Central Planning Authority

Minutes of a meeting of the Central Planning Authority held on August 16, 2017 at 10:00 a.m. in the Conference Room, 1st Floor, Government Administration Building, Elgin Avenue.

16th Meeting of the Year CPA/16/17

Mr. A. L. Thompson (Chairman) (except 2.14)
Mr. Robert Watler Jr. (Deputy Chairman) (except 5.1) (Acting Chairman 2.14)
Mr. Kris Bergstrom (except 2.15)
Mr. Peterkin Berry
Mr. Edgar Ashton Bodden (absent)
Mr. S. T. (Tommie) Bodden (except 5.1)
Mr. Joseph Coe (except 2.6)
Mr. Ray Hydes
Mr. Trent McCoy
Mr. Rex Miller
Mr. Eldon Rankin (except 2.15)
Mr. Selvin Richardson (apologies)
Mr. Fred Whittaker
Mr. Haroon Pandohie (Director of Planning) (arrived 10:50, left 2:00)
Mr. Ron Sanderson (Acting Executive Secretary)

1. Confirmation of Minutes
2. Applications
3. Development Plan Matters
4. Planning Appeal Matters
5. Matters from the Director of Planning
6. CPA Members Information/Discussions
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APPLICANTS THAT APPEARED BEFORE THE CENTRAL PLANNING AUTHORITY

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<tr>
<td>Mathew Tibbetts (MW)</td>
<td>10:30</td>
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<td>20</td>
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<tr>
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<td>11:30</td>
<td>2.1</td>
<td>5</td>
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1.0 CONFIRMATION OF MINUTES

1.1 Confirmation of Minutes of CPA/15/17 held on August 2, 2017.

Moved: Eldon Rankin
Seconded: Peterkin Berry
Confirmed
### 2.0 APPLICATIONS

#### APPEARANCES (Items 2.1 TO 2.2 & 3.1)

2.1 SMB DEVELOPMENT Block 13B Parcel 202 (F13-0217) (P17-0613) (P17-0614) (P17-0615) (P17-0616) ($12 million) (KA)

Application for a 10-storey building with ten (10) apartment units, underground parking, pool, wall and generator.

**Appearance at 11:30**

#### FACTS

<table>
<thead>
<tr>
<th>Location</th>
<th>Snooze Lane</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning</td>
<td>H/T</td>
</tr>
<tr>
<td>Notice Requirements</td>
<td>Objectors</td>
</tr>
<tr>
<td>Proposed Use</td>
<td>Apartments</td>
</tr>
<tr>
<td>Building Size</td>
<td>59,986 sq. ft.</td>
</tr>
<tr>
<td>Proposed Number of Units</td>
<td>10</td>
</tr>
<tr>
<td>Allowable Number of Units</td>
<td>30</td>
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<tr>
<td>Proposed Density</td>
<td>8/ac</td>
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<tr>
<td>Allowable Density</td>
<td>25/ac</td>
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<tr>
<td>Proposed Parking Spacess</td>
<td>22</td>
</tr>
<tr>
<td>Required Parking Spaces</td>
<td>15</td>
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#### BACKGROUND

CPA/27/13; Item 2.1 - The Authority granted permission for apartments.

**Decision**: It was resolved to adjourn the application in order for the Authority to further advise itself on the application.

#### AGENCY COMMENTS

Comments from the Department of Environment, Chief Environmental Health Officer and Water Authority are noted below.

**Department of Environment**

“Having reviewed the above mentioned application, the Department offers the following comments for the consideration of the Central Planning Authority:

- The application site is located on an active turtle nesting beach. All marine turtle species are listed on Part 1 of Schedule 1 to the National Conservation Law, 2013, i.e. species protected at all times, therefore:
A plan for turtle friendly lighting shall be submitted to the DOE for review and approval prior to installation of any landscaping or building lighting. Guidelines on turtle friendly lighting can be found on the DOE’s website: (http://doe.ky/marine/turtles/turtle-friendly-lighting/). The DOE will inspect all beach lighting for compliance with the plan once construction and installation are complete.

As part of the landscape scheme the applicant should be encouraged to retain as much of the beach vegetation as possible or plant appropriate native vegetation. Effort should be made to integrate the landscape scheme with the turtle lighting plan as retaining or planting a light screen – tall, thick vegetation – will help to minimize lighting problems by shielding lights from beach view. Lights behind these beach ridge buffers generally meet acceptable turtle lighting criteria.

No construction work should take place on the seaward side of the property during turtle nesting season (1st May – 30th November).

Before the commencement of construction work the applicant shall consult the DOE to ensure no turtle nests are on site.

Any sand excavated for pools, foundations or underground parking structures shall remain on site and be placed on the existing beach.”

Chief Environmental Health Officer

“The Department has no objections to the proposed.

1) An 8yd³ garbage container is required for this development with twice per week servicing.

Specifications for Onsite Solid Waste Enclosures:

<table>
<thead>
<tr>
<th>Container size (yd³)</th>
<th>Width (ft)</th>
<th>Depth (ft)</th>
<th>Height (ft)</th>
<th>Slab Thickness (ft)</th>
<th>Requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>8</td>
<td>10</td>
<td>10</td>
<td>5.5</td>
<td>0.5</td>
<td>Water, drain, deep well or other approved disposal method</td>
</tr>
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Swimming Pool:

1. Note that Section 3.2.1 of the Department guidelines clearly states. No swimming pool installation, alteration or repair work shall be commenced until a permit shall first be obtained from the department. That being said the Department is requesting full details of the swimming pool to be submitted for review and approval prior to the construction of the pool.

Generator:

1. Specification for the generator must be submitted to the Department for review and approval.”
Water Authority

“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.
- 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.

GENERATOR INSTALLATION
Please be advised that the Water Authority defers to the Chief Petroleum Inspector and Chief Fire Officer on requirements for fuel storage equipment (e.g., tanks, piping, etc) and installation.

Regarding groundwater protection for fuel storage tanks, the Authority requires the developer to install monitoring wells for underground fuel storage tanks (UST). The exact number and location(s) of the monitoring wells will be
determined by the Authority upon receipt of a detailed site plan showing location of the UST(s), associated piping, and dispensers. The monitoring wells shall comply with the standard detail of the Water Authority. All wells shall be accessible for inspection by the Authority.

In the event that the fuel storage tank and all piping are above ground, monitoring wells are not required.”

LETTER FROM THE APPLICANT’S ATTORNEY

“We are instructed by SMB Development Ltd. in respect of the captioned application for planning permission and, having reviewed the three letters of objection submitted by various objectors, there are a number of matters of a legal nature arising therefrom that we have been instructed to address, as outlined below.

Our client previously applied for and was granted planning permission by the CPA for a similar, albeit larger, type of development. Unfortunately, that permission was successfully challenged at the Grand Court appeal level on two discrete points of law. Rather than appeal the decision further to the Court of Appeal, our client decided that it would be expedient to wait for the government to pass revised regulations which specifically dealt with setbacks for 10 storey buildings. Furthermore, our client held multiple meetings with objectors and made certain concessions and has consequently redesigned the proposed development in the form of the current application, comprising a scaled-down, single building, high-end, single unit per floor condominium development. The party that appealed to the Grand Court, Grandview Strata Corporation ("Grandview"), has chosen not to object to this application. An objection has been filed by a single owner in Grandview, Mr. Neil Timms as well as the George Town Villas Strata Corporation ("GTV") and an individual owner from GTV, Mr. & Mrs. Tillotson.

Although our client is confident that this development should be approved by the CPA, as there is no valid basis for refusal, our client wishes to address certain aspects of the objections which have been made via the three letters of objections which have been filed against this application.

In order to put these objections into proper context, we need to consider the legal position as regards the instant application. In that regard, our client would submit the following:

The site is zoned Hotel/Tourism, which zone is governed generally by the provisions of Regulation 10 of the Development and Planning Regulations (2017 Revision) (the "DPR") and is located within the area designated as Zone 1 Hotel/Tourism pursuant to Schedule 4 of the DPR, for the purpose of determining the maximum permitted height of the building, as provided for by way of Regulation 8(8)(2)(e) of the DPR, which provides that the applicable height of any building on the proposed development site is one hundred and thirty feet or ten storeys, whichever is the lesser. We note that one of the objectors, Mr. Neil Timms, made a vague statement in his email of objection to the Planning Department dated 9 June 2017, where he stated “the proposal appears to contravene Regulations 8(2)(e) of the Development and Planning Regulations (2017 Revision).”. Despite this specious claim Mr. Timms offered no reasons in
support of his position and our client wishes to ensure the CPA that Mr. Timms claim is incorrect and misleading, as the development is well within the maximum height requirements of Regulation 8(2)(e) DPR. The planning set submitted and titles plan A-301 clearly show that the maximum height of the building is 126-1” and this has been confirmed by the Planning Reviewer. In addition there is a 4’ 11” additional height attributable to the elevator tower and mechanical shade roof. However, the CPA will be well versed in the contents of Regulation 8(4) of the DPR which provides that:

“Subregulation [8](2) does not apply to any chimney, storey below grade, church spine, dome, cupola, stage tower, water cooling tower, elevated water storage tank, elevator tower, radio or television antenna tower, smokestack, parapet wall or structure of a like nature, and any necessary appurtenant thereof...”

Our client therefore submits that pursuant to Regulation 8(2) of the DPR the additional 4’11” attributable to the elevator tower and mechanical shade roof are exempted from the general height requirements of Regulation 8(2)(e) of the DPR, as such structures are specifically exempted by Regulation 8(2), and therefore the building is entirely compliant with all applicable height regulations.

With regard to the other general planning considerations, regulation 10(1) of the DPR provides, inter alia, that:

“...apartments are permitted in Hotel/Tourism development zones if they comply with the following requirements-

(a) ...

(b) the maximum number of apartments is twenty-five per acre;

(c) the minimum lot size for hotels and apartments is half an acre with a minimum lot width of 100 feet;

(d) the minimum lot size for residential development within a hotel zone is 12,500 square feet and the minimum lot width 100 feet;

(e) the maximum site coverage for hotels and apartments is forty per cent of the lot size;

(f) the minimum rear setbacks are 25 feet from the road edge or lot boundary as the case may be; and

(g) the minimum rear setbacks are 25 feet from the road edge or lot boundary as the case may be...”

The proposed development complies with all of the applicable requirements of Regulation 10(1) of the DPR. Therefore, the applicant has not been required to apply for any variance. It is further submitted that the proposed development, being purely residential in nature, is the least obtrusive or potentially offensive type of development that could be proposed in any zone, but particularly so for the Hotel/Tourism zone, which permits “entertainment facilities related to the needs of the tourism industry”, per Regulation 10(3) of the DPR. Therefore, our client submit that the consideration of the approval of their application should be
approached on the assumption that the development, meeting all of the relevant development criteria, should be duly approved by the CPA unless there are valid grounds to warrant a refusal of the application. In short, whilst our client appreciates that the objectors’ are entitled to their own personal views as regards the aesthetics, design and scale of the proposed development as compared to their own developments, our client submits that there are no valid grounds raised in the objections to warrant refusal of the instant application.

All three objectors have each opined that the proposed development constitutes an “overdevelopment” of the site and will adversely affect the “character of the neighborhood”, seemingly on the basis that the building is significantly taller than the existing older buildings on surrounding lands. Firstly, it is wrong to say that this proposed development is “overdevelopment”, when it in fact is far less dense than what is permitted by law. Furthermore, this complaint is specious at best, and is a complaint that is often made by uninformed objectors, in various zones, who insist that the CPA must adhere to the style, design or scale of existing buildings. Such an approach would offend the very concept of planning control, which is, and should always be, forward-looking, rather than rearward looking. Indeed, addressing specifically the issue of the height of the building, our Legislative Assembly (“LA”) decided, on multiple occasions over the past two decades, to increase the permitted height of buildings firstly, circa 2003, from five storeys to seven storeys, then circa 2010, from seven storeys to ten storeys. Clearly, the intent of Parliament was to enable the permitting of the very type of building for which permission is being sought via this application. As most of the relevant zone is already developed with older buildings of a lesser height, it would make an absolute nonsense of the obvious parliamentary intent to increase the heights of buildings in the Hotel/Tourism zone to insist that any new building must conform to the heights of existing buildings in that area of the zone. Nonetheless, it is understood that this does not gainsay that the CPA cannot refuse planning permission for the current application, if it can be established on the evidence before it that the proposed development will cause harm to a recognized planning interest. However, it is submitted that the CPA must have viable and reasonable grounds for such refusal, and the complaints made by the objectors do not give rise to, let alone substantiate, any such valid reason for refusal. Although our client understands that aesthetics and design may be relevant factors for the CPA to consider in certain types of applications, where the same, in and of themselves, are grossly unacceptable or damaging to the amenity of the surrounding area, this argument simply cannot be reasonably made against the current application, which is for a single ten-unit luxury apartment building on a property located within the Seven Mile Beach Hotel/Tourism zone, particularly where the development is well below the permitted density of the site and is compliant with every relevant provision of the Law, the Development Plan and the Regulations.

Furthermore, unlike the provisions applicable to Residential Zone developments under Regulation 9 of the DPR, there is no “suitability test” for the siting of apartments that is applicable to Hotel/Tourism zoned developments, which is
primarily government by Regulation 10 of the DPR. The issue of site suitability is a requirement expressly reserved for Residential Zones, and therefore has no application, either expressly or impliedly, to the instant application.

The Seven Mile Beach Hotel/Tourism zone is comprised of Cayman’s most valuable property, and as already adverted to above, the Hotel/Tourism zone is, by its very nature, clearly intended to be used for the development of large scale hotel and apartment/condominium developments and that has resulted in the construction of the tallest buildings on Grand Cayman, with numerous seven to ten storey buildings being built alongside much lower, older three to five storey condominium developments. That has certainly been the trend in recent times, with virtually all recent developments being approved at a height of ten storeys, with many of the older developments having already been demolished and replaced by much taller buildings and with a number of others being slated for such redevelopment. Such is the nature of economic progress, and it is of little utility to lament the fact that very valuable land is being ‘over-developed’, on the basis that such development “is out of character with surrounding developments”, any more than such an argument would have worked back when the buildings currently housing the objectors were developed. Given the current extremely high price of land in this area, it is simply no longer feasible to develop low-rise buildings along Seven Mile Beach. The existing surrounding condominium developments were mostly constructed decades ago at a time when property on Seven Mile Beach had a very different price bracket and there was ample land available to build outwards, rather than upwards. There was also a different economic climate and, consequently, a different legislative regime, regarding the height of buildings in the area, and that is what dictated the height of buildings on Seven Mile Beach at that time, rather that this imaginary utopic concept of a “classic tropical paradise character” as advanced by one of the objectors. The Legislative Assembly of the Cayman Islands, exercising its statutory and constitutional powers regarding zoning of the Island of Grand Cayman, decided in 2010 that it was time to increase the permitted height of the buildings within the West Bay peninsula Hotel/Tourism Zone, so as to allow for the future construction of ten storey buildings. It is therefore submitted that it would not be appropriate or in keeping with the clear legislated intent of the LA for the CPA to give undue weight to the complaint that the development does not conform with surrounding developments, as, again, planning involves a forward-looking perspective which will necessarily involve changes to the development style and type in line with what is permitted via zoning created by parliamentary process. It would also be unjust to force a developer, who has purchased land in a Hotel/Tourism Zone, which land is priced based on such zoning, to be held to constructing a development that conforms to much older surrounding developments which were constructed and designed at a very different time in Cayman’s planning history, particularly where such a draconian measure would result in rendering the proposed development unfeasible.

