

# **Central Planning Authority**

**Minutes** for a meeting of the Central Planning Authority held on March 12, 2008 at 12:00 noon in the Conference Room, 1<sup>st</sup> Floor, Regatta Office Park – Leeward One (formerly Safehaven) and preceding on to various sites.

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

**CPA/09/08**

**Mr. Dalkeith Bothwell (Chairman)**  
**Mr. Attlee Bodden (apologies)**  
**Mr. Darrell Ebanks (apologies)**  
**Mr. Ernley Hurlstone (absent)**  
**Mr. Ray Hydes (apologies)**  
**Mr. Arek Joseph (apologies)**  
**Mr. Trent McCoy**  
**Mr. Rex Miller**  
**Mr. Arden Parsons**  
**Mr. Eldon Rankin (apologies)**  
**Mr. Owen Rankine**  
**Mr. Robert Watler**  
**Mr. Fred Whittaker (apologies)**  
**Mr. Kenneth Ebanks (Executive Secretary)**

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

**1.0 CONFIRMATION OF MINUTES**

**2.0 APPLICATIONS**  
**REGULAR AGENDA (Item 2. 1 TO 2. 6)**

**2. 1 CHRISTOPHER JOHNSON Block 5D Parcel 20 (F05-0177) (P07-1247) (DE)**

Application for beach stabilization with gabion basket retaining wall.

**A site visit was conducted by the Authority at 1:00pm.**

**FACTS**

<i>Location</i>	West Bay Road, Between The Palms And Discovery Point Club
<i>Notice Requirements</i>	Objectors
<i>Parcel Size</i>	1.3700 acres
<i>Current Use</i>	House/Pool/Pool Deck
<i>Proposed Use</i>	Retaining Wall(Gabion Basket)

**BACKGROUND**

November 1, 2006 (CPA/34/06; item 2.31) – A previous application for a different type of beach stabilization device was refused.

February 5, 2008 (CPA/05/08; item 2.5) – It was resolved to adjourn the current application in order for the Authority to undertake a site visit.

**Decision:** It was resolved to refuse the application, **for the following reasons:**

1. The proposed beach stabilization device does not comply with the required minimum setback of 130 feet from the high water mark per Regulation 8 (10) (e) of the Development and Planning Regulations (2006 Revision).
2. The Authority considered the discretion afforded by Regulation 8 (11) and determined that a lesser setback than that prescribed in Regulation 8 (10) (e) would not be allowed for the following reasons:
  - a) The elevation of the property and its environs is not unique in any way that would warrant a lesser setback;
  - b) The geology of the property does include hard flat rock at the shoreline, but this does not act as a sufficient barrier to allow a lesser setback;
  - c) The presence of a storm ridge comes and goes due to the dynamics of Seven Mile Beach and cannot be considered a sufficient reason to allow a lesser setback;

- d) There may be a protective reef of sorts, but in light of the many recent storm events it clearly does not provide sufficient protection from storm surge to warrant allowing a lesser setback;
  - e) There are no other seawalls or other shoreline stabilization devices on adjacent land in the same or similar location; and
  - f) There was no evidence apparent of any other material consideration that should be taken into account to allow a lesser setback.
3. Section 2.3 (c) of The Development Plan 1997 states that:

*“The beaches of the Cayman Islands are an important national asset in which the rights of the public must be protected. Steps must be taken to prevent the removal of sand from the beach, to preserve the beach ridge and to control the spreading of litter.”*

The Authority is of the opinion that in order to discharge its duty under section 2.3 (c), the proposed beach stabilization device shall not be approved for the following reasons:

- a) In considering the opinions and comments provided by the applicant and objectors, both in written and verbal form, and the comments provided by the Department of Environment, the Authority takes the position that there is not enough evidence to definitively state that the beach stabilization device will not negatively effect the beach in terms of erosion, preservation of the beach ridge, and dispersal of the contained rocks should the gabion baskets collapse.
- b) The members of the Authority have first hand knowledge of the portion of beach in question and are aware that the beach is returning naturally. The Authority is of the opinion that the natural cycle of beach accretion/depletion should be allowed to continue unimpeded by artificial features. In this way the goals of strategy 2.3 (c) may be achieved.
- c) Another point of further explanation to assist in understanding the Authority’s decision:
  - i) While acknowledging that it has no regulatory or statutory standing, the Beach Review and Assessment Committee (BRAC) report was prepared by knowledgeable and qualified professionals and has been supported by the Government of the Cayman Islands. As such, the Authority is of the opinion that some weight should be given to the report when considering applications for beach stabilization devices. That report recommends that any seawalls along Seven Mile Beach should be setback at least 20 feet behind the vegetation line. The locations of the beach stabilization device are basically at the vegetation line and would not be consistent with the findings of the BRAC report. While it is not necessarily a specific reason for refusing the application, this lack of setback from the vegetation line does represent another factor indicating that the proposal is not conducive to furthering the stated strategy of 2.3 (c) of The Development Plan 1997.

