) while the parcels north of the road are zoned LDR. When the realignment of the South Sound Road took place, affected parcels from south of the road should have been updated to BRR, similar to the rest of the parcels, to best utilize each site. We noticed, based on the current zoning map, that the owner's parcels in question are the only ones with split zoning, while the rest are all properly zoned under BRR. Looking at it further, the areas of each zone in question are practically non-usable if used for the originally designated zoning, and will neither be beneficial to the general public nor the private owner of the lot. (See Image 3 below for reference.)



**Image 2: Proposed Zoning**



**Image 3: BRR Zoning south of the coastal road. Note clients parcels on the left are the only split zoned parcels along this stretch of road**



*With these considerations, the lot owner has considered compromises in the target development for the site. The project proposal has been re-designed within the bounds of what is deemed to be mutually beneficial to the general public and the parcel owner albeit losing marketable space. Other implications to the project includes the reduced size of marketable units equating to reduced projected income and reduced market value*

*of units due to the change of location of the pool and major amenities and features, as affected by the relocation of the POS to the boundaries of the site.*

*The over-all foresight of the project, as per current design, improves the privacy of all intended users and neighboring communities promoting the best use of the potential of all zones deemed beneficial to the public.*

*In closing, we are respectfully requesting the Government's assistance with an expeditious rezoning of the portions of my client's parcels from LDR and Public Road parcels to BRR, as we are ready to submit our planning application for the project we have designed for the site.*

The Applicant submitted a further letter in response to Public Lands Commission objections:

*"We have read the letter of objection from The Public Lands Commission regarding the Proposed relocation of the Public Open Space (POS) for the proposed Re Zoning for Parcel 23B 108,109,110 & 111. We appreciate the feedback, and we would like to clarify some points that may have caused some misunderstanding.*

*First, on the matter related to the existing Public Open Space (POS), we would like to note that we are not eliminating the POS completely. Our proposal is to relocate it to the edge of property that is directly with the Right of Way (ROW). In this form the POS will be directly accessible to the public from the main road and will be more beneficial to the neighborhood in its entirety. Contrary to its current location it has no direct access from the proper ROW and only means of entry is through the private property of the development.*

*Second, on the matter of the multiple parcels concerned, the owner has no plans to process the parcel combination at this time. Therefore, the additional 6 feet of ROW requested is not necessary. If in any case, there will be changes in this plan that may affect the ROW, we would like to assure you that we will undertake proper procedure and inform your office of such.*

*We hope that this letter has addressed the concerns and clarified our intentions. We are open to further discussion and cooperation with you on this matter. Please let us know if you have any questions or comments.*

## **DEPARTMENT OF PLANNING ANALYSIS**

### **Background**

At a meeting of the Central Planning Authority held on July 20, 2022 (CPA/18/22; Item 2.5), the Authority resolved to adjourn an application at the applicant's request for 24

apartments, cabana, wall, generator, sign and gate at Block 23B Parcels 108, 109, 110 and 111 (P22-0241).

At a meeting of the Central Planning Authority held on November 23, 2022 (CPA/28/22; Item 5.5), the Authority was reminded of the application for apartments at Block 23B Parcels 108, 109, 110 and 111 (P22-0241). The Authority acknowledged that there were three different zones; LDR, BRR and POS and the area where the old South Sound Road was located has no zoning. The Applicant's attorney contacted the Department with two options to address the matter; the first being to pursue the provisions of Section 9(2) and (3) of the Development and Planning Act and the second option being to rezone the parcels to BRR with a new strip of land being set aside along the western boundary which would be zoned POS. The Authority determined that the preferred option is for the applicant to apply to rezone the parcels as outlined in option two.

### **Site details**

The application concerns four adjoining parcels, amounting to 1.36 acres in total, which are located to the south of South Sound Road in George Town. The parcels are vacant and undeveloped, having previously been cleared and filled.

### **Character and Land Uses of Surrounding Area**

The subject parcels are located at the boundary between coastal parcels being zoned LDR or BRR. From the subject parcels, there is a continuous swathe of LDR zoning along the coastline extending approximately 1.3km to the west. Meanwhile, to the east there is a continuous swathe of BRR zoning extending approximately 1km.

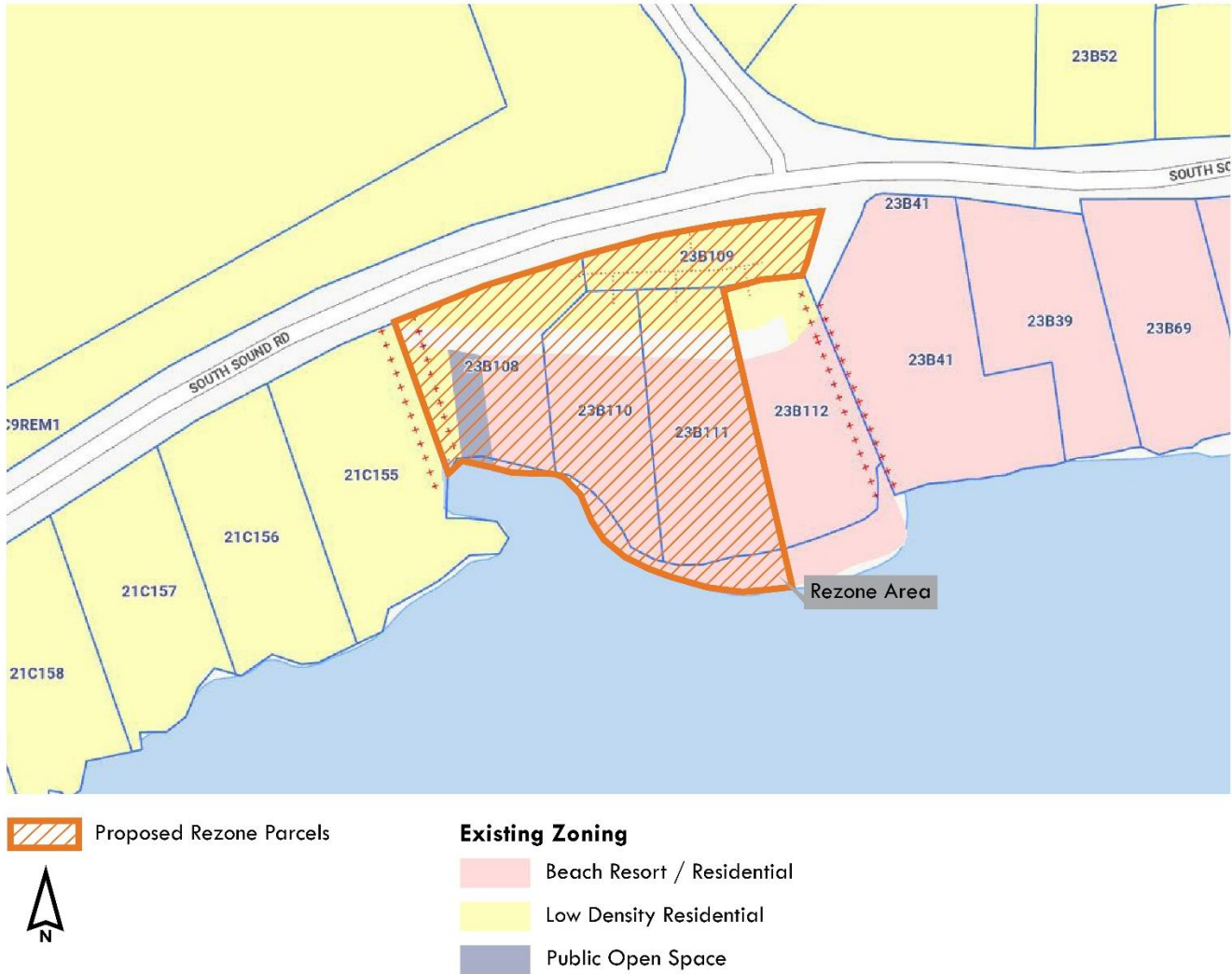


Figure 1: Zoning and location map (Source: [www.caymanlandinfo.ky](http://www.caymanlandinfo.ky))

### Zoning Considerations

The proposed rezone would consist of two zoning amendments:

The first of these is the replacement of a combined 0.54 ac of LDR zoning and 0.16 ac of unassigned land (which reflects the former alignment of South Sound Road) with 0.7 ac of BRR. Within the district of George Town there is currently 185.9 ac of BRR. The proposed addition of 0.7 ac would therefore represent a very small increase of just 0.4%. Similarly, the loss of 0.54 ac of LDR represents a very small loss of just 0.02% of the existing 3,414 ac of LDR zoning in this district.