Furthermore, our client submits that land availability is a material consideration. This supports our client’s position that the CPA should endeavor to always ensure
efficiency of land use. The most obvious way to conserve land availability and promote land utility is to develop upwards, rather than outwards. Land availability within the Seven Mile Beach Hotel/Tourism Zone is almost non-existent, and, even without a clear legislated mandate, normal economic factors would dictate that the density and heights of buildings in that zone would increase for future developments, as less and less land is available for development.

Furthermore, the Development Plan envisages a flexible approach to zoning and the entire legislative framework that governs the planning approval process requires each application to be considered on its individual merits. This militates against the objectors’ central argument that the CPA is required to adhere to a “common height properties” concept to anything being developed within the area. This, it is submitted is particularly so with the Hotel/Tourism Zone, which in and of itself promotes a greater mix of land use and a far wider range of types of development than most other zones.

Other complaints made by the objectors allege that the development will somehow damage the surrounding area by affecting “the view shed of several hundred of Seven Mile Beach’s prime units” which is a wholly imagined concept, and there has been further objection that the location of this building in such close proximity to neighbouring developments “will seriously detract from the rentability” of the existing apartment units. Our client submits that such allegations are ill-conceived and purely speculative, and would appear on their own face to be merely commercially-driven objections, based on the fear of competition for rental units, rather than a valid concern as regards planning control. In any event, our client would submit that such an objection is baseless and is not borne out by the abundant evidence that exists, as there many other areas along the Seven Mile Beach Hotel/Tourism zone where larger and taller adjacent developments have had a positive effect on property values and have done a great deal to bring additional tourism and real estate investment to Cayman.

Modern architecture may not be attractive to every person but that is the nature of all art and clearly our client has found significant interest in the style of the proposed development to warrant undertaking the construction of the same. Furthermore, our clients are not seeking any side-setback variances which would result in the development being any closer to the surrounding developments than that which is standard within the zoned area. These statements by the objector are simply far-fetched and fanciful assumptions based on the objector’s own personal views and wishes.

The objectors also appear to be suggesting that our client’s application should be refused due to the noise and inconvenience of the construction on surrounding properties. If that approach were taken, all construction in Cayman would have to be brought to a complete standstill, as the process of allowing new construction will obviously always cause some level of inconvenience to the surrounding properties during the construction phase. In that regard, our client fully intends to
take the usual reasonable measures necessary to mitigate any form of nuisance or annoyance to anyone during the construction phase.

It has been also alleged by one of the objectors that the proposed development will place an excessive burden on the current road system in the area. It should be noted that the developer has consulted with the National Roads Authority ("NRA") and that the NRA have no concerns in that regard, as after all, this development, despite its height, is only a ten unit condominium complex, and is by any standard a small development in terms of occupancy.

In summary, it is submitted that the proposed development does not infringe upon any of the zoning requirements and it is not an “overdevelopment” merely by being higher than the surrounding older developments. It is clear that the permitted form of development on Grand Cayman generally has changed in recent years, due to the limited availability of land, and particularly beach front land zoned as Hotel/Tourism. It is also clear that any future development will simply not be viable in the form which they once were. It is therefore submitted by our client that any proposal to refuse permission based on inconsistency with existing development is not a valid approach, especially in regards to Hotel/Tourism zoned land. Without question, our tourism and real estate investment industries have changed over the years, and our legislative framework has been under almost constant review in an attempt to keep up with the demand. For that reason alone, is it simply nonsensical to approach planning permission on the basis of tradition and to adhere to the style and scale of the development that is in situ. The idea that it is the function of the CPA to slavishly adhere to the style, design, etc. of existing development is therefore flawed and counterintuitive, in that, the very concept of planning is forward-looking, not “rearward” looking, and so there is no requirement for planning permission to conform to the existing scale density and massing of existing structures, particularly when the proposed application is for a different type of style of development. Obviously, the CPA should have regard to the existing development in the area in determining whether the proposed development will cause a demonstrable harm to a material planning interest, such as the amenity of the area, etc., but there is no requirement to enforce consistency with the surrounding existing development.

As indicated above, it is our client’s position that the applicable criteria for guiding the CPA in considering this application is found in the Regulation 10(1) of the DPR, which sub-regulation applies specifically to the Hotel/Tourism zone and as the current application meets all of the requirements of those provisions, the CPA should approve the application, as the objectors have failed to demonstrate that the development will cause actual harm to a material planning interest.

In the circumstances, we would urge the CPA to approve the project, subject to such reasonable and necessary conditions it sees fit.

We intend to fully ventilate the foregoing and to address any other relevant matters which the CPA may require of us at the hearing of this matter.”
OBJECTIONS

Letter #1

“We write as the Executive Committee of the Proprietors Strata #58 (George Town Villas (GTV) Strata Corporation). Our property is located immediately next to the land at Block13B Parcel 202, on the same side of Snooze Lane.

On behalf of the owners and residents at George Town Villas, we strongly oppose the planning application submitted by SMB Development Limited on behalf of the owners of Block 13B Parcel 202 for the creation of a new 10 storey high condominium with 10 apartment units, on the following grounds:

1. OVER-DEVELOPMENT OF THE SITE; DEVELOPMENT OUT OF CHARACTER WITH SURROUNDING AREA

Construction of eighteen new condominiums on this tiny area of land represents gross over-development of the site. Imposing this concentration of accommodation upon what hitherto has been a quiet backwater will transform this peaceful part of the beach into a “concrete and glass ghetto”.

Neighbouring buildings are established condominium complexes with spacious grounds, enjoyed by residents and many tourist visitors. None of the neighboring buildings exceed three storeys in height. The proposed new development will be totally out of character with the surrounding area and will destroy a peaceful part of the island.

We believe that current planning restrictions prohibit construction of buildings of this height in this area.

2. TRAFFIC CONGESTION

Since the opening of the World Gym, quiet Snooze Lane and all surrounding infrastructure is now at its full capacity. If allowed to proceed, construction of this property will create huge additional disruption and noise to residents in the vicinity. Once construction is complete, the additional traffic generated by the residents and visitors to the new development will cause yet further traffic hold-ups at the road junctions with West Bay Road. These junctions are already unable to cope with existing traffic flows and the new development will exacerbate this situation and present additional road traffic safety hazards.

3. ENVIRONMENTAL IMPACT ON BEACH

This part of the west-facing beach of Grand Cayman has hitherto had low-density development sympathetic to the natural landscape. No buildings exceed the height of a palm tree. The area is the first peaceful section of beach that cruise ship visitors get to enjoy when they walk out of town.

If allowed to proceed, this development will create huge pressure on a fragile area of the beach, frequented by turtles during their nesting season. Other wildlife resides on the lot. There is little point us considering installing turtle-friendly lighting and taking account of other environmental issues if a construction of this nature is allowed to proceed.
4. ADVERSE EFFECT ON GEORGE TOWN VILLAS SEWER DRAINS

Some of the sewer drains from George Town villas buildings run across this lot before connecting into the main sewer pipe system in Snooze Lane. There is a formal easement in place in recognition of this pipeline.

We therefore have no alternative but to object to the proposed development on the basis of the damage and disruption to the sewer pipe system serving George Town Villas."

Letter #2

"I write on behalf of Siobhan Mckenna Timms the owner of 13B 206H61 to object to the above application.

We reserve the right to amplify or amend the objection in the light of further information but state the following:

• The minimum regulatory side setbacks are insufficient given the site, the scale of the proposed building and the considerations of the Development Plan
• The proposal is an overdevelopment of the site, disproportionate and inappropriate to the location and its high rise block is out of character with and an overly dominant intrusion into its surroundings.
• The proposal will destroy the unique low rise low density character of the southern Part of Seven Mile Beach.
• The proposal will adversely impact the successful tourism model of adjacent developments.
• The proposal is inconsistent with the goals of the Department of Planning Mission Statement and the Development Plan.
• The proposal appears to contravene Regulation 8 (2) (e) of the Development and Planning Regulations (2017 Revision")

Letter #3

“We are Thomas and Deborah Tillotson, principals of DT Cayman Properties, the owner of Georgetown Villas #311 and wish to express our concerns with the proposal to build a 10 story, 10 unit condominium on Block 13B, parcel 202.

Our principal objection to the proposal is the impact it would have on the very character of the entire neighborhood surrounding the project. To be more specific:

1. We were married on 7 Mile Beach in front of the Seagull in 1980 by Justice of the Peace Panton. At that time we loved the idyllic nature of the area and held it dear in our hearts for the following 28 years while we went about our lives raising a family and building our businesses. Then in 2008 with the approach of our “senior years” we found the opportunity to return to Grand Cayman and rented a condo at the Tamarind Bay (the Seagull was booked). While excited about returning, we were apprehensive that the decades of development would have totally changed the character of the area and that
our fond memories would be just that. Instead we found that this part of the
beach had retained its classic tropical paradise character and the
development had wisely been steered to enhance and not destroy this valuable
character. Pleased by what we found we began returning to the island and
earlier this year bought our unit in Georgetown Villas. Now we are informed
of a proposal that attempts to capitalize on a very narrow strip of land next to
Georgetown Villas by squeezing 10 units into a ten story structure that would
tower over all the surrounding buildings and be visible from the units of not
only the abutting properties, but pretty much the entire neighborhood. One of
the essential characteristics of the common height properties in the
neighborhood, is that standing on the grounds of any one of them you get the
serene impression that you are secluded from the world and alone to enjoy the
beautiful Cayman beach, sea and sky with just your fellow property
neighbors. A beach front 10 story building would completely destroy that
characteristic that is a cornerstone of the value and enjoyment of all these
surrounding beach front properties.

2. In Grand Cayman there are about 2100 hotel rooms and 2700 rental units like
ours. Clearly, the value and quality of rental properties is vital to Cayman
tourism. The 10 story proposed building will affect the view shed of several
hundred of Seven Mile Beach’s prime units. Is a gain of 10 units a sufficient
offset to the degradation of tourism value to several hundred units?

3. The proposed site is very narrow. 10 story construction so close to
neighboring units will seriously detract from the rentability of those units. If
they are rented without disclosure and discount, the guests are likely to be
very unhappy. Currently, the units at GTV and surrounding properties enjoy
very high trip advisor and other ratings. This will risk very negative ratings. It
is a rule of thumb in the hospitality industry that one bad review offsets at
least 10 positive reviews. Multiply this by the number of units that would be
impacted by the nearby construction and the financial and reputation effects
start to add up to serious numbers. Further, based on the length of time it took
to complete other 10 story property down the beach (in a section of other tall
buildings) this impact could even continue up to two years or more! Is a gain
of 10 units worth this impact?

We appreciate that the owners of the lot should be able to develop the property in
a way that is financially viable. However, a 10 story 10 unit should not be the
only alternative. A 4 story saw tooth layout should be able to accommodate even
more units with ocean views with less construction impact and without permanent
degradation of the viewshed. Other alternatives are also likely available.
Accordingly, we plead that you take the entire picture into account and reject the
proposed project.”
PLANNING DEPARTMENT ANALYSIS

General
The application is for the construction of a 10-storey building with ten (10) apartment units, underground parking, pool, wall and generator. The site is located on the Snooze Lane.

Zoning
The property is zoned Hotel/Tourism.

Specific Issues

a) Compliance with the Regulations
The proposal would comply with the Development and Planning Regulations (2015 Revision) regarding building height, setbacks, density and site coverage. However the Authority should take into consideration the issues noted below.

b) Building Height
Regulation 8(2)(e) of the Development and Planning Regulations (2015 Revision), states the maximum permitted height of a building within the hotel tourism zone 1 shall be 130’ or 10 storeys, whichever is the less. The proposed 10 unit apartment building would be 10 storeys at 126’ above the finished grade. The Authority should note the elevator shaft does not count as part of the building height per Regulation 8(4). Furthermore, the Authority should note a basement is proposed below finished grade, which would comply with Section 8(4) of the Development and Planning Regulations. Although 10 storeys are permitted in this zone, the Authority should note the surrounding buildings in the area are 3-storeys.

c) Retaining Wall
The Authority should note the retaining wall would be 3’6” on the applicant side and 9’ facing the adjoining landowner. This retaining wall is to allow for the underground parking. The Authority should assess the suitability of the 9’ high retaining wall facing the adjacent landowners.

At 11:30am, Greg Abernethy, Selina Tibbetts, Sammy Jackson, Stefan Coghn, Catherine Spradlin, Ara Hacet, Michael Joseph, Troy Thomas and James Lagan appeared on behalf of the applicant. Tim Hepburn and Neil Timms appeared as objectors.

• It was brought to the Authority’s attention that the NRA’s comments did not get included in the Agenda. Copies were provided for the members. Also, copies were provided for the applicant and objectors outside of the meeting room for their review.

• After several minutes for all parties to review NRA’s comments, all parties were invited into the meeting room.

• The Authority summarized the procedure for the meeting.
Mr. Jackson noted that he now had signed copies of his letter that was included in the Agenda and he provided copies of same.

Mr. Timms raised a procedural issue in that the Chairman, AL Thompson, had previously prepared an affidavit in regard to the previous application and that document contained statements that Mr. Timms disputes. For this reason he asked that the Chairman recuse himself from the current hearing. The parties were asked to leave the meeting room while the Authority considered Mr. Timms’ request. The parties were then brought back into the meeting room and were advised that Mr. Thompson would not recuse himself as the affidavit he provided was based solely on the decision of the Authority at that time and it has no bearing on the consideration of the current, fresh application. The Chairman continued by advising the parties that the Authority did not want to hear submissions in regard to the previous application.

The Director advised Mr. Timms that his letter had been received after the Agenda have been prepared and delivered and therefore was not included in the Agenda. Mr. Jackson stated that he did not object to Mr. Timms providing the submission as long as it did not contain the document related to the tourism industry. They do not know the origin or veracity of the document and it is not based on the tourism industry in Cayman. He strenuously opposes it being submitted. Mr. Timms’ letter was accepted without the tourism industry document (see Appendix ‘A’).

Mr. Jackson summarized the details of the application.

There was discussion regarding the high water mark as shown on the survey plan versus the edge of the man-made excavated area. The applicant’s contention is that the setback should be measured from the legal high water mark and not the excavated area, but if the Authority does not concur then they would seek a variance for that setback as it is less than 130’.

Mr. Jackson spoke to several other issues:
- the retaining walls along the side boundaries are necessary and these must be measured from the elevation of the applicant’s land
- basement parking and roof structures are exempt from building height
- there is a presumption in favour of approval unless it can be shown that there is demonstrable harm to a material interest
- the Regulations allow 10 storeys in this zone and just because currently there aren’t other 10 storey buildings next door that is not sufficient reason to deny the application

Mr. Timms summarized his letter (see Appendix ‘A’).

Mr. Hepburn noted that he represents Georg Town Villas. He spoke to several issues:
- traffic congestion and NRA’s comments
- environmental impact on the beach
- the location of their sewer line on the subject lands
- over development of the site
- the project is not in keeping with the character of the area

• In response to the objectors, Mr. Jackson re-emphasized several of the points he raised earlier and in his letter that is in the Agenda.

• Mr. Lagan noted that as a developer he feels no entitlement to anything that may be allowed in the Regulations. He noted that for such a large project there were only three objectors and that is relevant. He noted that the Grandview Strata didn’t object because he had met with them and worked out the issues.
2. 2 MR. MATTHEW TIBBETTS Block 13D Parcel 230 (F17-0104) (P17-0478) ($325,000) (MW)

Application for eight (8) studio apartments.

Appearance at 10:30

FACTS

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<td>Number of Units</td>
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BACKGROUND

October 24, 2014 (CE13-0024) - Illegal goats and structures closed.

July 19, 2017 (CPA/14/17; Item 2.9) – The Authority adjourned the application to invite the applicant to appear before the Authority to discuss concerns regarding the application.