The Authority wishes to remind the applicant of the right to appeal pursuant to section 48(1) of the Development and Planning Law (2005 Revision). Such appeal shall be made by Notice in writing, and referred to as “Notice of Appeal”. It shall be signed by yourself or your attorney-at-law and filed along with the prescribed CI\$50.00 filing fee, in the offices of the Permanent Secretary of District Administration, Planning, Agricultural and Housing within the fourteen (14) day period as stipulated in Section 48(1).

Immediately thereafter the appellant shall serve a copy of the Notice of Appeal on the Director of Planning and on all parties who may have filed objections or been heard at the hearing of the application to which the appeal relates. A copy of the Appeal Rules for the Development and Planning Law may be obtained from the Clerk of the Legislative Assembly.

**2. 2 CLEMENT PATTERSON Block 1D Parcel 506 (FA94-0091) (P07-1346) (DE)**

Application for the after-the-fact two (2) bedroom (two storeys) addition to unit 1 (east side) of the existing duplex.

**The Authority members undertook a site visit at approximately 2:00pm.**

**FACTS**

<i>Location</i>	Ms. Daisy Lane in West Bay
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	18,295 sq. ft.
<i>Current Use</i>	Duplex and House
<i>Proposed Use</i>	Addition to Duplex
<i>Building Size</i>	1,301 sq. ft.
<i>Density</i>	4.76
<i>Allowable Density</i>	4
<i>Building Coverage</i>	22%
<i>Total Site Coverage</i>	22%
<i>Existing Parking</i>	4
<i>Proposed Handicapped Spaces</i>	1
<i>Proposed Parking</i>	1
<i>Required Parking</i>	3
<i>Number of Units</i>	3

**BACKGROUND**

April 20 1994 (CPA/11/94; Item 2.7) - The subject parcel was granted permission for a two-bedroom house.

July 10, 1996 (CPA/25/96; Item 6.2) - The Authority deferred an application for an after-the-fact one-bedroom house.

July 31 1996 (CPA/27/96; Item 7.1) - The Authority granted planning permission for the after-the-fact one-bedroom house.

March 24 1999 (CPA/07/99; Item 6.08) - the Authority granted planning permission for a two-bedroom dwelling unit to be attached to the existing house to create a duplex.

**Decision:** It was resolved to adjourn the application in order for the applicant to submit drawings that accurately depict the building floor plan, elevations and the site layout.

It was further resolved to reprimand the agent for submitting such misleading information. The Director is to action accordingly.

**2. 3 KIM SAMUEL Block 5B Parcel 146 (F06-0280) (P07-0804) (\$70,125) (CS)**

Application to refurbish a derelict commercial building to allow storage and to allow an after-the-fact porch and view deck.

**The Authority members undertook a site visit at 3:00pm.**

**FACTS**

<i>Location</i>	Northwest of the 4-Stop Intersection in West Bay, off Mollie Hydes Road
<i>Zoning</i>	<b>N COM</b>
<i>Notice Requirements</i>	No Objectors
<i>Advertisements</i>	NA
<i>Parcel Size</i>	2,178 sq. ft.
<i>Current Use</i>	Vacant Building
<i>Proposed Use</i>	Storage
<i>Building Size</i>	825 sq. ft.
<i>Building Coverage</i>	40%
<i>Total Site Coverage</i>	40%
<i>Required Parking</i>	1

**BACKGROUND**

January 25, 2006 (CPA/03/06; Item 3.2) - CPA resolved to issue an Enforcement

Notice and Stop Notice.

February 21, 2006 - An Enforcement Notice and a Stop Notice were sent by registered post (CE05-0190).

May 30, 2007 (**CPA/15/07; Item 2.8**) - The Authority resolved to refuse an application for an after-the-fact porch and view deck for the following reasons:

1. The application does not comply with the minimum parking requirements per Regulation 8 (1) (b) (iv) of the Development and Planning Regulations (2006 Revision) and the Authority is of the opinion that the applicant did not demonstrate any acceptable reasons why the deficient parking scenario should be allowed per Regulation 8(13)(b)
2. The application does not comply with the front or rear setback requirements per Regulation 8 (8) (b) of the Development and Planning Regulations (2006 Revision) and the Authority saw no other reason to allow lesser setbacks.