The second proposed zoning amendment concerns the relocation of 0.05 ac of existing POS zoning to the western boundary of the property (parcel 23B108). The relocated POS zoning would be situated in the same location as an existing Public Right of Way. As indicated by

the applicant, the current position of the POS zoning appears to relate to the former alignment of South Sound Road and therefore cannot now be accessed from the public road since it has been realigned approximately 40ft to the north. The Authority should note the concerns identified by the Public Lands Commission regarding the proposed relocation of the POS zoning to the same location as the existing Public Right of Way.

### **AGENCY COMMENTS**

The Authority received and considered comments from the Public Lands Commission, Ministry of Planning, Agriculture, Housing & Infrastructure (PAHI), Department of Environmental Health, Cayman Islands Fire Service, National Roads Authority, Water Authority Cayman and Department of Environment.

#### **Public Lands Commission (PLC)**

The Public Lands Commission further writes in reference to the subject application submitted by DDOWN HOMES to the Central Planning Authority regarding the proposed Rezoning of Block 23B Parcels 108, 109, 110 and 111 and the relocation of the Public Open Space situated on Block 23B Parcel 108.

The Public Lands Commission has been established under the Public Lands Act (2020 Revision) and one of its mandates under section 5(b) is:

“to protect the right of access to and use of public land by members of the public, including the enforcement of public rights of way over private lands.”

Subsequent to the investigation of the matter and the Public Lands Commission review, the following has been noted:

1. The application made prior under INDU Apartment Condo Building with pool;
2. Site Plan submitted for the relocation of the POS is the same as the site plan submitted under INDU Condo (p22-0241) with no changes showing/depicting where the suggested location that the POS will be removed to as requested by the PLC; and
3. Public open space is still showing the same being placed over the registered access at a much smaller space than the existing public open space.

The Public Lands Commission has no objection to the development and combination of the lots to facilitate the rezoning. However, the Public Lands Commission Objects to the current proposed application by Ddown Homes for the Relocating of the Public Open Space (POS) based on the following:

- The Submitted Plan is still showing the POS placed over the existing Public Right of Way to the shoreline which was objected prior by the Public Lands Commission and the Inspectorate.
- The Submitted plans for the rezoning is showing the removal of the POS in its entirety which will disenfranchise the general public freely to access the POS.



- The POS is separate from the Public Right of Way over the property and should be maintained as such. If the same is to be moved it is to be placed in a separate location or run parallel to the existing Public Vehicular Right of Way and maintain the same width as per the existing measurements.

Additionally, the Public Lands Commission further notes that the water frontage of the proposed parcels (23B 108, 109, 110 and 11) exceeds the 200 feet stipulated in Regulation 15(6) of the Development and Planning Regulations (2022 Revision). The Commission also recommends that the develop provide the requisite 6 feet right of way for every 200 feet thereof in addition to the existing right of way and public open space, and that this right of way is registered as a condition of planning permission if approved by operation of the law. The Public Lands Commission requests to be notified of the registration of the right of way over the combined parcels for its records by providing a copy of the land register.

We also at this time wish to advise that while the Central Planning Authority (CPA) has the power to consider and approve amendments to conditions of planning approval, the CPA nor any other body in the Cayman Islands Government has the power to modify or extinguish a registered public right of way. A registered public right of way can only be modified or extinguished upon an application to the Grand Court in accordance with Section 98D of the Registered Land Act (2018 Revision).

For the foregoing reasons the Commission is only in favour of the rezoning and combination of the parcels and the remainder of the application be denied.

#### **Ministry of Planning, Agriculture, Housing & Infrastructure (PAHI)**

We write to express our support of the reallocation of the Public Open Space (POS) that currently straddles the above-mentioned parcel/s. As the board may be aware, while the land is currently zoned POS, it is essentially landlocked, having not been rezoned or relocated when the Government realigned South Sound Road- a public road. In addition, the swath of road corridor that remains undefined from the realignment is impractical and should be rezoned as the surroundings to bring in line- in a holistic approach. Rezoning and Relocating the POS to the boundary is the most pragmatic and efficient means of providing the public with access to an area that is/was traditionally used for shoreline access and ensures that the said area will be codified as such moving forward.

We endorse the proposal and request the kind indulgence of the Authority.

#### **Department of Environmental Health**

DEH has no objections to the proposed rezone.

All built development must be submitted to DEH via OPS for review and approval.

#### **Cayman Islands Fire Service**

Comments submitted regarding site plan; *“Please ensure as per plans a 20” Driveway”*.

#### **National Roads Authority**

Comments requested on 01/02/2023 – None received.

### **Water Authority**

Please be advised that the Water Authority has no objections to the proposed rezoning. The Water Authority's records do indicate a previous proposal for development of these parcels (Planning ref: i053122-153024, P22-0241) and reminds the applicant/developer that these requirements remain applicable for the referenced project.

### **Department of Environment**

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

The application site is located adjacent to a Marine Reserve (a Protected Area under the National Conservation Act). The site is heavily man-modified having been cleared and filled. There are no environmental concerns with the realigning of the Public Open Space to the Public Right-of-Way (ROW) areas. We understand that the Public Lands Commission has been consulted on this application and we trust that their input will be considered.

## **4.0 PLANNING APPEAL MATTERS**

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

#### **5.1 ALVIN WILLIAMS Block 14D Parcel 350 H2 (P22-0365)**

The Authority was advised that planning permission had been granted for an after-the-fact addition to an apartment unit on November 22, 2022. The applicant's agent has contacted the Department seeking an extension to the approved time frames for applying for a permit and obtaining a Certificate of Occupancy. The agent's letter was summarized for the Authority.

**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/28/22; item 2.17 be modified by replacing conditions 1) and 3) with the following conditions:

- 1) The applicant is required to apply for a Permit from the Director of Planning no later than February 8, 2024.
- 3) The applicant shall obtain a Final Certificate (of Fitness for Occupancy) no later than May 8, 2024.

All other conditions of CPA/28/22; item 2.17 remain applicable.

## **5.2 DEVELOPMENT COMPLAINT Block 14D Parcel 127**

The Authority was advised that complaints have been received regarding truck and trailers being parked on property on Anthony Drive leading into the Templeton Pine Lake community. The Authority viewed photographs of the trucks and trailers and determined that they constituted development and recommended that the Director of Planning consider issuing an enforcement notice.

## **5.3 GOVERNMENT CRAFT MARKET TENT Block OPY Parcel 162**

The Authority was advised that the Cayman Islands National Attractions Authority indicating that the existing Craft Market tent needs to be relocated on site to accommodate some works by the Port Authority. The Authority determined that the relocation would not require planning permission.

## **5.4 NATIONAL DRUG COUNCIL**

The Authority was advised that the Council had written the Director of Planning indicating that they wish to erect about 40-60 flag/feather signs at various locations across the Island between December 15 and January 3 to promote their Arrive Alive campaign. The Authority determined that the signs do not require planning permission but they need to be removed by January 4, 2024.

## **5.5 BUTTONWOOD SUBDIVISION Block 20E Parcel 87 (P21-1304)**

The Authority was advised that the applicant has contacted the Director of Planning with a request to release the restrictions from lots 1 through 7 as all of the infrastructure is in place and all conditions of approval have been met. They indicated they would request for the restrictions on the remaining lots to be released once infrastructure was in place for those lots. The Authority determined that the restrictions could be released for lots 1 through 7.

## **5.6 AUBURN BAY Block 22D Parcel 182 REM 4**

The Authority was advised that the applicant wishes to modify planning permission to include a new access road and an inquired whether notification of adjacent land owners would be required. The Authority determined that the adjacent land owners would have to be notified and this includes:

Block 22D Parcels 183, 185, 219, 237, 238, 239, 240 and 296

## **5.7 LESTER TIMOTHY Block 3D Parcel 168 (P23-0575)**

The Authority was reminded of approval being granted to change the use from a bakery to a day care. The applicant has contacted the Department requesting that the pre-permit submission conditions be shifted in the process to pre-permit issuance. The Authority considered the request and determine that the pre-permit submission conditions would not be changed.