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

Conditions (1-4) listed below shall be met before permit drawings can be submitted to the Department of Planning.

1) If not already shown on the site plan, the applicant shall submit a site plan that shows the location, dimensions and size of the wastewater treatment system (including the disposal system). The treatment system must be labelled as either a septic tank or an aerobic wastewater treatment system, whichever is applicable.
2) If not already shown on the site plan, the applicant shall submit a site plan showing tire stops for the parking spaces and the parking area curbed and surfaced with asphalt or concrete.

3) The applicant shall submit a Stormwater Management plan designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority. The applicant should liaise directly with the NRA in submitting the stormwater management plan.

4) The applicant shall submit a landscape plan which shall be subject to review and approval by the Central Planning Authority. It is suggested that the landscape plan be prepared following the recommendations of the Draft Cayman Islands Landscape Guidelines, found on the Planning Department’s website (www.planning.ky) under Policy Development, Policy Drafts.

In addition to Permit requirements, condition (5) listed below shall be met before a Permit can be issued.

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

6) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.

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

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

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

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

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

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

1. Per Regulation 9(6) of the Development and Planning Regulations (2015 Revision), the Authority is satisfied that the site location is suitable for apartments as follows:
   - There are no physical constraints on the site that would prevent the development of apartments.
   - There are several apartment developments in the surrounding area and the proposed apartments are consistent and compatible with the established building character of the area.
   - There is sufficient infrastructure at this site (e.g. public road, water line, electrical service) and in the area (commercial retail, grocery stores, etc.) to support the residents of the proposed apartments.

2. With the exception of the density, front/rear/side setbacks, lot width and number of parking spaces, which are addressed below, the application complies with the Development and Planning Regulations (2015 Revision).

3. The proposed application does not comply with the maximum allowable density and the minimum required number of parking spaces, lot width, and front/side/rear setbacks per Regulations 8(1)(vii) and 9(6)(c)(f)(h) and (i) of the Development and Planning Regulations (2015 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser number of parking spaces, lesser lot width, additional density and lesser setbacks as follows:
   a) The characteristics of the proposed development are consistent with the character of the surrounding area;
   b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
   c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.

AGENCY COMMENTS

Comments from the Chief Environmental Health Officer, Water Authority and National Roads Authority are noted below.

Chief Environmental Health Officer

“The Department has no objections to the proposed in principle.

The developer is required to have no less (8) 32 gallon garbage bins.

Minimum Enclosure Dimensions for Manual Collection:

Number of Containers 8
Dimensions (ft) Width 5.0  Length 10.00 Height 2.50”

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 (2,000) US gallons for the proposed. 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.

• 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 must enter the disposal well at a minimum invert level of 4’4” 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 watersupply 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 Authority shall not be held responsible for delays and/or additional costs incurred by the developer due to the developer’s failure to provide sufficient notice to the Authority.”

National Roads Authority

“As per your memo dated June 2nd 2017 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 impact of the proposed development onto Brushy Avenue is considered to be minimal.

**Access and Traffic Management Issues**

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

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

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

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

**Stormwater Management Issues**

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

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

- The stormwater management plan shall include spot levels (existing and finished levels) with details of the overall runoff scheme. Please have applicant provide this information prior to the issuance of a building permit.

- Construct a gentle ‘hump’ at the entrance/exit (along the entire width of each driveway) in order to prevent stormwater runoff from and onto Brushy Avenue. 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. If 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.

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.”

LETTER FROM APPLICANT

“I am humbly seeking your consideration of the following variations as I am working to improve the quality of developments in the area locally known as “Swamp”. With this submission I am seeking six exemptions.

**Number of Units Allowed for size of Parcel**

I am seeking an exemption on the number of units allowed for the size of the parcel. As this property is 0.15 of an acre, I would typically only be allowed to build 4 units; however, I am requesting to build 8 studio units, albeit these units are significantly smaller than the typical dwelling as they are studio apartments.

It is important to note that while this exceeds the normal limit it is significantly less than what is typically found in this area for the size of land and is also proportionately less than recent approvals such as the Yellow Bird complex located in the area known as “Rock Hole”.

**Variance on Building Setbacks**

I am seeking a variance on the required setbacks for the building. With this parcel of land being a corner lot, I am required to have setbacks of 20 feet on all sides. I am therefore seeking an exemption to allow me to have setbacks on the “sides” (when facing the property from Brushy Avenue) to be reduced to 10 feet and from the rear to be reduced to 10 feet also. While these setbacks are reduced from the standard, they are still significantly more than what can be seen in many other properties in this area where some individuals have built right up to their border.

**Variance on Septic Tank Setback**

The septic tank is within the setback required on the left side. As mentioned previously, the setback would typically be 20 feet as a result of this being a corner lot. However, I am seeking permission for the septic tank to be placed inside the setback.

**Variance on Parking Spaces**

I am seeking an exemption on the number of parking spaces required, which is less than the standard requirement of 1.5 spaces per apartment. However, the ratio of parking spaces to apartments presented in this plan is still more than has
been recently approved in similar complexes such as Yellow Bird apartments in the area known as Rock Hole, which provided only 17 parking spaces for 24 apartments (0.71 parking spaces per unit). I am seeking your approval to have 6 parking spaces for 8 units (0.75 parking spaces per unit). Please note that the units in this plan are anticipated to rent for approximately $500 to $600 per month. With this price range and the close vicinity to bus stops it is anticipated that many of the tenants will not have vehicles of their own; which is in line with what I have experienced in both of my other complexes which have 8 and 7 studio apartments in the same area.

**Variance on Size of Parking Spaces**

Additionally, I am seeking to have parking spaces which are 8’ wide versus the required 8’-5”. This small change allows us to fit the 6 parking spaces and provide most tenants with an option to park if needed.

**Variance on Lot Width**

Lastly, as you will be aware, the minimum lot width is 100 feet for apartments and for this property is only 85 feet in width. However, when compared to the other properties in the area, many properties do not meet the minimum width. Additionally, these are studio apartments which are smaller than the typical apartment.

In accordance with the Development and Planning Regulations Section 8(13) the Authority may grant permission for such variances as mentioned above where notifications were sent out with no objections and the development will not have a detrimental impact on anyone. Additionally, this development's characteristics are consistent with the surrounding area.

*I am therefore humbly seeking your approval of this development.*

Thank you for your consideration of this project.”

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for eight (8) studio apartments. The site is located at the corner of Brushy Avenue and Greenwood Drive, George Town.

**Zoning**

The property is zoned High Density Residential

**Specific Issues**

a) **Suitability**

The site is located in an area with several existing apartments and houses. The continued development of apartments is consistent with the existing development within the neighbourhood.
b) **Density**

The maximum allowable amount of units for the parcel is 3.75 units. However, the applicant has proposed eight (8) units.

c) **Setbacks**

Regulation 9(6)(h) states the minimum front and rear setbacks shall be 20'. As the site fronts two street, the applicant is requesting a 10' rear setback, a 10' setback from Greenwood Drive, and a 6' side setback for the septic tank.

d) **Number of Parking Spaces and Parking Layout**

The applicant is proposing 6 parking spaces for 8 apartments, while 12 are required per Regulation 8(1)(vii).

Furthermore, the applicant requests the parking stall widths be reduced to 8’0” versus the required 8’6” (Regulation 8(1)). There is also inadequate reversing space for the two stalls fronting the building.

e) **Lot width**

Regulation 9(6)(f) states the minimum lot width is 100' for guest houses and apartments, while the site is 85' wide.

The applicant has submitted a letter outlining their reasons for the variance request for setbacks, density, parking and lot width. The parcels within the 250' notification radius were notified and no objections were received. The Authority should assess whether exceptional circumstances exists in accordance with section 8(13)(b)(d) to warrant granting the numerous variances.

At 10:30am, Matthew Tibbetts appeared as the applicant. There was discussion regarding certain matters as follows:

- He is developing another apartment complex on 13D 423. With that project he has found that a lot of the tenants don’t have vehicles and they live here because it is close to bus routes.
- Mr. Tibbetts view that these types of efficiency units are in high demand and they improve the area.
- He referenced another project in Rock Hole that is 24 apartments with 17 parking spaces. His project has 75% of the parking for 8 units which is a higher percentage than the Rock Hole project.
- He stated that there are other apartment projects in the area on lots with the same width and there are similar densities in the area as his project.
2.3 ISLAND PROPERTIES LTD Block 1C Parcels 83, 84 and 85 (F17-0169) (P17-0777) (P17-0778) (P17-0779) ($3.7 million) (KA)

Application for forty-four (44) apartments, cabana and swimming pool.

FACTS

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

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

1) The applicant shall provide a copy of the submission made to the Registrar of Lands to combine Block 1C Parcels 83, 84 and 85.

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). The treatment system must be labelled as either a septic tank or an aerobic wastewater treatment system, whichever is applicable.

3) If not already shown on the site plan, the applicant shall submit a site plan showing tire stops for the parking spaces and the parking area curbed and surfaced with asphalt or concrete.

4) The applicant shall submit a Stormwater Management plan designed in accordance with the requirements of the National Roads Authority (NRA) and approved by the Central Planning Authority. The applicant should liaise directly with the NRA in submitting the stormwater management plan.

5) The applicant shall submit a landscape plan which shall be subject to review and approval by the Central Planning Authority. It is suggested that the
lenscape plan be prepared following the recommendations of the Draft Cayman Islands Landscape Guidelines, found on the Planning Department’s website (www.planning.ky) under Policy Development, Policy Drafts.

In addition to Permit requirements, conditions (6-7) listed below shall be met before a Permit can be issued.

6) Construction drawings for the proposed wastewater treatment system and disposal system shall be submitted to the Water Authority for review and approval. The Central Planning Authority must receive confirmation of the Water Authority’s approval.

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

8) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.

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

Additionally, once construction has started, conditions (10-11) shall be complied with before a final Certificate of Occupancy can be issued.

10) Block 1C Parcels 83, 84 and 85 shall be combined and registered with a new parcel number.

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

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

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

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

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

Reasons for the decision:

1. Per Regulation 9(6) of the Development and Planning Regulations (2017 Revision), the Authority is satisfied that the site location is suitable for apartments as follows:
   - There are no physical constraints on the site that would prevent the development of apartments.
   - There are several apartment developments in the surrounding area and the proposed apartments are consistent and compatible with the established building character of the area.
   - There is sufficient infrastructure at this site (e.g. public road, water line, electrical service) and in the area (commercial retail, grocery stores, etc.) to support the residents of the proposed apartments

2. With the exception of the bedroom density, which is addressed below, the application complies with the Development and Planning Regulations (2017 Revision).

3. The proposed application does not comply with the maximum allowable bedroom density per Regulation 9(6)(c) of the Development and Planning Regulations (2017 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the additional bedroom density as follows:
   - The characteristics of the proposed development are consistent with the character of the surrounding area;
   - The proposed development is significantly under the maximum allowable apartment density and this offsets the request for additional bedrooms; and
   - The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare.

**AGENCY COMMENTS**

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

**Department of Environment**

“Having reviewed the above mentioned application, the site consists of primary dry forest and shrubland habitat on the southern half of each lot. Therefore,
native vegetation should be retained as much as possible and incorporated into the landscaping scheme especially at the rear of the property. Encroachment of the parking area into the rear setback is noted, and would limit the ability to implement the recommended natural buffer.”

**Water Authority**

“Wastewater Treatment and Disposal

The developer, or their agent, is required to submit an Onsite Wastewater Treatment Proposal, per the attached Form, which meets the following requirements. Water Authority’s 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 6,600 US gallons per day (gpd).

- Treated effluent from the ATU shall discharge to an effluent disposal well-constructed by a licensed driller in strict accordance with the Authority’s standards. Licensed drillers are required to obtain the site-specific minimum borehole and grouted casing depths from the Authority prior to pricing or constructing an effluent disposal well.

- To achieve gravity flow, treated effluent from the ATU must enter the disposal well at a minimum invert level of 4’7” above MSL. The minimum invert level is that required to maintain an air gap between the invert level and the water level in the well, which fluctuates with tides and perching of non-saline effluent over saline groundwater.

**Water Supply:**

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**

“Road Capacity Issues

The impact of the proposed development onto North West Point Road is considered to be minimal.

**Access and Traffic Management Issues**

Two-way driveway aisles shall be a minimum of twenty-two (22) ft. wide.
Entrance and exit curves shall have no less than fifteen (15) feet radius curves, and have a width of twenty-four (24) ft.

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

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

**Stormwater Management Issues**

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

- The applicant shall demonstrate, prior to the issuance of any Building Permits, that the Stormwater Management system is designed to embrace stormwater 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 Northwest Point Road. Suggested dimensions of the ‘hump’ would be a width of 6 feet and a height of 2-4 inches. Trench drains often are not desirable.

- Curbing is required for the parking areas to control stormwater runoff.

- Roof water runoff should not drain freely over the parking area or onto surrounding property. Note that unconnected downspouts are not acceptable. We recommend piped connection to catch basins or alternative stormwater detention devices. If 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.

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.”

**LETTER FROM APPLICANT**

“Further to the application submitted in relation to the above referenced Project, we hereby request for a Side Setback variance of which requires 15’ from the property line; and a Density variance of which requires a 1.45 acre parcel (63,162 sq. ft.) to have a maximum of 36.25 apartments and 60.9 bedrooms in a High Density Residential Zone.

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

A. Under Regulation 8 (13)(d), the adjoining property owners have been notified of the application, and that the lesser setback only affects Building #1, #2 & #3 under the following circumstances:

1) There is not enough space for us to move the Building further into the minimum required 20’ setback line due to the limited space we have to maintain a functioning parking & driveway area, as well as an accessible sidewalk access to the units; and

2) In relation to above, the encroachment comes from the back patio, which goes beyond the setback line by approximately 6’-6”. This back patio is not under any roof covering.

B. Under Regulation 8 (13)(b), the characteristics of the proposed development are consistent with the character of surrounding area and the proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or to the public welfare. We’d like to present the following points for consideration:

1) While we have exceeded eight (8) units to the maximum allowed no. of apartments in this development, we have tried to make up for this excess by having our number of bedrooms way below the maximum limit. We only have a total of 44 bedrooms, whereas we are allowed to have up to a maximum of 60; and

2) We have sufficient number of parking for all the units; and

3) We comply with the site coverage and setbacks. We have a total site coverage of 30% while the allowable site coverage is 40%.

If you require additional information or further clarification, please don’t hesitate to contact us at the numbers & e-mail below. Thank you and God bless.”
PLANNING DEPARTMENT ANALYSIS

General

The application is for forty four (44) apartments, swimming pool and cabana. The site is located north of the Turtle Farm on North West Point Road.

Zoning

The property is zoned High Density Residential and the Department would offer comments on certain issues provided below.

Specific Issues

a) Suitability

Pursuant to Regulation 9(6) of the Development and Planning Regulations (2017 Revision), apartments are permissible in suitable locations. The surrounding land uses in the area are apartments, single-family dwelling houses, commercial, Turtle Farm and vacant properties. The Authority must determine if the site is suitable for the proposed apartments.

b) Density

Pursuant to Regulation 9(6)(c) of the Development and Planning Regulations, the maximum allowable apartments and bedrooms are noted below.

<table>
<thead>
<tr>
<th>Acre</th>
<th>Proposed Units</th>
<th>Proposed Bed Rms.</th>
<th>Allowable Units</th>
<th>Allowable Bed Rms.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.393</td>
<td>44</td>
<td>44</td>
<td>34</td>
<td>58</td>
</tr>
</tbody>
</table>

The Authority should determine whether or not the number of apartments and bedrooms should be reduced to comply with density requirements as outlined in the regulations. From a planning perspective, the applicant has not demonstrated that there is sufficient reason or exceptional circumstance to warrant the required variances.

c) Setbacks

Although the applicant has address the need for a rear setback variance for the fenced patios behind buildings 1, 2 and 3, those setbacks are in fact side setbacks and the fenced patios would comply with the required 10’ setback, negating the need for the granting of a variance.
2. 4 DIGITAL PROMOTIONAL ADV. Block 14C Parcel 230 (FA92-0060) (P17-0877) ($7,000) (KA)

Application for a digital sign.