There is no Planning Permission or Building Permit history for the existing 387 square foot commercial building.

November 28, 2007 (**CPA/35/07; Item 2.11**) - The Authority resolved to adjourn the application to invite the applicant to appear before the Authority to discuss the same concerns the Authority had with the application when it was refused on May 30, 2007.

February 5, 2008 (**CPA/05/08; Item 2.8**) – The application was adjourned in order for the Authority to undertake a site visit.

At the site visit it was confirmed that the “floor/foundation” on site was in fact a paved area for parking by former owner.

Members were also able to confirm that the new roof/deck was not part of existing roof. The previous roof was gable with corrugated metal covering.

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

1. The application does not comply with the minimum parking requirements per Regulation 8 (1) (b) (iv) of the Development and Planning Regulations (2006 Revision) and the Authority is of the opinion that the applicant did not demonstrate any acceptable reasons why the deficient parking scenario should be allowed per Regulation 8(13)(b)
2. The application does not comply with the front or rear setback requirements per Regulation 8 (8) (b) of the Development and Planning Regulations (2006 Revision) and the Authority saw no reason to allow lesser setbacks.

The Authority wishes to remind the applicant of the right to appeal pursuant to section 48(1) of the Development and Planning Law (2005 Revision). Such appeal shall be made by Notice in writing, and referred to as “Notice of Appeal”. It shall be signed by yourself or your attorney-at-law and filed along with the

prescribed CI\$50.00 filing fee, in the offices of the Permanent Secretary of District Administration, Planning, Agricultural and Housing within the fourteen (14) day period as stipulated in Section 48(1).

Immediately thereafter the appellant shall serve a copy of the Notice of Appeal on the Director of Planning and on all parties who may have filed objections or been heard at the hearing of the application to which the appeal relates. A copy of the Appeal Rules for the Development and Planning Law may be obtained from the Clerk of the Legislative Assembly.

**2.4 HENRIETTA EBANKS Block 4E Parcel 228 (FA94-0276) (P07-0953) (\$18,000) (DE)**

Application for two after-the-fact structures and an after-the-fact addition to an existing structure.

**The Authority undertook a site visit at 2:30pm.**

**FACTS**

<i>Location</i>	On West Church Street in West Bay, on the corner of Gunters Link Road
<i>Zoning</i>	<b>HDR</b>
<i>Parcel Size</i>	.3800 acres
<i>Current Use</i>	Boarding House/Sheds
<i>Proposed Use</i>	Boarding House/Sheds
<i>Building Size</i>	212 sq. ft.
<i>Density</i>	6
<i>Building Coverage</i>	16%
<i>Total Site Coverage</i>	16%
<i>Existing Parking</i>	2
<i>Proposed Parking</i>	2
<i>Required Parking</i>	4

**BACKGROUND**

**August 8, 2001** – An application for after-the-fact additions to the same duplex being considered today was adjourned for the reasons below and the Authority resolved to issue a Stop Notice as well.

1. The site plan and the floor plans do not correlate.
2. The plans do not appear to accurately reflect the as-built condition of the property.
3. Given (1) and (2) above, the applicant, the applicant's agent and Planning Department Staff (Enforcement, Planning & Building Control) shall conduct a

comprehensive site visit to determine the as-built condition and use of the property. The Planning Department will give at least two (2) days notice of said visit.

4. Based on the site visit noted in (3) above and within sixty (60) days of this decision, the applicant shall provide accurate plans illustrating the as-built condition and use of the site and the proposed changes thereto.
5. If conditions (3) and (4) above are not complied with the Authority will issue an Enforcement Notice with immediate effect, pursuant to Section 21 of the Development and Planning Law (1999 Revision).

**Decision:** It was resolved to adjourn the application in order for the applicant to submit drawings that accurately depict the site layout, floor plans and building elevations. The Department was directed to send a letter to the applicant's agent, on behalf of the Authority, reprimanding him for submitting drawings that were not accurate.

## **2.5 BODWIN Block 20B Parcel 118 (F00-0132) (P06-1567) (\$25,000) (BES)**

Application for one (1) #3-sided free standing sign.