## **5.8 AGGREGATE ADVISORY COMMITTEE (AAC)**

As requested by the Authority at its October 25 meeting, the Director of Planning provided an update on the AAC and advised that the Ministry has been contacted for directions regarding the membership and function of the AAC.

## **6.0 CPA MEMBERS INFORMATION/DISCUSSION**

### **6.1 DEVELOPMENT PLAN UPDATE**

A project team member provided an update:

- a communications plan will be prepared and will be forwarded to the CPA for approval
- the process requires a spokesperson and the Chairman of the CPA was nominated
- the Department is to provide a draft Planning Statement for the November 15 meeting so that the members can review it and discuss it at a later date
- the Ministry is preparing a Cabinet note that will be circulated for comment

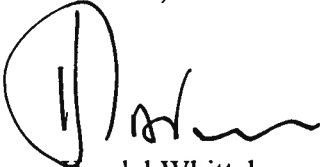
### **6.2 DEVELOPMENT AND PLANNING REGULATIONS**

The Authority asked for and was provided with an update on a recently proposed amendment to the Development and Planning Regulations. The Department advised that it was aware of the proposed amendments and would circulate same to the Authority.

### **6.3 PLANNING LAW REVIEW COMMITTEE**

The Authority asked for and was provided with an update on the status of the Planning Law Review Committee.

The meeting adjourned at 5:05pm. The next meeting of the Central Planning Authority is scheduled for *Wednesday, November 15, 2023 at 10:00 a.m.* in in Conference Room 1038, 1<sup>st</sup> floor, Government Administration Building.



Handel Whittaker  
Acting Chairman



Haroon L. Pandohie  
Executive Secretary

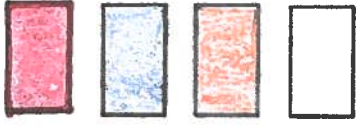
c.c. **All members of the Central Planning Authority**

## Appendix A

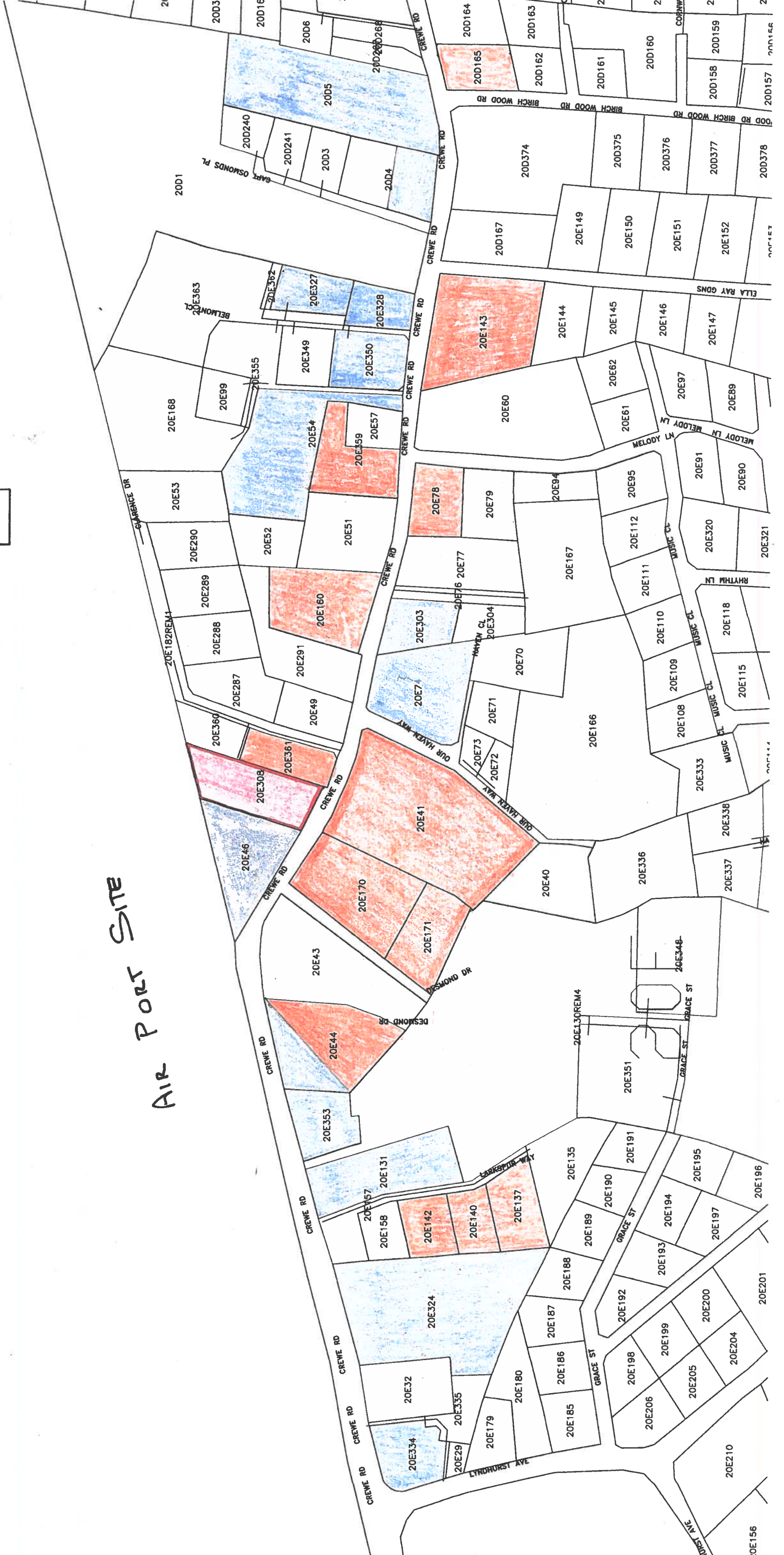
SITE.

COMMERCIAL.

APARTMENTS.



# AIR PORT SITE





## Appendix B

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

Vicki Balsamo  
5 Montrose St.  
Newton, MA 02458 USA  
August 23, 2023

Dear Director Pandohie,

I am an owner at the Pinnacle which is located on Governor's Beach Block 11D parcel 3. I never received notification of the planned construction of cabanas and shower facilities adjacent to our property. I received an email on August 20 informing me of this proposed project.

Creating a clean public space is a good idea, however, I strongly oppose the location you have chosen. The placement and number of cabanas will definitely impact our view and therefore diminish the value of our property. In addition there is an environmental problem of ground contamination and odor.

I would also suggest just installing toilets and not showers. That might encourage homeless people to use the facilities. Maintenance is also a problem. Who is going to clean the facility and how often? Will there be a permanent staff on site?

Thank you for considering my objections.

Sincerely,

*Vicki Balsamo*

Vicki Balsamo  
Unit 18





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

22<sup>nd</sup> August 2023

Dear Director Pandohie,

We are writing on behalf of our unit in Strata 273 located on Block 11D Parcel 31 H23 (The Pinnacle) with regard to an Application for Planning Permission for Governor's Beach on Block 11D Parcel 3. We have only just received this Notice.

Please accept our objection to this proposal for the following reasons:

1. We believe that the placement of public bathrooms/showers on the site (adjacent to the South side of our building) adversely affects our neighborhood because of odour, noise and potential overflow and contamination of the area from sewage.
2. We believe that the use of gray water for irrigation could present unfavorable odours and the potential for spread of micro-organisms and bacteria in the area unless it is treated.
3. We believe that the placement and number of Cabanas are too far forward and will directly block the line of sight/view of the residents of our neighborhood, damaging value. And we are particularly concerned that if the Cabanas are built on concrete slabs, they should be built back away from the water on top of marl and not sand. As can be seen at the South end of Seven Mile Beach, where there is now no beach at all, it is very inadvisable to allow concrete structures to be built on the moving part of the beach. Why isn't the Environment Agency blocking this?
4. We also have concerns that enclosed buildings on a public space could potentially be used for nefarious activities during late night hours.