FACTS

Location
Junction of Shedden Rd & Thomas Russell Way

Zoning
G COM

Notice Requirements
No Objectors

Sign Size
30 sq. ft.

Decision: It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss details of the application.

PLANNING DEPARTMENT ANALYSIS

General

The application is for a 30 sq. ft. digital sign on the same parcel as L&T Tyre Sales Shop, adjacent to Thomas Russell Way, George Town. The applicant has indicated that the sign, if approved, would be powered through a permanent CUC connection.

Zoning

The property is zoned General Commercial and the Department would offer comments on certain specific issues addressed below.

Specific Issues

a) Suitability

The Authority should consider the suitability of the proposed sign which is meant for general advertising and not in relation to any development on the site. The sign would comply with the maximum size requirement and minimum setback requirements. The Authority is reminded of the Sign Guidelines adopted in 2014 regarding digital signs:

a. The sign must have an automatic dimmer control to produce a distinct illumination change between the higher day-time illumination level and the lower night-time level. Day or night, no sign may be of such intensity or brilliance as to impair the vision of a reasonably eye-sighted motor vehicle driver or to otherwise interfere with the driver’s operation of a motor vehicle. Also, no sign may be of such intensity or brilliance that it interferes with the effectiveness of a traffic sign or signal
b. Digital signs shall have a minimum display time of 8 seconds. The transition time between messages is limited to 1 second.

c. The following digital display features and functions are prohibited: scrolling, flashing, spinning, rotating, fade, dissolve, full video or any other moving effects.

d. Digital signs (freestanding or building) may be no larger than 32 square feet.

e. Signs must be turned off between the hours of 10:00 p.m. – 6:00 a.m.

2. 5 LOXLEY BANKS E.M. Block 9A Parcel 645 (F95-0299) (P17-0899) (CS)

Application to modify planning permission in regard to a condition of approval for a subdivision pertaining to the filling of two lots.

FACTS
Location
Yates Drive, West Bay

Zoning
LDR

Current Use
Subdivision

Number of Lots
2

BACKGROUND
October 18, 1995 (CPA/33/95; Item 6.4) - The Authority granted planning permission for a residential subdivision, subject to the following condition:

f) The lots shall be filled to a minimum of four (4) ft. above mean sea level.

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 Law (2015 Revision) hereby orders that planning permission CPA/33/95; item 6.4 be modified, by replacing condition f) with the following condition:

“f) The lots shall be filled to a minimum of four (4) ft. above mean sea level prior to the final survey plan being finalized with the exception of lots 15 and 27, as those lots must be filled to a minimum of four (4) ft. above mean sea level prior to the issuance of a permit for any construction on the parcels.”

All other conditions of CPA/33/95; item 6.4 remain applicable.

LETTER FROM APPLICANT

“My client, Ms. Banks, is proposing to sell two parcels abutting 9A/659 to the north (lots A & B), but when the surveyor went to submit the application he was
advised of Condition (f) of CPA/33/95 Item 6.4. This part of the subdivision is the lowest but for whatever reason(s) parcels 9A659 and 9A/674 - 9A676 (inclusive) have all been sold and three have been built on and none of them had to comply with Condition 'f' prior to building.

My client is not asking for the condition to be deleted, but rather deferred until the new owner(s) is ready to build their house. We are therefore asking that Condition 'f' be modified to read

"lots A and B shall be filled to a minimum of four (4) ft. above mean sea level prior to a Certificate of Occupancy being issued for any building on either Lot A or B."

I trust that this letter, completed Modification application and fee are sufficient to comply with the submission requirements and that the Authority will see fit to grant this Modification at its earliest convenience.”

PLANNING DEPARTMENT ANALYSIS

General

The applicant is requesting planning permission be modified in regard to a condition of approval for a subdivision pertaining to the filling of two lots.

Zoning

The property is zoned Low Density Residential.

Specific Issues

a) Planning Restrictions

The underlying subdivision was approved subject to a condition that the lots must be filled to a minimum 4’ above mean sea level. The Department confirms Parcels 659, 675, and 676 were not filled as required, but the restrictions were released from the lots and houses were administratively approved. The Department cannot determine why the restrictions were released from those three lots.

The applicant of this application is the same as the applicant of the original subdivision application. He wishes to now defer the filling of two parcels in questions until a future owner is ready to build a house versus having the lots filled prior to transferring ownership.

The Authority should consider whether it is suitable for a future land owner to be responsible for filling these lots.
Application for an after-the-fact guard rail.

Joseph Coe declared a conflict and left the meeting room.

FACTS

Location: North Church Street, George Town Central
Zoning: G COM
Notice Requirements: NA
Parcel Size: 0.26 acres
Current Use: Commercial
Proposed Use: Fence

BACKGROUND

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

June 22, 2016 (CPA/14/16; Item 2.1) - The Authority resolved to modify planning permission for an office/restroom building and commercial cabana to exclude Block OPY Parcel 8 from the proposal.

March 29, 2017 (CPA/07/17; Item 2.5) - The Authority granted planning permission for an after-the-fact commercial development, subject to the following condition:

1) The existing post and rope fence shall be removed and replaced with a guard rail in accordance with the Building Code. The applicant is directed to liaise with the Department in this regard.

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

1. The applicant is required to re-notify the adjacent land owners using full and complete mailing addresses.

PLANNING DEPARTMENT ANALYSIS

General
The applicant is requesting planning permission for a 42” rope guard rail.

Zoning
The property is zoned General Commercial.
Specific Issues

a) Setback Variances

Regulation 8(10)(a) provides for a 75’ High Watermark Setback in the Central George Town area. The site is very shallow and nearly the entire site falls within the setback. The guard rail has been placed on an existing seawall, where its closest distance from the HWM is 29’. The Authority must determine if the location of the guard rail is acceptable per the provisions of Regulation 8(11).

2. 7 PHOENIX CONSTRUCTION LTD Block 73A Parcel 111 (F15-0012) (P17-0641) ($700,000) (CS)

Application for a house, pool and cabana.

FACTS

Location Austin Connolly Drive, Colliers

Zoning H/T

Notice Requirements No Objectors

Parcel Size 25,700 sq. ft.

Current Use Vacant

Proposed Use House and Pool

Building Size 5,107 sq. ft.

Building Coverage 12%

Proposed Parking 4

Required Parking 2

Number of Units 2

BACKGROUND

April 1, 2015 (CPA/07/15; Item 2.6) - The Authority granted planning permission for a house.

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

1) The applicant is required to apply for a Permit from the Director of Planning. Construction shall not commence prior to the issuance of a Permit.

2) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.
Additionally, once construction has started, condition (3) shall be complied with before a final Certificate of Occupancy can be issued.

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

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

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

Reasons for the decision:

1. With the exception of the high water mark setback and the side setbacks, which are addressed below, the application complies with the Development and Planning Regulations (2017 Revision).

2. The proposed application does not comply with the minimum required side setbacks per Regulation 10(1)(f) of the Development and Planning Regulations (2017 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is sufficient reason and exceptional circumstance to allow the lesser setback as follows:
   a) The characteristics of the proposed development are consistent with the character of the surrounding area;
   b) The proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighbourhood, or to the public welfare; and
   c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.

3. The proposed development does not comply with the minimum required setback from the high water mark per Regulation 8(10)(e) of the Development and Planning Regulations (2017 Revision). Pursuant to Regulation 8(11), the Authority may allow a lesser setback having regard to:
   a) the elevation of the property and its environs;
   b) the geology of the property;
   c) the storm/beach ridge;
   d) the existence of a protective reef adjacent to the proposed development;
   e) the location of adjacent development; and
f) any other material consideration which the Authority considers will affect the proposal.

In this instance, the Authority is of the view that:

- The reasons for the decision of CPA/22/13; Item 2.6 wherein the subject lot was created through subdivision approval remain valid and are a reasonable material consideration to apply to the subject development. As such, the proposed high water mark setback and side setbacks are sufficient.

**AGENCY COMMENTS**

Comments from the Department of Environment are noted below.

**Department of Environment**

“Having reviewed the above mentioned application, the Department notes that the site consists of primary coastal shrubland habitat and is located on an active turtle nesting beach. The following conditions should be included in any grant of approval:

- As the subject parcel is located on an active turtle nesting beach and all marine turtle species are listed on Part 1 of Schedule 1 to the National Conservation Law, 2013, i.e. species protected at all times, a plan for turtle friendly lighting shall be submitted to the DOE for review and approval prior to installation of any lighting for landscaping or buildings. Guidelines on turtle friendly lighting can be found on the DOE’s website: (http://doe.ky/marine/turtles/turtle-friendly-lighting/). The DOE will inspect all beach lighting for compliance with the plan once construction and installation are complete.

- In addition to being located on an active turtle nesting beach the subject parcel consists of primary coastal shrubland habitat therefore it is recommended that clearing should be kept to the building footprint and the applicant should retain as much native vegetation as possible, incorporating it into the landscaping scheme.

  - It is recommended that the applicant makes an effort to integrate the landscape scheme with the turtle friendly lighting plan. It is in the applicant’s best interest to retain as much of the native vegetation as possible as this vegetation is best suited for the habitat conditions of the site, resulting in vegetation that requires less maintenance, and is therefore a very cost effective choice.

  - Retaining or planting a light screen – tall, thick vegetation – will help to minimize lighting problems by shielding lights from beach view. Where mature vegetation is removed the applicant shall be required to plant appropriate native vegetation for use as a light screen. Lights behind these beach ridge buffers generally meet acceptable turtle lighting
criteria. • No construction work on the beach should take place during turtle nesting season (1 May – 30 November).

• Prior to commencement of construction, the applicant shall contact the DOE to ensure no turtle nests are on site.

• Any sand excavated for the purpose of constructing the pool or foundations shall remain on site and be returned to this beach system.”

LETTER FROM APPLICANT

“On behalf of our client Mr. Paul Amirault, we are requesting that a sea side setback variance be granted for the house and swimming pool along with associated works per the setbacks showing in the attached drawings.

The house has been designed with adequate setbacks, maintaining the setback line as established be existing houses located on the adjacent properties of approximately 75 ft.

We note the house itself, is set back approximately 105 ft. from the High-Water Mark. The pool and pool deck is designed to be at the 75 ft set back requirement of the Planning Regulations for a low density/residential zone however, the block and parcel are zoned for hotel/tourism. Given the above, we ask that you consider favorably our request for a sea side setback variance.

We also note that it appears that variances relating to setbacks from the High Water Mark have been granted in the recent past, thus setting the precedent for this request.”

PLANNING DEPARTMENT ANALYSIS

General
The application is for a house, pool and cabana.

Zoning
The property is zoned Hotel/Tourism.

Specific Issue
a) Setbacks
The applicant is seeking the Authority’s permission for a high water mark setback variance at 75’ instead of the required 130’. Additionally, the side setbacks are 15’; whereas, the minimum setback is 20’. The Authority is reminded that a 14’ side setback was granted for Parcel 115, which is part of this subdivision granted on July 25, 2014; CPA/17/14; item 2.7). The Authority is also reminded that a 65’ HWM setback variance was granted on July 25, 2014; CPA/17/14; item 2.7 for Parcel 115, which is part of the same subdivision. On June 21, 2017 (CPA/13/17; Item 2.11), the CPA granted HWM setback variance for a dwelling house on Block 73A Parcel 113.
The Authority considered the subdivision application on October 16, 2013 (CPA/23/13; Item 2.6) in regard to the lot widths and lot depths and determined that:

- Although zoned Hotel/Tourism, the Authority is of the view that the shape and dimensions of the lot do not lend themselves well for the site to be developed for hotel purposes. As such, it appears that the best use of the land will be for residential purposes and the Authority is of the view that residential setbacks should apply. As a result, the proposed lots will have sufficient lot width and lot depth to allow residential development. The Authority is of the view that there is sufficient reason and exceptional circumstance to warrant granting setback variances for the future residential development of the proposed lots.

2.8 HEATH ROBINSON LTD Block 15E Parcel 195 (FA91-0348) (P17-0825) $3,000) (EJ)

Application for a chain link fence.

FACTS

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<thead>
<tr>
<th>Location</th>
<th>South Sound Road</th>
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</thead>
<tbody>
<tr>
<td>Zoning</td>
<td>BR/R</td>
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<tr>
<td>Parcel Size</td>
<td>20,909 sq. ft.</td>
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<tr>
<td>Current Use</td>
<td>Vacant</td>
</tr>
<tr>
<td>Proposed Use</td>
<td>After-the-Fact Chain Link Fence</td>
</tr>
</tbody>
</table>

BACKGROUND

BACKGROUND

October 30, 1991 (CPA/28/91; Item 6.1) - The Authority granted outline permission for a residence.

October 21, 1992 (CPA/25/92; Item 3.2) - The Authority granted permission for a residence.

February 17, 1993 (CPA/04/93; Item 6.4) - The Authority granted planning permission for removal of sand beneath approved residence.

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

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

1. The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2017 Revision).

EMAIL FROM AGENT

“We have removed the rear fence – this has already been done. The front and side fences have been existing for many years. The only thing that was added was the rear fence and this has now been removed. We are applying for the front fence as Planning noted although it’s under 4’ it requires planning which obviously had never been sought for it the past.”

PLANNING DEPARTMENT ANALYSIS

General

The applicant is seeking permission for a 4’ chain link fence.

Zoning

The property is zoned Low Density Residential and the Department would offer comments on certain specific issues addressed below.

Specific Issues

The application is the result of enforcement action CE17-0051 dated June 8, 2017. The subject parcel is zoned Beach Resort Residential and requires a 75’ setback from the high water mark (HWM), however, the subject fences along the side boundaries are 50’ from the HWM. The front portion of the fence is setback 7’ 7” from the front property boundary. The Authority should determine if the fence setbacks are acceptable.
Application for after-the-fact clearing of land.

FACTS

Location       Austin Conolly Drive, East End
Zoning         LDR
Notice Requirements   No Objectors
Parcel Size    0.25 acres
Current Use    Vacant

BACKGROUND

April 26, 2017 - Enforcement for after-the-fact land clearing.

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

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

Reason for the decision:

1. The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2017 Revision).

PLANNING DEPARTMENT ANALYSIS

General

The application is for after-the-fact clearing of 10,454 sq. ft. of land. The site is located off Austin Conolly Drive, East End.

Zoning

The property is zoned Low Density Residential

Specific Issues

a) Suitability

The application is the result of enforcement for the after-the-fact clearing of land. The application form states the land was cleared to extend the car park for Tukka Restaurant and remove dock piles from Hurricane Ivan. The adjacent land owners were notified and no comments were received.
Application for a porch and storage room addition.

**FACTS**

<table>
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<tr>
<th>Location</th>
<th>Worthing Drive, West Bay</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning</td>
<td>LDR</td>
</tr>
<tr>
<td>Notice Requirements</td>
<td>No Objectors</td>
</tr>
<tr>
<td>Parcel Size</td>
<td>0.1426 acres</td>
</tr>
<tr>
<td>Current Use</td>
<td>Existing Residence</td>
</tr>
<tr>
<td>Proposed Use</td>
<td>Porch and Storage Shed</td>
</tr>
<tr>
<td>Building Size</td>
<td>694 sq. ft.</td>
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<tr>
<td>Existing Parking</td>
<td>1</td>
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<td>Required Parking</td>
<td>1</td>
</tr>
<tr>
<td>Number of Units</td>
<td>1</td>
</tr>
</tbody>
</table>

**BACKGROUND**

May 29, 2014 – 3-bedroom house approved administratively

**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.

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

Reasons for the decision:

1. With the exception of the site coverage and rear setbacks, which are addressed below, the application complies with the Development and Planning Regulations (2017 Revision).