**The Authority undertook a site visit.**

### **FACTS**

<i>Location</i>	Owen Roberts Drive
<i>Zoning</i>	<b>AIRPORT LANDS</b>
<i>Notice Requirements</i>	No Objectors
<i>Height</i>	20 ft
<i>Sign Size</i>	630 sq. ft.

### **BACKGROUND**

Sept. 14, 2005 (**CPA/21/05; Item 2.53**) - CPA granted planning permission for commercial/warehouse storage development.

June 13, 2007 (**CPA/17/07; Item 2.26**) - CPA modified planning permission for change-of-use from warehouse to retail.

July 25, 2007 (**CPA/23/07; Item 2.23**) - CPA adjourned the application to invite the applicant to appear before the Authority.

February 5, 2008 (CPA/05/08; item 2.1) – CPA adjourned the application in order for the Authority to undertake a site visit.

**Decision #1:** It was resolved to refuse the application, **for the following reason:**

1. The subject site is situated at the junction of Dorcy Drive and Owen Roberts Drive and this junction is very visible to all tourists coming from and going to the Owen Roberts International Airport. As such, any development at this junction must be of a visual standard that does not set a poor image and detract from the tourism product of the Island. The Authority is of the opinion that the design and appearance of the sign is not consistent with the high quality appearance of the associated commercial plaza and is visually unappealing and will lead to a negative impact on the Island's tourism product which is contrary to strategy 1.3 (b) of The Development Plan 1997.

The Authority wishes to remind the applicant of the right to appeal pursuant to section 48(1) of the Development and Planning Law (2005 Revision). Such appeal shall be made by Notice in writing, and referred to as "Notice of Appeal". It shall be signed by yourself or your attorney-at-law and filed along with the prescribed CI\$50.00 filing fee, in the offices of the Permanent Secretary of District Administration, Planning, Agricultural and Housing within the fourteen (14) day period as stipulated in Section 48(1).

Immediately thereafter the appellant shall serve a copy of the Notice of Appeal on the Director of Planning and on all parties who may have filed objections or been heard at the hearing of the application to which the appeal relates. A copy of the Appeal Rules for the Development and Planning Law may be obtained from the Clerk of the Legislative Assembly.

**Decision #2:** It was resolved to authorise the issuance of an Enforcement Notice in accordance with Section 18 of the Development and Planning Law (2005 Revisions). Enforcement Notice to take effect, subject to the provisions of Section 18(5) and (6) of the law, at the end of the period of 28 days from the date of service and compliance with the Enforcement Notice to be completed within the period of 60 days from the date when the Notice takes effect.

**2. 6 KENNETH M. WATLER Block 25B Parcel 368 (F98-0135) (P07-1322) (\$30,000) (CS)**

Application for external stairs, dormers and roof storage.

**The Authority undertook a site visit at 4:30pm.**

**FACTS**

<i>Location</i>	In Spotts, off Prospect Drive
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	25,264 sq. ft.
<i>Current Use</i>	Apartments
<i>Proposed Use</i>	Apartments
<i>Building Size</i>	1,445 sq. ft.

<i>Building Coverage</i>	22.5%
<i>Existing Parking</i>	14
<i>Required Parking</i>	12
<i>Number of Units</i>	8

**BACKGROUND**

April 29, 1998 (CPA/12/98; Item 6.012) - The Authority granted planning permission for eight (8) apartments on Parcels 367 and 368.

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

1. The Authority was not convinced that it was necessary to have the external stairs since there was an existing internal stairs within the owner’s unit.

The Authority wishes to remind the applicant of the right to appeal pursuant to section 48(1) of the Development and Planning Law (2005 Revision). Such appeal shall be made by Notice in writing, and referred to as “Notice of Appeal”. It shall be signed by yourself or your attorney-at-law and filed along with the prescribed CI\$50.00 filing fee, in the offices of the Permanent Secretary of District Administration, Planning, Agricultural and Housing within the fourteen (14) day period as stipulated in Section 48(1).

Immediately thereafter the appellant shall serve a copy of the Notice of Appeal on the Director of Planning and on all parties who may have filed objections or been heard at the hearing of the application to which the appeal relates. A copy of the Appeal Rules for the Development and Planning Law may be obtained from the Clerk of the Legislative Assembly.

**3.0 ENFORCEMENTS**

**4.0 DEVELOPMENT PLAN MATTERS**

**5.0 PLANNING APPEAL MATTERS**

**6.0 MATTERS FROM THE DIRECTOR OF PLANNING**

**7.0 CPA MEMBERS INFORMATION/DISCUSSIONS**