While we appreciate the desire to create a nice public space on the site, we are requesting that the plans be revisited to move the public restrooms to the center

of the property and closer to the West Bay Road so that it is not up against the setback line adjacent to our property and also will not be pushed against the Governor's House. We would also encourage the site designer to incorporate more trees for sound buffers and privacy. We feel this is a sensible approach that could make all parties content with the plan.

We hope you will accept our objections and consider redesigning the site. We are happy to meet with CPA to express our concerns and listen to your suggestions.

Sincerely,  
Tim and Sara Sweeting  
P.O. Box 735  
KY1-9006



**Popovich, Nicholas**

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**From:** Department of Planning  
**Sent:** Tuesday, August 22, 2023 4:30 PM  
**To:** Popovich, Nicholas  
**Subject:** FW: [EXTERNAL] To the Director of Planning RE: Application for Planning Permission for Governor's Beach Block 11D Parcel 3

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**From:** R F [mailto:fourwinds9694@gmail.com]  
**Sent:** Tuesday, August 22, 2023 11:26 AM  
**To:** Department of Planning <Planning.Dept@gov.ky>  
**Cc:** RF <fourwinds9694@gmail.com>  
**Subject:** [EXTERNAL] To the Director of Planning RE: Application for Planning Permission for Governor's Beach Block 11D Parcel 3

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

August 20, 2023

From: Ruth Finch, Owner #30 the Pinnacle

1259 West Bay Road

Georgetown CI

PO. Box 10619

KY1-1006

Dear Director Pandohie,

I am writing as a member of Strata 273, located on Block 11D Parcel 31 (The Pinnacle) regarding an Application for Planning Permission for Governor's Beach on Block 11D Parcel 3. I currently live in Unit #30.

Please accept my comments and thoughts regarding this proposal.

I object to the design in its current state. For the following reasons:

- The placement of public bathrooms/showers on the site directly adjacent to the South side of our building directly affects the quality of the neighborhood adjacent to the site. There have been problems with unpleasant odors, and excessive noise due to temporary facilities located next to the building next door. The new facilities will become even more of a gathering place with changing lockers and showers. Increased use will lead to more odor, noise and potential overflow and contamination of the area.

-The use of untreated gray water for irrigation could present odors and the potential for spread of bacteria in the area. Grey water from showers can contain urine and fecal matter and is not appropriate for this application.

In addition, I believe the **entire site** needs to be considered especially when planning new construction...I have a lot of concerns:

- Parking and ingress and egress and pedestrian safety has not been considered.
- Who will monitor the site?
- Will there be designated parking?
- Who will control access to the cabanas and toilets? Will they be locked after dark?
- Will there be a limit to the number of people at the beach?

Currently my suggestions include:

-The placement of the showers and bathrooms should be grouped in the center of the lot to provide access from all directions of the site.

-The cabanas raise many questions. There are only four cabanas planned.



-There will be a huge demand for them – will families be able to reserve a cabana for a family event, parties, gatherings, instead of having to stake out a place hours ahead of time? Is there a fee?

-Large slab of concrete? set on sand or marl are vulnerable to damage during hurricanes and high water, and becoming loose.

-Perhaps designated picnic areas with picnic tables and fixed barbeque placed in different areas around the site, instead of cabanas - make sense?

#### Safety and monitoring the beach:

-Who monitors the bathrooms and the showers?

-This is a family beach, not an area to have loud parties. There have been loud parties at night that have had to be broken up by Police.

-It should be possible to close the beach at night – bollards and chains to prevent cars from entering after sunset.

#### And finally – PARKING!!! AND INGRESS AND EGRESS...

This is a small public beach with limited parking.

-Currently parking is haphazard. People park their cars all over the lot.

-Overflow cars are parked across the street in Governors Bay or up and down or on the shoulders of West Bay Road.

-People run across West Bay Road with children, food and beach chairs etc. This is a safety issue as there is no cross walk.

-Parking overflow presents problems for businesses in Governor's Square.

-In addition, there is no designated entrance or exit to the beach property. Most of the frontage on West Bay Road is sand. Cars can turn in or out wherever they want.

-Designated entrances and exits need to be marked for safety. An attempt to do so on has been made on the plan, but it doesn't account for turning radiuses of cars due to haphazard parking spaces.

-There is no sidewalk! A sidewalk across the entire entrance to the site, up and down West Bay Road is needed so that people can walk safely along the entrance to the beach area. The sidewalk can accommodate an entrance and an exit to the beach parking.

And finally, a **parking plan** for the site is needed. Currently, people park wherever they can. A plan is needed considering turning radiuses, trees, etc. is needed before buildings and platforms are constructed.

**To sum it up :**

**I am asking that these plans be reviewed, so that we can make this work for everyone.**

- 1) The plans need to be revisited to move the public restrooms to the center of the property so as not to compromise either adjacent property, and provide easy access from all areas of the beach.
- 2) An overall site plan is needed that considers parking, ingress and egress to the property, in addition to the location of the new buildings.
- 3) Landscaping, water and sewage management need to be considered and designed.
- 4) And finally, a facilities management plan is needed to provide security, monitoring, cleaning and maintenance and facility scheduling to insure the peaceful operation of this public beach.

These are my observations and suggestions.

Thank you for your kind consideration. Please contact me directly @[fourwinds9694@gmail.com](mailto:fourwinds9694@gmail.com).

Sincerely,

Ruth Finch #30  
EXCO, The Pinnacle  
P.O. Box 1269, Georgetown, CI





## Popovich, Nicholas

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**From:** Department of Planning  
**Sent:** Tuesday, August 22, 2023 4:30 PM  
**To:** Popovich, Nicholas  
**Subject:** FW: [EXTERNAL] Application for Planning Permission for Governor's Beach Block 11D Parcel 3

**From:** Cathy Rintz [mailto:[cathyrintz@comcast.net](mailto:cathyrintz@comcast.net)]  
**Sent:** Tuesday, August 22, 2023 10:53 AM  
**To:** Department of Planning <Planning.Dept@gov.ky>  
**Subject:** [EXTERNAL] Application for Planning Permission for Governor's Beach Block 11D Parcel 3

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

Dear Director Pandohie,

We are writing as condominium owners of Strata 273 located on Block 11D Parcel 31 (The Pinnacle) with regard to an Application for Planning Permission for Governor's Beach on Block 11D Parcel 3. We just received this information on Sunday, August 20, 2023. This may be due to various reasons like overseas addresses that don't receive mail in a timely fashion and this has caused a delay in owners finding out in time to respond before the deadline. We are asking that our opinion be heard and considered despite the fact that the deadline for responses has passed.

Please accept our strenuous objection to this proposal for the following reasons:

1. We believe that the placement of public bathrooms/showers on the site (adjacent to the South side of our building) adversely affects our neighborhood because of odor, noise and potential overflow and contamination of the area from sewage. As owners of a third-floor unit that overlooks Governor's Beach, we are already subjected to significant noise and activity that violates our ability to experience quiet enjoyment of our patio and property.
2. We believe that the use of gray water for irrigation could present unfavorable odors and the potential for spread of micro-organisms and bacteria in the area unless it is treated.
3. We believe that the placement and number of Cabanas are **too far forward** and will directly block the line of sight/view of the residents of our neighborhood, damaging value. If the Cabanas are built on concrete slabs, they should be built back away from the water on top of marl and not sand. As stated in Reason #1, we are already subjected to significant noise and activity, starting as early as 6:00 am in the morning and continuing into all hours of the night. These cabanas and restrooms would be almost directly below our condo.
4. We also have concerns that enclosed buildings in this public space could potentially be used for even more nefarious activities during late night hours than is already occurring. This is an area of

significant concern to us as property owners who overlook this site. There is already much activity on this site, with cars coming and going all night long. Some cars park on this property overnight and we often see people publicly urinating along the fence. Whether the nighttime activity is drug dealing or prostitution, we are not sure, but there is a steady stream of activity along the fence bordering our property because it is not well lit and is also away from the security guards at the Governor's House. The addition of cabanas and restrooms in an area that is not well lit and closer to the beach will only increase and encourage this behavior.