2. The proposed application does not comply with the maximum allowable site coverage and the minimum required rear setbacks per Regulations 9(8)(h) and (i) of the Development and Planning Regulations (2017 Revision). The Authority is of the opinion that pursuant to Regulation 8(13)(b) there is
sufficient reason and exceptional circumstance to allow the additional site coverage and lesser setbacks as follows:

a) The characteristics of the proposed development are consistent with the character of the surrounding area;

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

c) The proposal is consistent with the provisions of Section 2.6 of The Development Plan 1997.

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for a porch and storage room addition.

**Zoning**

The property is zoned Low Density and the Department would offer comments on certain specific issues addressed below.

**Specific Issues**

a) **Setbacks**

Regulation 9(8)(i) states the minimum rear setback shall be 20' for a building of one storey. The proposed porch & storage shed would be 10'-2" and 13'-10" respectively from the rear boundary, a difference of 9'-10" and 6'-2". The Authority should assess if there is sufficient reason and exceptional circumstance in accordance with section 8(13)(b) to warrant granting a setback variance.

b) **Site Coverage**

Regulation 9(8)(h) of the Development and Planning (Amendments) Regulations, 2016 state the minimum site coverage for a house in a Low Density Residential Zone shall be 30%. The proposed porch & storage shed addition to the existing residence would be make the proposed site coverage 31.1% a difference of 1.1% over the max. allowable. The Authority should assess if there is sufficient reason and exceptional circumstance in accordance with section 8(13)(b) to warrant granting a site coverage variance.
2. 11 SAMANTHA EBANKS Block 1D Parcel 695 (F13-0144) (P17-0624) ($450) (MW)

Application for an after-the-fact shed.

**FACTS**

- **Location**: Worthing Drive, West Bay
- **Zoning**: LDR
- **Notice Requirements**: No Objectors
- **Parcel Size**: 6,891.2 sq. ft.
- **Current Use**: Existing Residence
- **Proposed Use**: After-the-Fact Storage Shed
- **Building Size**: 86 sq. ft.
- **Building Coverage**: 15.7%
- **Number of Units**: 1

**BACKGROUND**

*June 28, 2013* – A 2-bedroom house was approved administratively.

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

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

Reasons for the decision:

1. With the exception of the rear and side setbacks, which are addressed below, the application complies with the Development and Planning Regulations (2015 Revision).

2. The proposed application does not comply with the minimum required rear and side setbacks per Regulations 9(8)(i) and (j) of the Development and Planning Regulations (2017 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.

LETTER FROM APPLICANT

“We write on behalf of our client, Ms. Samantha Ebanks, with regards to the following variance;

• A rear setback variance - The as-built rear setback is 5ft instead of the required 20ft.
• A side setback variance - The as-built side setback is 5ft instead of the required 10ft.

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

1. Per section 8 (13) (d) of the regulation, the adjacent properties were notified by registered mail and there have been no objections to date.
2. Per section 8 (13) (b) (iii) of the regulation, the proposal will not be detrimental to persons residing or working in the vicinity, to the adjacent property, or to the public welfare.
3. Written consents have been provided by adjoined neighbours of the subdivision.
4. The application complies with all other relevant planning requirements.

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

PLANNING DEPARTMENT ANALYSIS

General

The application is for an after-the-fact shed (86 sq. ft.) at the above captioned property. The site is located on Worthing Drive, West Bay.

The application is a result of an Enforcement Notice issued on August 31, 2016.

Zoning

The property is zoned Low Density Residential and the Department would offer comments on certain issues provided below.

Specific Issue

a) Setbacks

The setbacks are 5’ from the side property line and 5’ from the rear boundary. In accordance with Regulation 9(8)(i) and (j) of the Development and Planning Regulations (2015 Revision), the minimum side setback is 10’ and the minimum rear setback is 20’.

The adjoining parcels were notified and no objections were received.
The Authority should assess if there is sufficient reason and exceptional circumstance in accordance with section 8(13)(b) to warrant granting a setback variance.

2. 12 GARFIELD KING Block 22D Parcel 317 H2 (F17-0174) (P17-0812) (P17-0851) (S448,000) (EJ)

Application for a duplex and two (2) swimming pools.

FACTS

Location: Off Spinnaker Road
Zoning: LDR
Notice Requirements: NA
Parcel Size: 13,870 sq. ft.
Current Use: Vacant
Proposed Use: Duplex and Two Swimming Pools
Building Size: 6,530 sq. ft.
Total Site Coverage: 28.19%
Proposed Parking: 2
Required Parking: 2
Number of Units: 2

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. Additionally, once construction has started, condition (3) shall be complied with before a final Certificate of Occupancy can be issued.

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

The applicant shall obtain a Final Certificate (of Fitness for Occupancy) prior to occupying the building(s).
If the existing grade level does not currently provide for it, the applicant is reminded that the finished floor level of all buildings should be at least seven feet (7’) above mean sea level.

Reasons for the decision:
1. With the exception of the side setbacks, which are addressed below, the application complies with the Development and Planning Regulations (2017 Revision).
2. The proposed application does not comply with the minimum required side setbacks per Regulations 9(8)(j) of the Development and Planning Regulations (2017 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.

LETTER FROM APPLICANT

“We write on behalf of the applicant, Mr. Garfield King, with regards to the following;
A side setback variance – to allow the proposed to be built with a lesser leftside setback of 12ft 6in and a rightside setback of 12ft10in instead of the required 15ft for a two-storey structure.

We request permission for the subject matter per the drawings provided and humbly give the following reasons:
1. Per section 8(13)(d) of the Planning Regulations, the adjoining property owners have been notified of the lesser setbacks associated with the application and they have not objected.
2. Per section 8(13)(b)(iii) of the Planning Regulations, the proposal will not be materially detrimental to persons residing or working in the vicinity, to the adjacent property, to the neighborhood, or to the public welfare;
3. Similar conditions exist with the approved duplex on the adjoining parcel, 22D317H3
4. The application complies with all other relevant planning requirements.
We look forward to your favorable response to this variance request. Should you have any queries, please do not hesitate to contact us.

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for a duplex and two (2) swimming pools.

**Zoning**

The property is zoned Low Density Residential and the Department would offer comments on certain specific issues addressed below.

**Specific Issues**

a) **Side Setbacks**

The proposed two-storey duplex does not meet the required 15’ side setbacks proposed at 12.6’ and 12.10’ left/right side respectively. The applicant has notified the adjacent parcels and no comments have been received. The Authority must determine if there is sufficient reason and exceptional circumstance to warrant the requested variance.
2. 13 ADRIAN & HALLY LOFTERS Block 28D Parcel 229 (F17-0019) (P17-0840) (S174,015) (EJ)

Application to modify planning permission to revise the site layout and change the roof design.

**FACTS**

- **Location**: Sandy Ground Drive
- **Zoning**: LDR
- **Notice Requirements**: NA
- **Parcel Size**: 14,375 sq. ft.
- **Current Use**: Vacant
- **Proposed Use**: Modify Approved Duplex
- **Building Size**: 1,289 sq. ft.
- **Total Site Coverage**: 8.97%
- **Proposed Parking**: 3
- **Required Parking**: 2
- **Number of Units**: 2

**BACKGROUND**

**January 17, 2017** - The Department granted permission for the proposed 1 x 1-bedroom duplex.

**February 8, 2017** - The Department modified planning permission to revise site design.

**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 Law (2015 Revision) hereby orders that planning permission be modified as shown on the revised plans date stamped July 6, 2017.

All other conditions of planning permission remain applicable.

Reason for the decision:

1. The Authority considered the application and determined that planning permission would be modified as the application complies with the Development and Planning Regulations (2017 Revision).
PLANNING DEPARTMENT ANALYSIS

a) Roof Design

On January 17, 2017 a duplex was approved administratively. The applicant is now seeking a modification to site design, which entails a minor adjustment to the site and stairs/steps. The applicant is also proposing to change the roof design to significantly increase the roof pitch. With the new roof design, the building height will be 39’-11”, which complies with the Regulations, whereas the original building height was 26’-9”. The Authority should determine if the new roof design/building height is acceptable.

2. 14 COX LUMBER Block 19E Parcel 253 (F97-0403) (P17-0904) ($270,000) (KA)

Application for an addition to existing warehouse.

A.L. Thompson declared a conflict and left the meeting room. Robert Watler Jr. sat as Acting Chairman.

FACTS

Location Lancaster Crescent, George Town
Zoning HI
Notice Requirements No Objectors
Parcel Size 1.59 acres
Proposed Use Addition to Warehouse
Building Size 2,159 sq. ft.

BACKGROUND

CPA/38/97; Item 6.08 - Planning permission granted for contractor's warehouse, receiving/delivery yard and 8' fence.

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.

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

1. The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2017 Revision).

**AGENCY COMMENTS**

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

**Department of Environment**

"Having reviewed the above mentioned application, there are no concerns at this time, as the site is man-modified and has limited ecological value."

**Water Authority**

"Water / Wastewater:

The plans do not indicate any additional water source or sanitary fixtures; if this is in fact the case, the Authority has no requirements for this proposal."

**National Roads Authority**

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

**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 Marina 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. If 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.

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.”

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for an addition to existing warehouse. The site is located on Lancaster Crescent, off Sparky Drive, George Town.

**Zoning**

The property is zoned Light Industrial and there are no concerns with the application.
Application for a temporary modular classroom.

Eldon Rankin and Kris Bergstrom declared conflicts and left the meeting room.

FACTS

<table>
<thead>
<tr>
<th>Location</th>
<th>Prospect Point Road, Prospect</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zoning</td>
<td>BR/R</td>
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<tr>
<td>Notice Requirements</td>
<td>No Objectors</td>
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<tr>
<td>Parcel Size</td>
<td>27,878 sq. ft.</td>
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<td>Current Use</td>
<td>House</td>
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<td>Proposed Use</td>
<td>Temporary Classroom</td>
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<tr>
<td>Building Size</td>
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<tr>
<td>Building Coverage</td>
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<td>Existing Parking</td>
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<tr>
<td>Proposed Parking</td>
<td>1</td>
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<tr>
<td>Required Parking</td>
<td>2</td>
</tr>
</tbody>
</table>

BACKGROUND

March 2002 (CPA/05/02; Item 5.07(C) - The Authority granted planning permission for a change-of-use from a garage to a reception/conference room.

September 24, 2008 (CPA/31/08; Item 2.12) - The Authority granted planning permission for a change-of-use of a church parsonage to classrooms.

Decision: It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss details of the application.

AGENCY COMMENTS

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

Department of Environment

“Having reviewed the above mentioned application, the Department has no concerns at this time as the site is man-modified and no construction is proposed closer to the sea that the existing structures.”
Department of Environmental Health

“The Department has no objections to the proposed classroom block.”

Water Authority

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

Wastewater Treatment & Disposal

• If the developer proposes to utilize the existing septic tank and/or disposal well, the system shall be inspected and serviced per the Septic Tank Inspection Form that can be downloaded from the Water Authority’s website.

• The completed inspection form shall be returned to the Water for review and determination as to whether the existing system meets Water Authority design specifications. Any deficiencies noted will require repair or replacement prior to final approval for occupancy.

Water Supply

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

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

• The developer shall submit plans for the water supply infrastructure for the development to the Water Authority for review and approval.

• The developer shall install the water supply infrastructure within the site, under the Water Authority’s supervision, and in strict compliance with the approved plans and Water Authority Guidelines for Constructing Potable Water Mains.

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

National Roads Authority

“As per your memo dated June 12th, 2017 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

Stormwater Management Issues

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.

- 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. If 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.

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.

**LETTERS FROM APPLICANT**

Letter #1

"Please be advised that MBTS is applying for planning permission to install a temporary classroom structure on the above-referenced site for a period not lasting more than 24 months. The reason for the application is explained in my client's letter to the board (see attached). That said, the following is a summary of reasons:

As most of us on the island are very aware of the lack of space in any classroom/school on the island. This also applies to MBTS. As such, my client needs an additional temporary classroom space to conform the Department of Education (DOE) classroom requirements."
MTBS is currently securing financing and has instructed me to proceed with drawings to obtain planning permission for a new structure across the street on their property Block: 23C Parcel: 24. This new structure will negate the need for MBTS to use of any of the facilities currently used on 23C/97.

Another contributing factor to the reason we are having to apply for a temporary facility, is the time it will take to construct the new building. MBTS will not be able to meet the DOE requirements by this coming September school year. It is for this reason that we have taken the approach to use shipping containers to create the temporary classroom and it will facilitate a minimal installation time and ease of removal. The proposed classroom would connect to existing utilities thus minimizing any infrastructure development/impact.

With the above in mind, I am respectfully requesting that the board approves the application for the specific period of two years and which point the structure will be removed.”

Letter #2

“Montessori by the Sea's Elementary program (Grades 1-6) has grown in order to provide our students with an optimal educational experience, a larger facility than what we currently have is necessary.

At present we are renting a space from the United Church and we know that we will have to construct an actual building in the very near future, which is impossible to do before our next school year commences in August 2017. Ideally we would like to have our new facility constructed in time for an opening in August 2018. However, given that we still have to finalize the financing, design and then go through the planning and construction process, we are requesting permission to have a temporary facility for two years. This will allow us to continue to accommodate our student body in the event of any delays.

The demand for schools, especially at the Primary level, is great and if we could not accommodate our students other options would be extremely difficult, if not impossible, for our families. This demand may be confirmed by contacting the Ministry of Education. Education is necessary so we are asking the CPA's kind consideration of allowing us a temporary classroom for two years so that we have the time to get a permanent structure in place.”

**PLANNING DEPARTMENT ANALYSIS**

**General**

The applicant is requesting planning permission for a modular classroom.

**Zoning**

The property is zoned Beach Resort Residential.
Specific Issues

a) Suitability

The applicant is requesting a modular classroom for the Montessori by the Sea school located on Block 23C Parcel 24, for the reasons stated in their letter included in this report.

There is sufficient parking on Parcel 57 to accommodate the additional land use and it complies with setbacks and site coverage. It is noted that this site and the adjacent parcels are already used for institutional and educational uses.

3.0 DEVELOPMENT PLAN MATTERS

3.1 EMERALD SEAS LTD./L.B. INVESTMENTS LTD. Block 12C Parcels 517, 518, 3, 203, 393 and 451 (RZ08-0002) (JJ)

Application for a rezone from Neighbourhood Commercial and Low Density Residential to Hotel/Tourism.

Appearance at 2:00

FACTS

Location West Bay Road
Parcels Block 12C Parcels 2 (now 517 and 518), 3, 203, 393 and 394 (now 451)
Zoning NC and LDR
Proposed Zoning H/T
Combined Parcel Size 221 Acres

BACKGROUND

June 4, 2008 (CPA/19/08; Item 4.3)

The CPA first considered the application for the rezoning of parcel 12C 3 from Neighbourhood Commercial, Low Density Residential and Mangrove Buffer to Hotel/Tourism on June 4, 2008 (CPA/19/08; item 4.3). The CPA decided that adjacent properties should be included in the rezone application. Staff were directed to contact the owners of 12C 393/394 and 12C2 to determine if they were amenable to having those lands rezoned to Hotel/Tourism. Per the direction of the CPA from meeting CPA/19/08, after contacting the owner (Michael Ryan, Ritz Carlton) of Block and Parcels 12C 393/394 and 12C2, Mr. Ryan contacted the Ministry to inform them that he had applied and paid the $1000 fee for a rezone in 1997. Minutes from CPA/39/97; item 6.01 were found and proved that an application was submitted and was put out for the 60 day notification period. One objection was received.
At the following CPA meeting, CPA/08/98; item 10.05, the application was deferred. No other CPA minutes have been found and the Ministry believes that the file was lost in Hurricane Ivan. Neither the Ministry nor the Department have any record that this rezone was completed. Therefore, as there was proof that Mr. Ryan applied and paid for the rezone of this site in 1997, the Department considered the rezoning of Block and Parcels 12C 2/393/394 with this application.

December 3, 2008 (CPA/38/08; Item 4.2)

The application was again considered and it was resolved to post the application for 60 day notification and advertising.

In accordance with Section 11(2) of the Development and Planning Law (2005 Revision), advertising of the proposed amendments occurred in the December 16, 19, 22, 24 issues of the Caymanian Compass. During the 60-day comment period, twelve (12) letters of objection were received.

March 4, 2009 (CPA/07/09; Item 4.1)

The application was again considered and it was resolved to forward to the Ministry of DA, P, A, & H the rezone application for onward transmission to the Development Plan Tribunal for their recommendation in accordance with Section 11(3)(a) of the Development and Planning Law.

April 6, 2009

All pertinent documents were transmitted from the Department of Planning to the Ministry of DA, P, A & H on April 6, 2009 to be prepared for presentation to the Development Plan Tribunal. The chronological recount of the Tribunal’s deliberations and other background information is included below in the Planning Appeals Tribunal report below.

June 26, 2015 and March 12, 2017

On June 26, 2015 and March 12, 2017, the Planning Appeals Tribunal sitting as the Development Plan Tribunal heard the matter of an Application to Re-Zone in Respect of Block 12C Parcels 2, 3, 203, 393 and 394 (now 451) to Hotel/Tourism (Appendix B). On the 16th of May 2017, the PAT issued its report and recommended the following:

“the portion of land situated on Parcels 2 and 3 located west of the Highway be rezoned Hotel/Tourism only. The remaining portion on each of the parcels located east of the Highway should in our view remain LDR and Mangrove Buffer as presently zoned.”

Decision: It was resolved to adjourn the application in order that all relevant parties are invited to appear before the Authority to discuss details of the application.
ORIGINAL AGENCY COMMENTS (for Block and Parcels 12C 3 & 203)

Water Authority – No objections

Department of Environment

“The Department’s Technical Review Committee has reviewed the above noted application and recommends that the CPA refuse this rezone application based on the following.

1. It is not just the DOE’s opinion that the Seven Mile Beach area is overdeveloped and that another hotel/tourist related development is not required there. Vision 2008, A Guide to the National Strategic Plan, states “There is widespread concern that the type and rate of large scale development in certain parts of the Cayman Islands is not sustainable and does not produce benefits to the Caymanian population with the cost to our natural and social environments.” and "Tourists are beginning to indicate that the level of development in certain parts of Grand Cayman is a disincentive for them to return." The Revised National Tourism Management Plan (NTMP) dated June 2007 states: “Tourism in the Cayman Islands is heavily concentrated in George Town and Seven Mile Beach. This area has changed beyond all recognition in the past 25 years and there are indications that the scale and nature of development is beginning to deter visitors.” and “In terms of visitor accommodation and facilities, there is scope for new high quality redevelopment in George Town and Seven Mile Beach as long as this is in conjunction with enhanced public space and access. This should have priority over new, additional, development that will reinforce the sense of over-development and congestion in this part of Grand Cayman.”

2. The application does not mention that the coastal portion of these lots is currently zoned Mangrove Buffer as per the 1997 Development Plan but does indicate that the proposal is to convert the entirety of the parcels to hotel/tourism zoning.

The DOE would like to remind that per the Development and Planning Regulations (2005 Revision) Section 18; “in considering any matter relating to a Mangrove Buffer Zone the CPA shall have regard to the ecological functions performed by the mangroves including:

a) service as a nursery and natural habitat for marine life, birds, insects, reptiles and crustaceans;

b) filtration of overland run-off to the sea and ground water aquifer recharge;

c) export of organic particulate and soluble organic matter to coastal areas; and

d) coastal protection, and the protection of the Island against storms and hurricanes.”

The Development and Planning Regulations further state that “all forms of development shall be prohibited in a Mangrove Buffer zone except in exceptional circumstances, and only where equivalent storm protection is provided by some
other means and it can be demonstrated to the Authority that the ecological role of the peripheral mangroves will not be substantially adversely affected by the proposed development.” The DOE does not believe that development of another hotel/tourist accommodation in this location constitutes “exceptional circumstances”, especially considering what little mangrove remains along the western North Sound perimeter, and recommends that the Mangrove Buffer Zone remains attached to the parcels.

Further, it is the DOE’s opinion that an area of the Mangrove Buffer Zone represented mostly by dead mangroves is not a valid reason to allow removal of the Zone. Coastal mangrove trees that are dead but in situ still serve an important biological and physical function. The intertwined rooting system of the red mangroves acts as a sediment stabilizer as well as provides a nursery for juvenile fish seeking refuge from predators. They are still important for dissipating wave action and can still reduce the impacts of storm and sea-level rise as part of an adaptation strategy to climate change impacts. Given time, storm damaged mangrove forests have been shown to recover and recovery in this location is already evident.”

**Fire Service – “No objections.”**

**Department of Environmental Health**

“The Department does have some concerns about the noise impact from the hotel’s mechanical plant and equipment on the residential community adjacent to the site in question. This becomes more significant since the property is rather narrow and does not provide sufficient distance from the residences to afford any significant attenuation. It is an important issue to consider since noise pollution can have negative consequences on the public health.”

**National Roads Authority**

“As per your memo February 28th, 2008 the NRA has reviewed the above-mentioned planning proposal. Please accept our apology for the substantial delay in submitted the following comments.

East of the Esterley Tibbetts Highway, the applicant is seeking to have about 33.02 acres of Low Density Residential (LDR) land and a 4.15 acres strip of Mangrove Buffer rezoned to the Hotel/Tourism (H/T) designation. Daily traffic demands comparison between the full occupancy of LDR and H/T lands is based on the development intensity scenario that the Planning regulations would allow on the subject property. Development scenarios assessed are as follows:
From these three allowed types of land development both the LDR and H/T zoning designation, daily traffic demand were estimated based on ITE’s trip generation rates as provided in the following table.

<table>
<thead>
<tr>
<th>Zoning Designation</th>
<th>Daily Trip Rates</th>
<th>Daily Traffic Demand</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>SF - ITE Code 210</td>
<td>MF - ITE Code 220)</td>
</tr>
<tr>
<td>Existing LDR*</td>
<td>9.57/du</td>
<td>6.63/du</td>
</tr>
<tr>
<td>H/T</td>
<td>9.57/du</td>
<td>6.63/du</td>
</tr>
</tbody>
</table>

The rezoning of the subject lands to a H/T designation will clearly contribute to an increase of traffic demand on the adjacent road network should multi-family or hotel developments be constructed utilizing the maximum allowable densities permitted by the planning regulations. Bearing in mind that access to the Esterley Tibbetts Highway will be from a currently un-built road connector from the roundabout south of the Ritz-Carlton property, such traffic volumes might be considered excessive for a collector road. However, a development proposal that would generate in the order of 10,000 to 12,000 vehicles per day would be considered within acceptable range for a collector road.

Based on the above analysis, the National Roads Authority has no objections to the rezoning of the subject lands of this request but does have concerns with the ultimate intensity of development that the subject land could accommodate.

ORIGINAL LETTER FROM APPLICANT (12C 3 and 203)

“The request to rezone is to bring this property in concert with land uses established by adjacent properties for the purposes of Hotels/Tourism development. You will appreciate that the commercial needs of the area are now well satisfied with the completion of Governors Square, and the adjacent development immediately to the South. Furthermore, a short distance away is the Foster’s Supermarket and the Strand Shopping Centre, which added to the other nearby commercial development more than satisfies the long term commercial demands of the area.
Beach property has become so expensive now, as have inland residential parcels in that area, that the opportunity to develop residential property which is not burdened by exorbitant land prices, now presents itself. This should be encouraged and is appropriate to serve a larger cross section of the community who will need to reside in the area, with attendant advantages of reducing traffic along the West Bay corridor.”

**CURRENT ZONING AND AREA MAP**

**ORIGINAL DEPARTMENT OF PLANNING ANALYSIS**

Five parcels of land are being considered in this rezone application. Parcels 393 (Neighbourhood Commercial) and 394 (Public Open Space) have been developed by the Ritz Carlton with a Hotel/Tourism use. Parcels 2, 3 & 203 are currently vacant with a mix of low density residential, neighbourhood commercial and mangrove buffer uses.

To the north of the application site, approximately 356 acres of land is zoned Hotel/Tourism, with a golf course and some residential units. To the south, the land is zoned Low Density Residential and has been developed with residential uses. The total area of the proposed rezoned land would be approximately 171 acres.

Approximately 1,441 acres of land is currently zoned Hotel/Tourism on Grand Cayman which is 3 percent of the total land area on Grand Cayman. Of this, 816 acres, which equals 57 percent of Hotel/Tourism zoned land, remain undeveloped.
As the Ritz-Carlton site has already been developed with a Tourism/Leisure use, it is considered appropriate that this land be rezoned to Hotel/Tourism. Furthermore, it would not be suitable to have a residential use adjacent to the Ritz-Carlton site due to noise and constant activity. Therefore the rezoning of the adjacent site to the south to Hotel/Tourism would be acceptable. However, any proposed use on the site should take into consideration the residential uses to the south.

4.0 PLANNING APPEAL MATTERS

5.0 MATTERS FROM THE DIRECTOR OF PLANNING

5.1 H. OTTO WATLER Block 28B Parcel 31 and Block 32C Parcel 63 (TBLL17-0461) (CS)

Robert Watler Jr. and S.T. Bodden declared conflicts and left the meeting room.

Mr. Watler wishes to obtain a Trade & Business License for site works and bee removal business. His operations will include owning an excavator, truck, trailer, and bush hog where these will be stored on Block 32C Parcel 63, which is a large vacant lot zoned Low Density Residential and surrounded by vacant property and six houses. The Authority is requested to determine whether planning permission is required to store the equipment on Block 32C Parcel 63.

The Authority considered the matter and determined that the activities associated with the T & B request do not require planning permission. The Department is directed to prepare the standard T & B approval request with the standard conditions attached.
5. 2 UNIVERSAL SECURITIES LTD. Block 25B Parcel 180 (CE17-0075) (YR)

The amenity of the area is adversely affected by reason of the ruinous, dilapidated condition of the building and the deposit of refuse and derelict vehicle(s) namely wave runners on the surrounding land.

FACTS

Location: Mangrove Drive
Zoning: LDR
Parcel Size: 0.23 acres
Current Use: As noted

BACKGROUND

A check of the planning support systems Trakit and OPS show no history for this parcel.

Decision: It was resolved to authorize the issuance of a Maintenance of Land Notice in accordance with Section 29A of the Development and Planning Law (2015 Revision). Maintenance of Land Notice to take effect at the end of a period of 30 days from the service and compliance with the Maintenance of Land Notice to be completed within the period of 60 days from the date when the Notice takes effect, subject to the provisions of Section 29A(2) and (3) of the law.

PLANNING DEPARTMENT ANALYSIS

Inspection of site shows that the amenity of the area is adversely affected by reason of the ruinous, dilapidated condition of the building and the deposit of refuse and derelict vehicle(s) namely wave runners on the surrounding land.

PHOTO EVIDENCE

See attached photos in the file

5. 3 SHARLA & JOHN BARRON Block 49B Parcel 142 (CE17-0073) (JM)

The Authority considered photographs of the site which depicted the ruinous condition of the land due to the deposit of refuse.

Decision: It was resolved to authorize the issuance of a Maintenance of Land Notice in accordance with Section 29A of the Development and Planning Law (2015 Revision). Maintenance of Land Notice to take effect at the end of a period of 30 days from the service and compliance with the Maintenance of Land Notice to be completed within the period of 60 days from the date when the Notice takes effect, subject to the provisions of Section 29A(2) and (3) of the law.
5. 4 ANNIKKI BROWN Block 32D Parcel 59 (F17-0211) (P17-0938) (KA)

The Authority considered the application for a house which would be constructed of modified metal storage containers. There was lengthy discussion about the appropriateness of using containers for habitable purposes. It was noted that the use of the containers can comply with the Building Code. It was determined that in this instance the house has a typical residential appearance and any containers would not be visible. The Authority determined that this particular application would be approved, but should any similar applications be submitted in the future, the Authority wants to consider each of them on their own merits.

**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.

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.

**Reason for the decision:**

1. The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2017 Revision).

5. 5 BARRY BODDEN Block 27D Parcel 25 L1 (FA80-0114) (P17-0963) (KA)

The Authority considered the application for an eight (8) vehicle carport. The Authority determined that the applicant has many personal vehicles and the carport won’t be used for commercial purposes.

**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.

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.

Reason for the decision:

1. The Authority considered the application and determined that planning permission would be granted as the application complies with the Development and Planning Regulations (2017 Revision).

5. 6 NCB INVESTMENTS Block 13EH Parcel 175 (FA82-0040) (P17-0608)(BS)

The Authority was advised that when the hotel was considered on July 19, 2017, the comments from the NRA were not included in the Agenda. It appears that the comments were correctly inserted into Trakit, but they were not transferred to the Agenda when the Word document was created. The Authority NRA comments were provided below:

“As per your memo dated May 29th, 2017 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 60 rooms has been assessed in accordance with ITE Code 310 – Hotel. The anticipated traffic to be added onto North Church Street is as follows:

<table>
<thead>
<tr>
<th>ITE Code</th>
<th>Expected Daily Trip</th>
<th>AM Peak Hour Total Traffic</th>
<th>AM Peak In</th>
<th>AM Peak Out</th>
<th>PM Peak Hour Total Traffic</th>
<th>PM Peak In</th>
<th>PM Peak Out</th>
</tr>
</thead>
<tbody>
<tr>
<td>310</td>
<td>490</td>
<td>32</td>
<td>19</td>
<td>13</td>
<td>36</td>
<td>18</td>
<td>18</td>
</tr>
</tbody>
</table>

As the site is proposed to produce more than 50 morning and afternoon peak hour trips directly onto a public road that currently experiences noticeable delay (LOS C or D) it is proposed that the developer be required to conduct a Traffic Impact Study meeting the requirements of the attached document, ‘Terms of Reference and Guidelines for conducting a Traffic Impact Study in the Cayman Islands’, especially in regards to the increase in pedestrian traffic.

The applicant needs to keep in mind the proposed ten storey hotel on Block 13E Parcel 165 when conducting this study as well as the sites proximity to the intersection of Eastern Avenue/North Church Street/West Bay Road.
Detailed Drawings

Please have the applicant provide for our review more detailed drawings in regards to,
1. Structural details of ramp,
2. Details of parking structure, both of which will affect the overall stormwater management plan, and
3. Details of how the fire truck will access the rear of the building.

Access and Traffic Management Issues

Please have applicant supply the plans on how they are going to stage this project for NRA review and consideration.

The applicant may be required to provide a turning pocket for southbound traffic.

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

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

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

A six (6) foot sidewalk shall be constructed on North Church Street, within the property boundary, to NRA standards. Please have applicant place entire sidewalk and landscaping within the site.

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 North Church
Street. 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. If 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.

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.”