While we appreciate the desire to create a nice public space on the site and are not adverse to better restroom facilities (the portable facilities on site are unsightly and odiferous), we are requesting that the plans be revisited to move the public restrooms to the center of the property and closer to the West Bay Road so that it is not up against the setback line adjacent to our property and also will not be pushed against the Governor's House. Also, as owners we would like to suggest that restrooms and cabanas be locked from dusk until dawn (or later). This could cut down on illegal and nefarious behavior taking place in the cabanas and restrooms during overnight hours, regardless of where they are located. Also, a chain across the entrance to the site after hours should be considered to cut down on nighttime activity.

We would also encourage the site designer to incorporate more trees for sound buffers and privacy. We feel this is a sensible approach that could make all parties content with the plan.

We hope you will accept our objections and consider redesigning the site. As property owners on this beautiful stretch of Cayman, we are extremely concerned that the quiet enjoyment of our property will be ruined with public restrooms and cabanas so close to our property.

Sincerely,  
Carlton & Cathy Rintz  
Unit 29, Pinnacle Condominiums  
P.O. Box 1269



## Popovich, Nicholas

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**From:** Department of Planning  
**Sent:** Monday, August 21, 2023 4:28 PM  
**To:** Popovich, Nicholas  
**Subject:** FW: [EXTERNAL] Block 11D. Parcel 31H33

-----Original Message-----

**From:** Buddy Cowgill [mailto:norwoodcowgill@gmail.com]  
**Sent:** Monday, August 21, 2023 3:04 PM  
**To:** Department of Planning <Planning.Dept@gov.ky>  
**Subject:** [EXTERNAL] Block 11D. Parcel 31H33

I am the owner of the above referenced parcel and I understand that Planning has decided to develop property between the Pinnacle and the governors house. I object to the bathrooms and showers being placed so close to the Pinnacle building because of the odor and noise it will generate so close to our homes. I am also concerned about late night noises this Development may generate.

Norwood Cowgill Jr.  
Owner | Cowgill, Inc  
(859) 229-1515 | [https://urldefense.com/v3/\\_\\_http://www.cowgill.com\\_\\_;llEuRrQOsPEnoIcsadAya6uH-LcfFI2Kw-JsstOLXno1lpfsnLTTWjtEp6KExMYSzy72W-yJqKa9cFub7nsn5VwLwQS1N0cUj\\_DpWdgKD\\$](https://urldefense.com/v3/__http://www.cowgill.com__;llEuRrQOsPEnoIcsadAya6uH-LcfFI2Kw-JsstOLXno1lpfsnLTTWjtEp6KExMYSzy72W-yJqKa9cFub7nsn5VwLwQS1N0cUj_DpWdgKD$)  
1999 Richmond Road Suite 2A | Lexington, KY 40502





**Popovich, Nicholas**

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**From:** Department of Planning  
**Sent:** Monday, August 21, 2023 4:28 PM  
**To:** Popovich, Nicholas  
**Subject:** FW: [EXTERNAL] Governors Beach Planning

**From:** Thomas W Czerwonka [mailto:tomcz25@gmail.com]  
**Sent:** Monday, August 21, 2023 2:10 PM  
**To:** Department of Planning <Planning.Dept@gov.ky>  
**Subject:** [EXTERNAL] Governors Beach Planning

Director of Planning

P.O. Box 113

Grand Cayman KY1-9000

Cayman Islands

Dear Director Pandohie,

We are writing on behalf of The Pinnacle #36 located on Block 11D Parcel 31 (The

Pinnacle) with regard to an Application for Planning Permission for Governor's Beach on Block 11D Parcel 3.

Please accept our objection to this proposal for the following reasons:

1. We believe that the placement of public bathrooms/showers on the site (adjacent to the South side of our building) adversely affects our neighborhood because of odor, noise and potential overflow and contamination of the area from sewage.
2. We believe that the use of gray water for irrigation could present unfavorable odors and the potential for spread of micro-organisms and bacteria in the area unless it is treated.

3. We believe that the placement and number of Cabanas are too far forward and will directly block the line of sight/view of the residents of our neighborhood, damaging value. If the Cabanas are built on concrete slabs, they should be built back away from the water on top of marl and not sand.

4. We also have concerns that enclosed buildings on a public space could potentially be used for nefarious activities during late night hours.

While we appreciate the desire to create a nice public space on the site, we are requesting that the plans be revisited to move the public restrooms to the center of the property and closer to the West Bay Road so that it is not up against the setback line adjacent to our property and also will not be pushed against the Governor's House. We would also encourage the site designer to incorporate more trees for sound buffers and privacy. We feel this is a sensible approach that could make all parties content with the plan.

We hope you will accept our objections and consider redesigning the site.

Sincerely,

East Twin Corporation

1259 West Bay Road P O Box 30996

Grand Cayman, Cayman Islands

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

21 August 2023

Dear Director Pandohie,

I am writing as an owner of Block 11D Parcel 31H1 (The Pinnacle) with regard to an Application for Planning Permission for Governor's Beach on Block 11D Parcel 3.

Please accept our objection to this proposal for the following reasons:

1. We believe the placement of public bathrooms/showers on the site (adjacent to the South side of our building) adversely affects our neighborhood because of odor, noise and potential overflow and contamination of the area from sewage. Is connection to public sewer on West Bay road an option?
2. We believe the use of gray water for irrigation could present unfavorable odors and the potential for spread of micro-organisms and bacteria in the area unless it is treated.
3. We believe the placement and number of Cabanas are too far forward and will directly block the line of sight/view of the residents of our neighborhood, damaging value. If the Cabanas are built on concrete slabs, they should be built back away from the water on top of marl and not sand.
4. We also have concerns that enclosed buildings on a public space could potentially be used for nefarious activities.
5. We are concerned about the installation of solar panels and direct sunlight required for operation. Does the project include trimming or removal of any mature shade trees on the property?

While we appreciate the desire to create a nice public space on the site, we are requesting that the plans be revisited to move the public restrooms to the center of the property and closer to the West Bay Road so that it is not up against the setback line adjacent to our property and also will not be pushed against the Governor's House. We would also encourage the site designer to incorporate more trees for sound buffers and privacy. We feel this is a sensible approach that could make all parties content with the plan.

We hope you will accept our objections and consider redesigning the site.

Sincerely,

William and Debra Rowlands  
737 Harrison Street  
Hazleton, PA 18201-3409  
United States of America



## Popovich, Nicholas

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**From:** Department of Planning  
**Sent:** Monday, August 21, 2023 10:28 AM  
**To:** Popovich, Nicholas  
**Subject:** FW: [EXTERNAL] Proposed Washroom/Shower and Cabana structures on Governors Beach PINNACLE UNIT #32 BLOCK 11D Parcel 31H32 and 31H44  
**Attachments:** HOOD STATIONARY.doc

**From:** ffun3@comcast.net [mailto:[ffun3@comcast.net](mailto:ffun3@comcast.net)]  
**Sent:** Monday, August 21, 2023 10:22 AM  
**To:** Department of Planning <Planning.Dept@gov.ky>  
**Subject:** [EXTERNAL] Proposed Washroom/Shower and Cabana structures on Governors Beach PINNACLE UNIT #32 BLOCK 11D Parcel 31H32 and 31H44

*RANDY & BARBARA HOOD  
5552 W 300 S  
NEW PALESTINE, INDIANA 46163  
Office (317) 894-2000, X 128  
(317) 894-8888 (fax)*

August 21, 2023

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

Dear Director Pandohie,

We were jut notified of this proposed change via email from the Exco Board of the Pinnacle. We own Unit #32 at the Pinnacle UNIT #32, BLOCK 11D Parcel 31H32 and 31H44, , and are very concerned that the proposed changes will dramatically reduce the resale value as well as the items mentioned below.

Please accept our objection to this proposal for the following reasons:

1. We believe that the placement of public bathrooms/showers on the site (adjacent to the South side of our building) adversely affects our neighborhood because of odor, noise and potential overflow and contamination of the area from sewage.



2. We believe that the use of gray water for irrigation could present unfavorable odors and the potential for spread of micro-organisms and bacteria in the area unless it is treated.
3. We believe that the placement and number of Cabanas are too far forward and will directly block the line of sight/view of the residents of our neighborhood, damaging value. If the Cabanas are built on concrete slabs, they should be built back away from the water on top of marl and not sand.
4. We also have concerns that enclosed buildings on a public space could potentially be used for nefarious activities during late night hours.