The Authority considered the comments and determined that other than the reference to a traffic study and turning pocket the comments are quite typical of all NRA comments and can be addressed through conditions of approval and/or the permit review process. In regard to a traffic study, the Authority is of the view that it is not required as the existing public road system is sufficient to accommodate the traffic associated with the hotel and a sidewalk has been provided on the applicant’s land to accommodate pedestrian traffic. Should the NRA determine that a southbound pocket lane is required then that is an issue for that Authority to address within its own remit.

### 6.0 CPA MEMBERS INFORMATION/DISCUSSIONS
The meeting adjourned at 2:50 pm. The next regular meeting of the Central Planning Authority is scheduled for \textit{Wednesday 30\textsuperscript{th} August 2017 at 10:00 a.m.} in Conference Room 1038, 1\textsuperscript{st} floor, Government Administration Building.

\begin{center}
\begin{tabular}{ll}
A. L. Thompson & Ron Sanderson \\
Chairman & Acting Executive Secretary \\
\end{tabular}
\end{center}

cc: All members of the Central Planning Authority
Appendix 'A'
PLANNING APPLICATION OF FOR APARTMENTS, POOL, GENERATOR, WALL, SIGN BLOCK13B PARCEL202

WRITTEN SUBMISSION OF OBJECTOR SIOBHAN TIMMS

For Meeting on 16th August 2017

Introduction


The Site

2. The site occupies only 1.23 acres in a narrow strip. The lot width is 100.1 feet. The minimum lot width for any residential development in this zone (even of one storey) is 100 feet: Regulation 10(1)(c) and (d). Thus this lot width is the bare minimum possible for development upon which the developer seeks to put a building of the maximum height allowable in the Islands.

3. This southern section of Seven Mile Beach is characterized by low-density, 2-3 storey developments with substantial areas of landscaping. The Grandview is a 3 storey condominium of 69 units set in spacious grounds next door to and north of the site. 18 (soon to be 19) are short term and 7 are longer term rental units. It is in a line of beach developments off Snooze Lane and in the distinctive area south of Seven Mile Beach. From south to north, they are Coco Plum (two storeys and 22 units), the Grape Tree and George Town Villas (both three storeys and the latter 54 units) to the south of the site, the Grandview and Sunset Cove (3 storeys). The nearest taller building- a significant distance away- is the 5 storey Treasure Island complex on Seven Mile Beach Road.

4. The South end of Seven Mile Beach has its own character taken from low-rise buildings with a
residential feel. It does not boast the rock free beach/sea access of the greater and more northerly part of Seven Mile Beach so must distinguish itself from that part of the beach. It has a successful tourism model trading on the special characteristics of the area. The area is a success story for the Islands and Island tourism because of this tourism product.

The Correct approach

5. The CPA must apply the Law and Regulations and other relevant planning provisions: 1) "in a manner consistent with the provisions of the [Planning] Statement" that gave it its discretionary powers with respect to details of planning and 2) so that the provisions and purposes set out for each zone are achieved and satisfied (Part 3 (a) and (b) of the Plan at p.8) It follows that there is no presumption in favour of development merely because it may meet requirements in Regulations.

6. Regulation 5 provides for the exercise of the CPA’s powers and the applicability of the Plan:

   (1) the control of development, including buildings and subdivision of land, shall be in accordance with these Regulations and the development plan.
   (2) Notwithstanding the requirements of subregulation (1), the Authority may give permission for development deviating from these regulations only as provided in the development plan.

7. The CPA is concerned primarily with public interest not private rights of a developer to maximize its return. The Planning Process is designed to override private rights. There is no presumption in favour of one party or another. There is no onus of proof on an objector.

8. Instead, the CPA’s inquisitorial function is to determine whether a proposal conforms to the Development Plan, the Regulations and the Law and exercise a series of discretions, taking into account the aims of the legislature as set out in the Plan, in the public interest. It has to look at the proposal in its context and consider its impact (including its impact on neighbours). In doing so it is bound to assess, for example, the impact on tourism (in a Tourism zone) and take into account any potential adverse impact and diminution of diversity in the product the Islands offer.

Overdevelopment

9. The proposal is for a tower block 7 storeys higher than its neighbours. This high-rise development is completely at variance with the local character and aesthetic and will form an overly dominant structure in this location.
10. Common sense dictates that such a development is adverse to its low-rise neighbours. This tower will loom over its neighbours and destroy the unique character of this Southern part of Seven Mile Beach and its differentiation from the other part of the Beach that has compensated for the less attractive beach/sea access. Further, many owners and potential buyers or renters do not want to be in a high-rise area.

11. The Department of Planning Mission Statement is to ensure that the physical development of the Islands is aesthetically pleasing, environmentally friendly, promotes a strong economy and development plans provide an unparalleled quality of life for existing and future generations. This Development is neither aesthetically pleasing nor does it enhance the quality of life of residents. This is a visually unappealing and wholly insensitive over development. It is the epitome of bad architectural manners.

12. The Development is disproportionate to the site and to the character of the area. It is incongruous given the small 1.23 acre site. An urban tower block is dissonant with the site surroundings. Because there are areas in the Hotel/tourism zone 1 and Seven Mile Beach in which high-rise blocks are appropriate, it does not mean that every site in such a zone is appropriate for 10 storeys. A change in the Regulations to permit 10 storeys does not mean there is a presumption that such development should be allowed. There has to be good tourism public interest reasons for the discretion to allow to be exercised.

**Tourism**

13. The Plan requires that development in Zone 1 be “carefully regulated to ensure that the needs of the tourist industry are met and that new buildings will in general be related to the needs of the industry.” (Tab 1; section 3.04). Those needs include those of the condominiums adjacent to the site and the Island generally.

14. In its broadest sense, the tourism industry is the total of all businesses that directly provide goods or services to facilitate business, pleasure and leisure activities away from the home environment ([New South Wales Tourism Business Toolkit](http://example.com)) Vol 1 Ch. 1 p.4-page at Schedule I).

15. The Hotel/Tourism zone provisions (by s.3.04 of the Plan) have to be applied “in a manner best calculated to”:  

3
"(a) provide for the orderly development, expansion and upgrading of facilities required to maintain a successful tourism industry i.e. the commercial organization and operation of vacations and visits to places of interest;

(c) prevent the over-development of sites and to ensure that the scale and density of development are compatible with and sensitive to the physical characteristics of the site.

The Authority shall take into consideration the characteristics of the form of tourist accommodation proposed and shall be satisfied that the layout, scale and massing of development are compatible with the ecological, aesthetics, and other physical characteristics of the site; and that a high quality of design and landscaping are used”.

16. The CPA must therefore evaluate the proposal in the light of tourist industry needs. The developer seeks to take advantage of special tourism provisions for its development. It is therefore incumbent on it to demonstrate it benefits the tourism industry. The proposal is for 10 apartments (one of which is rumoured to be earmarked for Mr Lagan-the developer). By any measure its tourism benefits are minimal even assuming all the apartments are taken by tourists. This must be weighed against the effect on the many more apartments adjacent to the site.

Diversity of tourism product.


17.1. NTMP # 7.3: Tourism contains the seeds of its own destruction. The more people travel in search of new and different places the more everywhere becomes the same, with the same architecture, same brands, same food and same services, responding to global trends. This is increasingly apparent in Cayman; people who once came to the islands because it had a certain unique quality are now beginning to look elsewhere for ‘somewhere different’ as they perceive a homogenisation and deterioration in the visitor experience, particularly in terms of quality and local distinctiveness.

17.2. NTMP # 7.1.6: The design of buildings and landscaping has an enormous impact in creating a sense of place and contributing to the quality of the experience. In the modern world, a bland universal architecture is replacing vernacular buildings and use of local materials making everywhere look much the same. This is true in parts of Grand Cayman where new development has lacked distinction.

Nevertheless, there are still vestiges of local character remaining in many parts of the Islands and in the smaller, older buildings that help make Cayman seem subtly different from other places. This is a valuable resource for Cayman; it needs to be protected before it disappears
and lessons need to be learned.

17.3. NTMP # 6.4: "There is a growing impression within the community that certain types of commercial development have been allowed to proceed at a pace and in a direction which is not increasing the quality of life of the local population. The community would like to see economic development in balance with the needs of our natural and built environments, the Caymanian workforce, and the social fabric.

17.4. NTMP # 6.3: Tourism in the Cayman Islands is heavily concentrated in George Town and Seven Mile Beach. This area has changed beyond all recognition in the past 25 years and there are indications that the scale and nature of development is beginning to deter visitors. "Tourists are beginning to indicate that the level of development in certain parts of Grand Cayman is a disincentive for them to return."

17.5. NTMP # 3.2.2: As with the natural environment, the built environment can be an attraction in its own right and it provides a backdrop to the broader visitor experience. For some years, there have been concerns about the scale, distribution and quality of much new development in Cayman.

17.6. The main concern is the perceived over-development of the western end of Grand Cayman, which has led to an urban environment out-of-scale with the Island, without adequate open space and with related traffic and human congestion. Seven Mile Beach has few breaks in the monotonous ‘wall’ of tourism related development and limited public access to the beach. This issue has been exacerbated by the amendment to the building height law in these area i.e. 5 to 7 storeys.

We say the 10 storey amendment provisions further exacerbate the issue. It is an amendment that has to be used selectively. Merely because a site falls within a zone does not mean the maximum height is allowable.

18. The interest in preventing this inappropriate development is not simply private. It is an important public policy interest to protect the character and success of the area. This is a long-term interest to ensure its attractiveness for residents, investors and tourists.

19. To allow high-rise development in the southern section of the beach risks repeating the mistakes of very many resorts. There is a tourist segment for which high-rise beach development is anathema and deterring. The different sections of Seven Mile Beach must retain their diversity to appeal to different markets (and as many markets as possible).

Adverse impact on Successful Tourist model

20. The Grandview (and the other condominiums in the South part of the Beach) is not blessed with the same beach and sea access as the rest of Seven Mile Beach. A rocky promontory that
provides a tricky access point separates the South part from it. The Grandview (like the adjacent condominiums) has to distinguish itself and provide a different product. It has built up a very successful model leveraging the character of the area and the difference by using relative seclusion and character to entice would-be tourists.

21. The Islands benefit from this successful residential and rental product. The protection of a highly successful and carefully nurtured business model in a Tourism Zone is a highly material factor for the CPA. If this development risks an adverse effect on the tourism product, it affects many more owners (and their support staff) than the maximum of 10 who could buy into the new development.

22. No one could seriously argue that squeezing in a tower block into the site will not impact the character of the area. It is inevitable it will have some effect on tourist perceptions. It must affect the model that trades on the low-rise characteristics of the area and must weaken its appeal. The immediate and lasting impact on the tourism product of Grandview and the other condominiums in the area is bound to be adverse. It is an additional and important reason to refuse this application.

**Side Setbacks.**

1. Regulation 10 governs Hotel/tourism related development and provides for minimum lot widths (c) and side setbacks (f):

   10 (1) Hotels, cottage colony developments and apartments are permitted in Hotel/Tourism development zones if they comply with the following requirements:

   (c) the minimum lot size for hotels and apartments is half an acre with a minimum lot width of 100 feet;

   (f) the minimum side setbacks are a minimum of 20 feet;

2. The purposes to be achieved by setbacks provisions are set out in s.2.6 of the Development Plan:

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

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

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

   (d) to provide a buffer between buildings on neighbouring lots; and
(e) to avoid or minimise any negative impact the development or use of one lot may have on the occupants of a neighbouring lot.

3. One of the factors that must be taken into account is "the elevation of the property and its environs" (s.3.03 of the Plan). Comparative height is plainly contemplated.

4. The side setbacks sought are the bare minimum for any apartment development even if only 2 storeys. Here the applicant seeks the tallest building possible on the Island and in the narrowest permissible lot for any development.

5. The Development Plan makes it clear setbacks have to be seen in context. There is an obvious interrelationship between minimum lot widths, height of buildings and setbacks. In the exercise of a discretion, the narrower the lot width, the higher the building, the greater must be the setbacks to achieve their purpose. The CPA should not, in the exercise of its discretion, look at these two factors in isolation because that defeats the object of ensuring harmonious and proper planning. Buildings should not seem hemmed in, both as matter of public and of private interest. All sorts of factors should be taken into account, such as optimum room for landscaping in the particular circumstances. Minimum setbacks in this case would emphasis the reality that this is a development crammed into an inappropriate space.

6. The Regulations obviously contemplate that minimum setbacks are just that. They are not a default. Otherwise the discretion, which is unfettered, is meaningless. In other words a decision must be a reasoned decision. In the exercise of CPA’s discretion, the minimum (doubly emphasized in the Regulations) ought to be taken as only the starting point for deliberation. If ever there was a case for requiring more than minimum setbacks it is this one given what is being proposed. Any other decision calls into question whether discretion is truly exercised.

The Height of the Building

7. By Regulation 8 (2)(e) “the maximum permitted height”:

22.1.1. (e) in a Hotel/Tourism zone, shall not exceed sixty-five feet or five storeys, whichever is the less, but when the building is a hotel or apartment in Hotel/Tourism zone 1 or in Hotel/Tourism zone 2, the maximum permitted height is one hundred and thirty feet or ten storeys, whichever is the less;
23. By Regulation 2 the “height of a building” means:

23.1.1. the vertical distance measured from the highest point on a proposed or existing building to the proposed finished grade directly below that point; and, for the purposes of this definition, “finished grade” means the highest grade within five feet of the building and includes natural grade when no terrain alteration is proposed;

24. Finished grade is relevant where there is sloping. It means the final grade after landscaping e.g. top surface of lawns and pavements in other words the final elevation and contour of the ground after filling and conforming to the design.

25. The applicant’s site section plan shows the existing grade. Leaving aside the elevator space and mechanical room roof, the building is 126’ 11” from the top of the basement car park to the top of the building roof. The distance between the top of the basement car park and existing grade is not marked but plainly well over 3’ 1” and therefore exceeds the permitted height. The applicant is not altering terrain (e.g. to accommodate sloping). It is building structure and doing so on finished grade. It cannot evade the Regulations by building structures to raise a new starting point for measurement of height.

Neil Timms Q.C.

Goring House

10th August 2017
Appendix ‘B’
THE PLANNING APPEALS TRIBUNAL

IN THE MATTER OF THE DEVELOPMENT AND PLANNING LAW (2011 REVISION) AND IN THE MATTER OF AN APPLICATION TO RE-ZONE IN RESPECT OF BLOCK 12C PARCELS 2, 3, 203, 393 AND 394 (NOW 451) TO HOTEL/TOURISM

Coram:

Mr Richard H Barton
Mr Peter Broadhurst
Mr Andrew Gibb
Ms Cindy O’Hara

Appearances:

Ms Ann Marie Rambarran of the Honourable Attorney General’s Chambers for the Central Planning Authority
Mr Samuel Jackson for Emerald Seas Ltd. and L.B Investments Ltd.
Mr Norman J Klein and Ms Natalie Lazenby of Appleby for the Ritz-Carlton

Objectors:

Mr Truman Bodden
Mr Timothy Hepburn
Mr Timothy Ridley
Ms Joyce Burcombe

Heard:

26 June 2015 and 10 March 2017

REPORT

1. We are asked to prepare a report in relation to an application to rezone relevant portions of Block 12C Parcels 2, 3, 203, 393 and 394 (now 451) (“RZ08-0002”) to Hotel/Tourism (the “Report”). Parcels 2, 3 and 203 are currently zoned Neighbourhood Commercial, and Low Density Residential (“LDR”) and Mangrove Buffer, whereas Parcels 393 and 394 are zoned Neighbourhood Commercial and Public Open Space. In CPA/38/08 Item 4.2 and reconfirmed in CPA 07/09 Item 4.1, the Central Planning Authority (“the “CPA”) determined that the Mangrove Buffer zone in all cases should remain.
Chronological Background

2. The factual background of this matter is well documented and was usefully chronicled by Crown Counsel Ms Rambarran in her written submissions that were filed on 9 March 2017. There is little need to rehearse the background facts except to briefly set out the genesis of the Report.