While we appreciate the desire to create a nice public space on the site, we are requesting that the plans be revisited to move the public restrooms to the center of the property and closer to the West Bay Road so that it is not up against the setback line adjacent to our property and also will not be pushed against the Governor's House. We would also encourage the site designer to incorporate more trees for sound buffers and privacy. We feel this is a sensible approach that could make all parties content with the plan.

Sincerely,  
A & A Development  
Randy & Barbara Hood  
5552 W 300 S  
New Palestine, IN 46163  
Cayman Address:  
The Pinnacle – Unit 32  
P.O. Box 1269

## Popovich, Nicholas

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**From:** Department of Planning  
**Sent:** Monday, August 21, 2023 10:28 AM  
**To:** Popovich, Nicholas  
**Subject:** FW: Objection - Planning Permission for Governor's Beach on Block 11D Parcel 3

**From:** Teri McNevin [mailto:tmcn13@hotmail.com]  
**Sent:** Sunday, August 20, 2023 7:31 PM  
**To:** Department of Planning <Planning.Dept@gov.ky>  
**Subject:** [EXTERNAL] Objection - Planning Permission for Governor's Beach on Block 11D Parcel 3

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

Dear Director Pandohie,

We are writing to voice our concerns over the Application for Planning Permission for Governor's Beach on Block 11D Parcel 3. Also identified as Project no. P22-0526 on your website.

We own at The Pinnacle, Block 11D Parcel 31H15, but also reside in Canada and to date have not yet received the Notice associated with this Application. We understand that we are not the only overseas owners who have yet to receive it as mail from Cayman is typically very slow.

While we appreciate the desire to create a nice public space on the site, we are requesting that the plans be revisited to move the public restrooms to the center of the property and closer to the West Bay Road so that it is not up against the setback line adjacent to our property line.

Please accept our objection to this proposal for the following reasons:

1. As owners with direct views into the park, we have observed that the clean up team often piles organic debris and larger items (such as discarded frames and tents from Easter weekend, loose bouys, etc.) behind the existing Port-a-Pottles where it remains for many months on end. If the building is located closer to the Pinnacle fence rather than centred on the property, we expect that situation would be compounded. *Please see the picture attached at the bottom of this email showing the view from our dining room window.*

2. We believe that the placement of public bathrooms/showers on the site (adjacent to the South side of our building) adversely affects our neighborhood because of odor, noise and potential overflow and contamination of the area from sewage. The smell when the existing port-a-potties are pumped out is acrid and you cannot sit outside. A larger septic tank requires more time to pump out and longer times when once cannot sit outside.
3. We believe that the use of gray water for irrigation could present unfavorable odors and the potential for spread of micro-organisms and bacteria in the area unless it is treated.
4. We believe that the placement and number of Cabanas are too far forward and will directly block the line of sight/view of the residents of our neighbourhood, damaging value. If the Cabanas are built on concrete slabs, they should be built back away from the water on top of marl and not sand.
5. We also have concerns that enclosed buildings on a public space could potentially be used for illegal/illicit activities. As owners with a view of the Governor's Beach, we are aware that it occasionally gets patrolled at night by police with search lights especially if they see a car(s) there. However an enclosed building may not get the kind of scrutiny it deserves especially if built so far back on the property.
6. Should the building for the public bathrooms/showers move ahead, preferably in a better location within the park, we would request that it have set hours when it is locked. Perhaps opened from 8 am to 8 pm by park staff daily, and locked the remaining 12 hours. Earlier opening and later closing could increase the number of individuals using the park and create noise issues which we already experience. Also bathrooms open from 8 am - 8 pm keeps the park family friendly.

We would also encourage the site designer to incorporate more trees for sound buffers and privacy. We feel this is a sensible approach that could make all parties content with the plan.

We hope you will accept our objections and consider redesigning the site. We are happy to meet with CPA to express our concerns and listen to your suggestions.

Sincerely,  
Andrew & Teresa McNevin, The Pinnacle  
P.O. Box 31769, Grand Cayman KY1-1207









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

Dear Director Pandohie,

I am writing to you as the owner of Block and Parcel 11D31H17 at The Pinnacle with regard to an Application for Planning Permission for Governor's Beach on Block 11D Parcel 3.

Please accept my objection to this proposal for the following reasons:

1. I believe that the placement of public bathrooms/showers on the site (adjacent to the South side of our building) adversely affects our neighborhood because of odor, noise and potential overflow and contamination of the area from sewage.
2. I believe that the use of gray water for irrigation could present unfavorable odors and the potential for spread of micro-organisms and bacteria in the area unless it is treated.
3. I believe that the placement and number of Cabanas are too far forward and will directly block the line of sight/view from my condo as well as of the residents of our neighborhood, damaging value. If the Cabanas are built on concrete slabs, they should be built back away from the water on top of marl and not sand.
4. I also have concerns that enclosed buildings on a public space could potentially be used for nefarious activities during late night hours.

While I appreciate the desire to create a nice public space on the site, I am requesting that the plans be revisited to move the public restrooms to the center of the property and closer to the West Bay Road so that it is not up against the setback line adjacent to our property and also will not be pushed against the Governor's House. I would also encourage the site designer to incorporate more trees for sound buffers and privacy. I feel this is a sensible approach that could make all parties content with the plan.

I hope you will accept my objections and consider redesigning the site.



Sincerely,

A handwritten signature in black ink, consisting of a large, stylized letter 'E' followed by a vertical stroke and a horizontal stroke that extends to the right.

Elias Evangelos Demangos (August 20<sup>th</sup> 2023)

## Popovich, Nicholas

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**From:** Department of Planning  
**Sent:** Monday, August 21, 2023 10:28 AM  
**To:** Popovich, Nicholas  
**Subject:** FW: [EXTERNAL] Objection to Planning Notice for Governor's Beach 11D3

**From:** LORRAINE BELL [mailto:lorrainebell@mac.com]  
**Sent:** Sunday, August 20, 2023 6:30 PM  
**To:** Department of Planning <Planning.Dept@gov.ky>  
**Subject:** [EXTERNAL] Objection to Planning Notice for Governor's Beach 11D3

Dear Director Pandohie,

I am writing as Director/Owner of Block and Parcel 11D31H22 (Lone Eagle Ltd) with regard to an Application for Planning Permission for Governor's Beach on Block 11D Parcel 3. I received the Notice of Application for Planning Permission and respectfully ask that you take into consideration my objections for the following reasons:

1. I believe that the placement of public bathrooms/showers on the site (adjacent to the South side of our building) adversely affects our neighborhood because of odor, noise and potential overflow and contamination of the area from sewage.
2. I believe that the use of gray water for irrigation could present unfavorable odors and the potential for spread of micro-organisms and bacteria in the area unless it is treated.
3. I believe that the placement and number of Cabanas are too far forward and will directly block the line of sight/view of the residents of our neighborhood, damaging property value. If the Cabanas are built on concrete slabs, they should be built back away from the water on top of marl and not sand.
4. I also have concerns that enclosed buildings on a public space could potentially be used for nefarious activities during late night hours.

While I appreciate the desire to create a nice public space on the site, I would like to request that the plans be revisited to move the public restrooms to the center of the property and closer to the West Bay Road so that it is not up against the setback line adjacent to our property and also will not be pushed against the Governor's House. I would also encourage the site designer to incorporate more trees for sound buffers and privacy. I feel this is a sensible approach that could make all parties content with the plan.

I hope you will accept my objections and consider redesigning the site.

Sincerely,

Director/Owner  
Lone Eagle Ltd.  
Block and Parcel 11D31H22  
P.O. Box 1994  
Grand Cayman KY1-1104  
Cayman Islands





# THE PINNACLE

August 18, 2023

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

Dear Director Pandohie,

We are writing on behalf of Strata 273 located on Block 11D Parcel 31 (The Pinnacle) with regard to an Application for Planning Permission for Governor's Beach on Block 11D Parcel 3. It has come to our attention that there are owners who are affected by this development and have not received the Notice. This may be due to various reasons like overseas addresses that don't receive mail in a timely fashion and this has caused a delay in owners finding out in time to respond before the deadline.

Please accept our objection to this proposal for the following reasons:

1. We believe that the placement of public bathrooms/showers on the site (adjacent to the South side of our building) adversely affects our neighborhood because of odor, noise and potential overflow and contamination of the area from sewage.
2. We believe that the use of gray water for irrigation could present unfavorable odors and the potential for spread of micro-organisms and bacteria in the area unless it is treated.
3. We believe that the placement and number of Cabanas are too far forward and will directly block the line of sight/view of the residents of our neighborhood, damaging value. If the Cabanas are built on concrete slabs, they should be built back away from the water on top of marl and not sand.
4. We also have concerns that enclosed buildings on a public space could potentially be used for nefarious activities during late night hours.

While we appreciate the desire to create a nice public space on the site, we are requesting that the plans be revisited to move the public restrooms to the center of the property and closer to the West Bay Road so that it is not up against the setback line adjacent to our

property and also will not be pushed against the Governor's House. We would also encourage the site designer to incorporate more trees for sound buffers and privacy. We feel this is a sensible approach that could make all parties content with the plan.

We hope you will accept our objections and consider redesigning the site. We are happy to meet with CPA to express our concerns and listen to your suggestions.

Sincerely,

Executive Committee

The Pinnacle Condominiums

1259 West Bay Road

P.O. Box 30996

Grand Cayman KY1-1204

Cayman Islands

## Appendix C



1/

TO: THE DIRECTOR OF PLANNING  
CENTRAL PLANNING AUTHORITY  
GOVT. ADMIN. BUILDING  
133 ELGIN AVENUE  
P.O. BOX 113 G.C. KY1-9000

FROM: LEIDER VIAMONTE ARGUELLES  
P.O. Box 123  
GRAND CAYMAN KY1-1301

REF. LOT SIZE VARIANCE REQUEST FOR  
(P23-0656) PROPOSED HOUSE  
ON BLOCK 28B PARCEL No. 307 SAV.

SIR,

RESPONDING TO YOUR DEPARTMENT'S EMAIL  
DATED: 2023-08-24 I NOW SUBMIT THE  
FOLLOWING:-

- (a) I AM A MALE WITH CAYMAN RESIDENT-  
STATUS, MARRIED WITH THREE (3) SMALL  
CHILDREN AND WORK AT THE CAYMAN  
TURTLE FARM.
- (b) MY FAMILY AND ME PRESENTLY LIVE IN  
A HOUSE ON THE PROPERTY AND IT IS  
MY DESIRE TO PROVIDE SOME FUTURE

COMFORT FOR MY CHILDREN ESPECIALLY IN THE LIVING ACCOMMODATION AREA OF THEIR LIVES.

(c) I UNDERSTAND THAT THE LOT IS A BIT SMALLER THAN YOUR REQUIREMENT WHICH @ (100%) = 20,000 S/FT

LOT SIZE (92.4%) = 18,486.9 S/FT

VARIANCE REQUESTING = 1,513.1 S/FT (7.6%)

THEREFORE, IT IS MYSELF AND MY FAMILY'S PRAYER THAT THIS PROJECT BE ALLOWED AS

(i) ALL SURROUNDING PARCELS/AREA ARE RESIDENTIAL (13)(b)(i)

(ii) 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; (13)(b)(iii)

THE ADJACENT PARCELS OWNERS HAVE BEEN NOTIFIED BY REGISTERED MAIL AND ALL REQUIRED DOCUMENTS HAVE BEEN UPLOADED TO THE PLANNING DEPT.,

RESPECTIVELY,

AGENT:

*J. H. L. B.*

DATE: AUG-31-2023

JHLB

## Appendix D



The Chairman,  
Central Planning Authority,  
Government Administration Building,  
Elgin Avenue,  
George Town,  
Grand Cayman, Cayman Islands.

November 8, 2023

Dear Sir,

**RE: Legal Submissions: Proposed Rezoning** of Block 32D, Parcels 320-322,339-341 & 355  
**(RZ23-0003)**

We act and appear on behalf of Mr. Charles Watler in respect of the proposal by Mr. Watler to initiate the rezoning process for the captioned parcels in accordance with his desire to change the zoning of those parcels from the current Agricultural/Residential zoning to Medium Density Residential zoning. The following Legal Submissions are made on behalf of Mr. Watler in that regard:

Firstly, it is submitted that it is simply inappropriate and would be erroneous in law for the CPA to apply section 41 of the National Conservation Act (“NCA”) to matters pertaining to Part II of the Development and Planning Act (2021 Revision) (“DPA”).

Part II of the DPA provides for the preparation and amendment of Development Plans.

Section 10(2)(b) provides that the CPA *“may, whenever it appears expedient, submit to the Cayman Islands Parliament proposals for alterations or additions to any development plan”*.

The procedural requirements for a section 10(2)(b) proposal are contained in section 11 DPA. Insofar as consultations by other public authorities are concerned, section 11(1) provides for the consultation of other public authorities “concerned with the development contemplated in the area concerned”. Section 11 then goes on to provide that the CPA must give such other public authorities an opportunity to make objections or representations.

Section 11(9) makes it clear that whilst the CPA may *“consult with such other bodies as they see fit”* and shall, before submitting proposals for alteration of the Development Plan to Parliament, *give such persons or bodies as aforesaid the opportunity to make objections or representations with regard thereto.*

Section 11(2) then sets out the public notification process which we are certain the CPA is familiar with, and thereafter any objections or representations received in response to that publication is referred to the Appeals Tribunal or a Development Plan Tribunal for an inquiry, which does not produce a decision but their recommendations as to the merits of such

objections or representations.

It is clear from these provisions that the CPA is NOT granting approval, or making any decision other than who it should consult for the purposes of the making proposals and ultimately what it should refer to Parliament as proposals for alteration to the Plan. That being the case, the only decision maker in this process is Parliament, which is certainly not bound to consult under the NCA.

It therefore follows that it is entirely inappropriate to insert into the section 10 and section 11 DPA process, section 41 of the National Conservation Act ("NCA"). Section 41 NCA is limited expressly to *"any action including the grant of any permit or licence and the making of any decision or the giving of any undertaking or approval that would or would be likely to have an adverse effect on the environment generally..."* In exercising its Part II DPA powers, the CPA are not taking an *"action"* in accordance with section 41 NCA, they are making a proposal to the Cayman Islands Parliament. The CPA are not *"granting"* or *"refusing"* an application for a rezoning, since that decision is exclusively in Parliament's domain.

However, if that is not accepted, it is submitted further or in the alternative that in respect of our client's proposal, there is no need in this case to consider the provisions of Section 41 (4), as no Protected Area or Critical Habitat has been identified in respect of the application by the DOE report. Therefore, there is no need or justification for seeking the consent of the NCC under section 41 (4) of the NCA.

Furthermore, it is submitted that section 41(3) is also not applicable in respect of our client's proposal as there is no reasonable basis upon which it could be determined that an there could be any adverse effect on the environment generally pursuant to section 2 of the NCA.

Section 2 of the NCA defines "adverse effect" as:

- "adverse effect" means an effect that may result in the physical destruction or detrimental alteration of a protected area, a conservation area, an area of critical habitat or the environment generally and includes —*
- (a) alterations that may impair the capacity of the area to function as a habitat beneficial to wildlife;*
  - (b) development that may increase the potential for damage to the area from floods, hurricanes or storms;*
  - (c) alterations of salinity levels, nutrient balance, oxygen concentration or temperature that may be harmful to wildlife or the ecological or aesthetic value of the area;*
  - (d) alterations of hydrology, water flow, circulation patterns, water levels or surface drainage that may be harmful to wildlife or the ecological or aesthetic value of the area or that may exacerbate erosion;*
  - (e) alterations that may interfere with the public use and enjoyment of the area;*



- (f) the discharge of pathogens, dissolved or suspended minerals or solids, waste materials or other substances at levels that may be harmful to wildlife or the ecological or aesthetic value of the area;*
- (g) changes in littoral or sediment transport processes that may alter the supply of sediment available for those processes or that may otherwise exacerbate erosion;*
- (h) alterations that may increase losses of the area from a rise in the sea level with respect to the surface of the land, whether caused by an actual sea level rise or land surface subsidence;*
- (i) emissions of air pollutants at levels that may impair the air quality of the area;*
- (j) alterations that may hinder or impede the movement or migration of wildlife;*
- (k) alterations that may impair the capacity of a beach ridge to function as a protective barrier and as a reserve of sand for beach nourishment during storms; and*
- (l) alterations that may impair the capacity of the area to act as a sink or reservoir of greenhouse gases or enhance its potential as a source of greenhouse gases."*

Although, for the reasons expanded upon further herein it is submitted that our client's proposal could not result in any "adverse effect", our client has, by way of letter dated 8 November 2023 provided detailed submissions as to the matters which section 2 (a-l) adverts. It is submitted that none of the "effects" identified therein are realistic potential outcomes in respect of our client's proposal for rezoning, for the reasons outlined in our client's letter.