3. On 16 March 2015 Honourable D Kurt Tibbetts, Minister of Planning, Lands, Agriculture, Housing and Infrastructure (the “Honourable Minister”) wrote to this Tribunal pursuant to section 11(3) (a) of the Development and Planning Law (2011 Revision, amended 2014) (the “Law”) inviting the Tribunal to submit a report based on a desire to rezone application RZ08-0002. Application RZ14-002 was excluded on the ill-conceived basis that no objections were received in relation to Block 12C parcels 393 and 394.

4. On 26 June 2015 the Tribunal convened a meeting with Secretary CPA along with three objectors, namely Messrs Truman Bodden, Timothy Ridley and Timothy Hepburn. Messrs William Becker and William Steward also appeared on behalf of Emerald Seas Ltd. in the capacity of agent of owner. Several concerns were raised at the meeting. Perhaps most significant is that letters of objections were duly filed in respect of application RZ14-002. The objectors submitted that it was improper to exclude application RZ14-002 where objections were properly raised within the two-month timeframe stipulated in the Law.

5. On 1 September 2015 the Tribunal wrote a letter that sought to clarify the basis for which application RZ14-002 was excluded from the Tribunal’s purview. The Tribunal noted in the letter that valid letters of objections were seemingly filed in 2009 and queried the reason as to why notices that relate to the same application were republished in 2014. It was further noted that Mr Bodden confirmed at the meeting held on 26 June 2015 that he saw no reason to again register an objection in 2014 since in his mind this obligation was aptly fulfilled in 2009.
6. On 9 June 2016 the Honourable Minister responded to the Tribunal and advised that application RZ14-002 had been deferred. He also requested that the Tribunal convene to consider the applications limited and restricted to RZ08-0002 only. The relevant block and parcels are set out in paragraph 1 above and form the basis of the Report.

7. On 10 March 2017 the Tribunal reconvened a meeting with various objectors along with the applicants in relation to the proposed rezoning of RZ08-0002. The Director of Planning (the “Director”) and Crown Counsel Ms Rambarran from the Honourable Attorney General’s Chambers were also in attendance. The Tribunal took into consideration all of the concerns raised by the objectors as well as the submissions advanced by counsel on behalf of the applicants namely Messrs Jackson and Klein. The Tribunal’s sole objective of this Report is to achieve a fair balance in order to satisfy its obligation under the Law.

12C 203

8. Block 12C Parcel 203 (“Parcel 203”) can be dealt with on the basis that the owner L.B. Investments Ltd. in a letter to the Director dated 6 April 2015, agreed that the parcel should remain Low Density Residential. The agreement was made conditionally and subject to the approval of Block 12C Parcel 3 (“Parcel 3”) being rezoned to Hotel/Tourism. Mr Steward reaffirmed this position on behalf of L.B Investments Ltd. at the meeting held on 26 June 2015.

9. The CPA is opposed to Parcel 203 being rezoned to Hotel/Tourism. Instead the CPA recommends that it remains LDR and resolved to deny the application to zone this parcel during a meeting held on 3 December 2008. The CPA informed L.B. Investments Ltd. of this decision by letter dated 11 December 2008. This remains the position of the CPA as confirmed in the submissions filed by Ms Rambarran on behalf of the Director.

10. This Tribunal supports the CPA in its recommendation for Parcel 203 to remain LDR. Parcel 203 immediately borders the residential neighbourhood of Canal Point. It should
act as a natural buffer so as to mitigate inevitable noise and other forms of nuisances that would emit from the proposed development.

11. Mr Bodden has submitted that Parcel 203 should not be considered on the basis that it was not properly advertised and fails to meet the condition for publication of notice prescribed under section 11(3) of the Law. As we understand it, the CPA barred the application from progressing to the public consultation stage on the basis that it deemed this parcel unsuited to be rezoned Hotel/Tourism. In any event, the Tribunal has not seen any evidence before it that a public notice was ever issued in relation to Parcel 203. In the absence of this essential legislative criterion we agree with Mr Bodden that there is no basis for this Tribunal to consider this aspect of the Report as it has no standing to do so.

**Block 12C Parcels 393 and 394 ("Parcels 393 and 394")**

12. The Tribunal recommends that Parcels 393 and 394 are rezoned Hotel/Tourism. These parcels are currently zoned Neighbourhood Commercial, Public Open Space and Mangrove Buffer despite the construction of the Ritz-Carlton resort over a decade ago. Again we see no need to reproduce the relevant background in extensive details. A useful summary can be found in the submissions filed on behalf of the CPA and also in the minutes of the CPA meeting held on 3 December 2008. The pertinent details for the purpose of this Report are set out in the passages that appear below.

13. Mr Michael Ryan, the previous owner of the Ritz-Carlton, applied to rezone the parcels Hotel/Tourism in 1997 (the “1997 Application”). A notification was duly published and objections were received. There is no record to confirm that the 1997 Application was completed. We understand that the Cayman Islands Government (the “Government”) in 2005 varied an existing lease agreement dated 14 April 1950 between the Governor and Mr Benson Greenal (the “Lease Agreement”). The primary purpose of the variation of the Lease Agreement was to effect a rezone of the parcels in order to facilitate construction of the Ritz-Carlton resort.
14. The apparent failure to complete the 1997 Application was discovered in 2008 when Emerald Seas Ltd. and L.B Investment Ltd. applied to rezone Block 12C Parcels 3 and 203 on 31 January 2008 (the “2008 Application”). The CPA in a meeting held on 4 June 2008 adjourned the 2008 Application to include Parcels 393 and 394. On 5 September 2008 the Department of Planning (the “Department”) invited Mr Ryan to submit an application to rezone those portions of Parcels 393 and 394 zoned Neighbourhood Commercial and Public Open Space to Hotel/Tourism. Mr Ryan informed the Department of the 1997 Application which he believed had already been approved.

15. We support the CPA’s determination to rezone those portions of Parcels 393 and 394 currently zoned Neighbourhood Commercial and Public Open Space to Hotel/Tourism as contained in the extract of the minutes of 3 December 2008. The CPA recommends that it is appropriate to rezone this portion of land on the basis that the Ritz-Carlton site has already been developed to tourism and leisure use. This Tribunal agrees with the CPA’s reasoning and recommends that Parcels 393 and 394 (now 451) be rezoned from Neighbourhood Commercial and Public Open Space to Hotel/Tourism.

16. The Tribunal also notes that the objectors acceded to this recommendation during the meeting held on 10 March 2017 when asked directly by Mr Klein whether their objection remained. The objectors made it clear they were not able to speak for the objectors that were absent from the meeting but acknowledged that the Ritz-Carlton was not a bother to them and that it was personally not a problem. One objector went further and stated that it was unfortunate that the Ritz-Carlton was included in the application. Overall the objector responded in the negative to Mr Klein’s direct query.

17. Much of what comprised the objection is contained in various letters that were submitted by a number of residents at Canal Point in addition to comments received from certain Cayman Islands government agencies (“Government Agencies”). These objections are largely applicable to Block 12C Parcels 2 and 3 as well as Parcel 203
already considered above. These objections are dealt with in greater details in the ensuing paragraphs below.

**Block 12C Parcels 2 and 3 ("Parcels 2 and 3")**

18. On 31 January 2008 Mr Arek Joseph on behalf of Emerald Seas Ltd. and L.B Investments Ltd. applied to rezone Parcels 3 and 203 respectively. The application is dated 4 February 2008 and confirms that payment was received in the amount of $1,000 by way of a fee.

19. On 28 February 2008 the Director wrote to various Government Agencies and solicited their views in relation to the application to rezone. Some of the Government Agencies responded with notable concerns. Such concerns in large form the basis of the objectors' resistance as seen below.

<table>
<thead>
<tr>
<th>Against</th>
<th>For</th>
<th>Neutral</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Department of Environment</strong></td>
<td><strong>Department of Planning</strong></td>
<td><strong>Chief Fire Officer</strong></td>
</tr>
<tr>
<td>1. Over development of seven-mile;</td>
<td>1. Ritz-Carlton already developed as hotel leisure it is appropriate to rezone land to Hotel/Tourism;</td>
<td>No objection expressed.</td>
</tr>
<tr>
<td>2. Impact of large scale development;</td>
<td>2. Unsuitable to have residential use adjacent to hotel site due to noise and constant activity;</td>
<td>Water Authority</td>
</tr>
<tr>
<td>3. Impact on mangrove ecology;</td>
<td>3. Recommends that mangrove buffer remain;</td>
<td>No objection expressed.</td>
</tr>
<tr>
<td>4. No exceptional circumstances;</td>
<td></td>
<td>National Roads Authority</td>
</tr>
<tr>
<td>5. Increased focus on central George Town to alleviate congestion;</td>
<td></td>
<td>1. Concerns for increased traffic volumes but no objection to rezoning;</td>
</tr>
<tr>
<td><strong>Chief Environmental Health Officer</strong></td>
<td></td>
<td>2. Concerns with intensity of development.</td>
</tr>
</tbody>
</table>
20. The letters of objections mainly cite a number of the concerns already noted by one or more of the Government agencies. Additional complaints relate to a concern that structural features of a hotel development such as a sewage treatment plant may be aesthetically unpleasant and ultimately diminish property value in the neighbouring Canal Point precinct. Concerns relating to reduced property value form a consistent theme throughout most of the letters of objections. Other objectors have expressed concerns about noise that will accompany a hotel development such as increased traffic and loud entertainment. The issue of privacy was also raised in several letters where owners and residents of Canal Point expressed a fear that a seven storey structure would overlook their homes and invade their privacy.

21. Much of the foregoing concerns were reiterated by the objectors in attendance at the meeting held on 10 March 2017. Mr Bodden filed written submissions dated 26 June 2015 and a revised version dated 10 March 2017. Mr Bodden in his submissions adopts much of the concerns noted above which overlap with the complaints he outlined in his initial objection letter dated 23 February 2009. He submitted that a distinction must be drawn between parcels located between the West Bay Road and the Esterley Tibbetts Highway (the “Highway”) and those situated east of the Highway. Mr Bodden further submitted that the former parcels are better equipped to accommodate Tourism/Neighbourhood Commercial use whereas the latter were more appropriately suited to low density zoning. The difference was, as he submitted in his view, fundamental and material in issue.

22. Mr Bodden disputes the applicants’ assertion that the rezoning will bring the parcels in concert with land use by adjacent properties. He argued that the applicants’ statement in this regard was misleading and claimed that the property located east of the Highway is residential in nature. He further submitted that Block 12C situated between the Highway and West Bay Road does not in fact adjoin the Ritz-Carlton resort.
23. Mr Bodden also took issue with the Department’s recommendation to rezone the parcels noted at paragraph 18 above. He argued that the Department was flawed in its reasoning where it determined that residential use adjacent to the Ritz-Carlton would not be ideal due to excess noise and constant activity. Mr Bodden sought to illustrate that the Department’s rationale when applied to the Canal Point development would be wholly contradictory, since an inescapable similar effect would exist in this context. He submitted that this would be the case whether Parcel 203 were to remain classified as LDR and produced a natural buffer.

**Procedural issue relating to application fee for Parcel 2**

24. Mr Bodden contends that Parcel 2 is not properly before the Tribunal because the applicants failed to pay the application fee as required under The Development and Planning Regulations, 2013 (the “Regulations”). The former Director of Planning in a letter to Mr Ryan dated 5 September 2008 specifically referred to an application fee of CI$1,000. It was later established that Mr Klein submitted an application that did include payment of CI$1,000 along with a cover letter dated 20 November 1997 on behalf of Mr Ryan. Mr Ryan’s application referred to then Block 12C Parcel 215, which is now 12C 393 and 394 (now 451).

25. Similarly, Mr Joseph submitted an application accompanied by a letter dated 31 January 2008 in which a cheque was enclosed for the sum of CI$1,000. The application was submitted on behalf of Emerald Seas Ltd. and L.B Investments Ltd., owners of Block 12C Parcels 3 and 203 respectively.

26. The Tribunal has not seen an application in relation to Block 12C Parcel 2 nor any confirmation that the requisite fees have been paid. Mr Michael Alberga submitted a letter dated 8 April 2015 on behalf of the proprietors of Block 12C Parcel 2 in which he merely confirms that his client does not object to the rezoning of Block 12C Parcel 3 provided that Block 12C Parcel 2 is also rezoned Hotel/Tourism.
27. It is unclear from Item 4.2 CPA/38/08 of 3 December 2008 whether Parcel 2 formed part of the application that was initially submitted by Mr Ryan in 1997. However, in the absence of a formal application or evidence of payment of the relevant fees, we must agree with Mr Bodden’s contention that Parcel 2 for this reason, should not be considered for lack of standing. Although not binding, the Tribunal’s view as to current and future development of Parcel 2 is in any event expressed below along with our recommendation in relation to Block 12C Parcel 3.

Recommendation

28. Having considered the detailed submissions made by the objectors and Mr Jackson as counsel on behalf of applicant Emerald Seas Ltd. in respect of Parcel 3, it is our view that a suitable balance should be struck in order to facilitate what initially appears to be competing interests. However, the question was posed to Mr Jackson as to whether as a compromise his client would be in favour of a “graduating zoning” of sorts, to which he responded in the affirmative.

29. It is our view that the objectors and relevant Government Agencies raise legitimate concerns that should not be overlooked nor readily give way to commercial expediency. In the same vein we believe that the applicants should not be deprived of the obvious economic benefit that their property yields. There is much irony in the fact that the majority of the objectors expressed fear that their property would be diminished by further development when it is the very development that has given steady rise to the notable increase in value over the passage of time.

30. Mr Jackson on behalf of his client did confirm at the hearing held on 10 March 2017 that the current zoning of LDR and Neighbourhood Commercial is sufficient to enable development that would accommodate his client’s immediate to mid-term plans. However, it is understandable that the applicant would not want to restrict its ability to develop a hotel at some later stage or to sell the property to a third party that may in the future express a like desire to develop a hotel.
31. Counsel for the CPA Ms Rambarran submitted that the Tribunal is obliged to make a definitive recommendation in respect of the Report. We note that the Law does not define the scope of the Report nor suggest what its contents should reflect. Furthermore, the Tribunal is not convened in this capacity to determine traditional issues or contentious points of law in that it has to act decisively. There is no scope or legislative framework for appeal. Rather the Tribunal by virtue of section 11(3)(a) of the Law is required to enquire into the objections and representations. We therefore do not accept that we are in anyway confined to the submissions made by either counsel or the objectors for that matter.

32. What is important is that an appropriate balance must be achieved. We are sympathetic to the applicants’ desire to rezone Parcels 2 and Parcels 3 to Hotel/Tourism and do not lightly overlook the CPA’s recommendation to do so. However, we are persuaded that the concerns raised by the Department of Environment as well as the Chief Environmental Health Officer are paramount and of vital importance. It is on this basis that we recommend that the portion of land situated on Parcels 2 and 3 located west of the Highway be rezoned Hotel/Tourism only. The remaining portion on each of the parcels located east of the Highway should in our view remain LDR and Mangrove Buffer as presently zoned.

33. It is perhaps time for the Cayman Islands Government to revise the much outdated 1997 Development Plan which would on the one hand adequately safeguard the legitimate concerns expressed by the objectors whilst on the other, enable the applicants and property owners to capitalise on the returns of their investment without unduly restricting the nature of future development.

Dated this the 16th day of May 2017

Mr Richard H Barton
Chairman of the Planning Appeals Tribunal