We are also aware that the DOE has published "Guidance Notes" which provide, *inter alia* :

*"In order to comply with the Law all government entities shall consult with the Council if they are taking any action, granting any permission, taking any decision or giving or engaging in any undertaking which matches any of the following 'trigger' conditions.*

It is noted that our client's proposal does not fall within any of the "trigger conditions" of the Guidance Notes. In any event, as confirmed by the CICA, the Guidance Notes are not law and cannot be rigidly enforced. The CPA must decide for itself and provide reasons as to whether and why it should make a section 41(3) referral to the NCC.

It is further submitted that our client's proposal is for a section 10(2)(b) DPA proposal, not any form of physical development and therefore does not pose an actual likelihood of adverse effect on the environment generally.

We would submit that the DOE comments are instructive, in that, there is understandably no direct assertion raised that the rezoning from low density residential to medium density residential would have an adverse effect on the environment generally and there is certainly no recommendation that the proposed amendment should be referred to the NCC.

Indeed, it would be extremely hard to understand how such an assertion could possibly be made



since the subject proposal relates only to a request for the CPA to propose the rezoning of the subject lands to Parliament. The change in zoning must thereafter be considered by Parliament. The proposal by the CPA does not give the Applicant the right to do anything at all in terms of physical development. It is therefore also noted that condition 1 as proposed by the DoE is redundant.

Therefore, we would submit that once the CPA properly considers the implications of the subject rezoning proposal in its proper context, which is that the only outcome is a proposal to Parliament for rezoning from low density residential to medium density residential, then the CPA can and should properly conclude, for the purposes of Section 41 (3) of the NCA, that there is actually no possible way that this proposal could possibly constitute any actual risk of adverse effect on the environment generally which would warrant a referral to the NCC under section 41 (3) of the NCA.

In the circumstances, as it is not only inappropriate for section 41 NCA to be applied to Part II of the DPA, as well as there being no logical basis for asserting that the application could possibly bring about an adverse effect on the environment that warrants a referral to the NCC, and for the reasons outlined in our client's letter, we would urge the CPA to find that there is no lawful basis for referring this application to the NCC under Section 41(3) and provide its reasons for such decision on the bases outlined herein.

Respectfully submitted,

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JacksonLaw

## Appendix E

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Central Planning Authority  
Cayman Islands Government  
Grand Cayman

8 November 2023

**Re: Rezoning Application: RZ23-0003**

I am providing this letter in response to your communication to me on 31 October 2023 requesting that I address the Authority in light of section 41(3) and 2 (a-l) of the NCA in relation to my proposal to apply for a rezoning of a portion of my Subdivision P18-0070, from Low Density Residential (LDR) to Medium Density Residential, MDR. I note this Subdivision was approved by the Authority in 2018 as an LDR development.

Reviewing Section 2 of the NCA, I note that none of the property is a protected area, a conservation area or an area of critical habitat and therefore my response will address “an effect on the environment generally”. My response will also address the general environmental effect as it relates to the scope of my proposal from LDR to MDR. I note the DOE has indicated they have no direct concerns with the rezoning. I also make reference to my counsel, JacksonLaw’s letter of legal submissions, of even date, and note that I do not believe that my proposal for rezoning to does not fall within the scope of section 41 of the NCA, and/or cannot realistically result in any adverse effect, as defined by the NCA. Nonetheless, I make will provide the information contained herein for the benefit of the CPA in making its determination in respect of the proposal.

Two general facts are provided here as background for the CPA Members. When the original parcel was being subdivided several years ago, my family donated 2 acres to the Government. Circa 2015-2017, I met with the DOE (whom I understand represented the NCC) and offered them some of this land for conservation, but they did not wish to acquire it, presumably on the basis that it was of limited ecological value to them.

I also wish to comment on the area identified in the DOE Map in the CPA minutes as “dry forest and woodland”. I believe this is somewhat inaccurate as I am familiar with the property and have been maintaining it for over 50 years for farming. I would estimate the northern area they have identified as forest is overstated by about 30-40%. This may be a result of the use of outdated statistics.

In any event, in undertaking this subdivision, I have considered the natural habitat and allocated most of the wooded area in the northern boundary as LPP such that this land will not be developed. I will also be restricting usage of this land in the Subdivision’s Restrictive Covenants so that the land will not be cleared or significantly disturbed. I am also reserving a section as LPP at the front eastern boundary of the subdivision in this manner. See the areas marked in green in the Map below. These areas are shaded in green and represent approximately 2.7 acres or 115,375 sft. Furthermore, in the course of the development thus far, we have endeavored to preserve as many native trees as possible. We have also utilised many native trees in our landscaping and have planted about 30 such trees which include green buttonwood, silver thatch and birch.

The rezoning to MDR would represent a relatively small change in development density that would be highly unlikely to adversely impact the surrounding environment. The square footage density differential between LDR and MRD would likely be in the 20-25% region and this therefore represents a relatively moderate increase in density, but as the land is already approved for LDR development this change is negligible. Given the land has very high elevations of mostly over 30 to 40 ft in height, any future developments would sit well above the water table.

The land, at these elevations and with porous limestone provides ample natural drainage, even in severe heavy rains/hurricanes there is no flooding in this area as it sits about 30+ ft above the water table. Given these attributes, this is land some of the safest land on the island and best suited for housing. Therefore, rezoning this land from LD to MD will reduce the land area required for housing as it will be amore efficient utilization of land and will result in less removal of land from its natural state. As the subdivision is at a high elevation this also reduces the need for quarry fill to raise the land to meet the housing requirements, which is positive for the environment as reduces local mining and filling of wetland.

Below are my specific responses under section 2 (a-l) of the NCA:

- a) impairment of habitat beneficial for wildlife:
  - the land is already approved for development for LDR housing, this therefore does not seem applicable as approval already obtained nevertheless mitigating factors are stated above, herein, including location of LPP and supporting restrictive covenants
- b) Development that may increase damage from flooding:
  - the increase to MDR would seem to have a low risk of increase to flooding, as potentially would have 20% more housing, given the very high elevation above the water table, as described above and type of terrain this would seem to be minimal to no risk and we note the NRA and DOE did not mentioned any direct concerns with this in their comments.
- c) Alteration of salinity, nutrient balance, oxygen level:
  - the change to MDR does not appear to impact this.
- d) Alteration of hydrology/water flow/drainage/erosion:
  - this does not appear to apply as not coastal property. Drainage is addressed above.
- e) Public use:
  - the change to MDR would have no effect on public use.
- f) Discharge of pathogens, etc.:
  - the change to MDR from LDR would have little to no impact in this area.
- g) Changes in littoral/sediment/erosion;:
  - not coastal property so no impact.
- h) Alternation that may increase loss from sea rise:
  - no such alternations being undertaken and given the high elevation of land this is of little to no risk.
- i) Emissions of air pollutants:
  - change to MDR would present little risk of this
- j) Alteration that would impede movement of wild life:
  - change to MDR would have no impact on this.
- k) Alterations that may impair beach ridge:
  - Land is not a beach ridge so no impact.
- l) Impair capacity to act as sink of green house gases:
  - change to MDR would have no impact on this.



I respectfully submit my responses and trust they will assist you. I believe that I have given due consideration to the environmental impact while also balancing my rights of usage of the land as private property. As described above, 2 acres were previously given to the Government and the 2.7 acres I am preserving under the LPP restriction will represent a total of approximately 4.7 acres.

I believe our society will be better off with more families enjoying the benefits of affordable home ownership and this goal must be balanced in a fair and careful manner with those of the environment. In any event, I for the aforementioned reasons, and our counsel's submissions, I do not believe that my proposal for rezoning to MDR will have an adverse effect within this meaning of the NCA.

Yours sincerely,

Charles Watler, MBE, JP.

