

# **Central Planning Authority**

**Minutes** for a meeting of the Central Planning Authority held on February 3, 2010 at 10:30 a.m. in the Conference Room, 1<sup>st</sup> Floor, Regatta Office Park – Leeward One.

**3<sup>rd</sup> Meeting of the Year**

**CPA/03/10**

**Mr. A. L. Thompson (Chairman) (except 2.35)**

**Mr. Steve McLaughlin (Deputy Chairman) (except 2.8) (Acting Chairman for 2.35)**

**Mr. Peterkin Berry**

**Mr. Peter Campbell (apologies)**

**Mr. Ernie Hurlstone (absent)**

**Mr. Philip Hydes (absent)**

**Mr. Ray Hydes**

**Mr. Gillard McLaughlin**

**Mr. Rex Miller**

**Mr. Allan Myles**

**Mr. Eldon Rankin**

**Mr. Helbert Rodriquez**

**Mr. Antonio Smith (except 2.3)**

**Mr. Haroon Pandohie (Executive Secretary (Acting))**

**Mr. Ron Sanderson (Assistant Director of Planning (CP))**

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

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**APPLICANTS THAT APPEARED BEFORE THE CENTRAL PLANNING AUTHORITY**

<b>APPLICANT NAME</b>	<b>TIME</b>	<b>ITEM</b>	<b>PAGE</b>
Patricia Watson (DE)	11:00	2.1	6
Dr. Frank McField (DE)	11:20	2.2	10
John & Kent Burke (DE)	11:40	2.3	17
Rachel Smyth (DE)	1:00	2.4	26
Randy Smith	1:20	3.3	134
Fujigmo Ltd. (CS)	1:30	2.5 & 2.6	28 & 41

**1.0 CONFIRMATION OF MINUTES**

**1.1 Confirmation of Minutes of CPA/02/10 held on January 20, 2010.**

Moved: Peterkin Berry  
Seconded: Steve McLaughlin

**Confirmed**

## 2.0 APPLICATIONS

### APPEARANCES (Items 2. 1 TO 2. 6)

#### 2. 1 PATRICIA WATSON Block 2C Parcel 26 (F07-0206) (P07-0457) (\$234,300) (DE)

Application for a two-storey house.

#### **Appearance at 11:00**

#### **FACTS**

<i>Location</i>	Off Northwest Point Road unto Watercourse and Ebanks Road, West Bay South
<i>Zoning</i>	<b>LDR</b>
<i>Parcel Size</i>	0.2 acres
<i>Current Use</i>	Dilapidated Building
<i>Proposed Use</i>	House
<i>Building Size</i>	2,130 sq. ft.
<i>Density</i>	4
<i>Allowable Density</i>	3
<i>Footprint</i>	1,065 sq. ft.
<i>Building Coverage</i>	12.2%
<i>Proposed Parking</i>	1
<i>Required Parking</i>	1

#### **BACKGROUND**

October 25, 2006 (CPA/33/06; Item 3.1) - It was resolved to adjourn the enforcement matter and provide the applicant 90 days to remove the building. Abatement Notice issued on October 2, 2006 by the Central Planning Authority.

May 2, 2007 (CPA/12/07; Item 2.32) - The application was adjourned to invite the applicant to appear before the Authority to discuss concerns regarding the proposal.

June 27, 2007 (CPA/19/07; Item 2.8) - It was resolved to adjourn the application, for the following reason:

1. The applicant is directed to liaise with the National Trust and submit a proposal to the Authority demonstrating how the original wattle and daub structure (centre portion, excluding the wings) can be preserved. The new building must also comply with setback requirements.

**Decision:** It was resolved to adjourn the application for an additional 60 days. The applicant will then be re-scheduled to attend a meeting of the Central

Planning Authority to discuss her intentions for the application.

### **LETTER FROM NATIONAL TRUST**

*“Further to a request from Patricia Watson the owner of Block 2C Parcel 26 located on Ebanks Road, West bay, I confirm that the original wattle and daub home located on that property was listed on the National Trust's Historic Building/Site Inventory of the Cayman Islands as #71 within that district.*

*From what our office has been able to ascertain, it was the home of Atwood Ebanks who was lost at sea on September 27, 1941 while serving as a ranger on Majestic. Atwood Ebanks was also mention in a memory bank interview of Bertie Ebanks held by the National Archive. Apparently, Atwood was involved in the small cattle industry on the sister islands*

*The original documents can be viewed at the Cayman Islands National Archive or the copies at the National Trust for the Cayman Islands.”*

### **ENFORCEMENT ANALYSIS**

Subsequent to a complaint received, a site investigation was carried out by Kim Smith, Compliance Officer and Ken Wright, Building Control Officer on July 6, 2006. The site investigation revealed that the building was in a dilapidated condition. A report was completed by Ken Wright stating the building was considered unsafe and recommending the building be demolished. At a meeting of the Central Planning Authority on the 6th day of September 2006, it was resolved to issue an Abatement Notice requiring the building be demolished and the arising building materials and rubble removed from the land within 28 days.

October 12, 2006 a letter was received from Mrs Patricia Watson (Ebanks) requesting written approval to rebuild a house on the footprint of the existing structure prior to taking action to demolish the existing structure, as follows:

*“Recently, I have been engaged in telephone discussions with one Mrs. Kim Smith of your Department, regarding the above captioned property which I am the owner of. The gist of our conversations centered around concerns expressed by adjoining land owner(s) who wanted the old house on the property removed/demolished.*

*I am not opposed to this idea at this time. However, when I first invested in the property it was with a view of restoring the old home- which was previously owned by my relatives.*

*As background information I draw your attention to the following information. Since I came in possession of the place, my immediate neighbours- who are also my relatives have used it, without request or permission, for the following purposes (a) parking (b) storage of construction material (c) a doghouse (he was fed and kept in it-all for several years (d) the septic system was used for their toilet (the pipe is still in place (e) it appears from the attached map from the Lands and Survey Office that they (ie 2C25) have also encroached upon it to build*

*their house. Additionally, persons who purchase drugs in the area (Ebanks Rd.) sometimes stop by the house to use them.*

*My adjoining relatives have expressed interest in purchasing the place on several occasions.*

*However, when I would not sell the place to them and I requested a discontinuance of the aforementioned unauthorized uses of the place, based on legal advice, they began a campaign of complaints about the place, to various Government Departments, which curiously seemed not to have posed a problem to them while they enjoyed use of it.*

*They also threatened to see to it that Planning never allows me to build on the property. Which brings me to the point of this letter.*

*Although I have not yet received an Abatement Notice from the Planning Dept., I am prepared to demolish the structure on the property, based on communication to that effect to me by Mrs. Smith as being the Depts. Recommendation on the matter- provided that my investment in the said property is protected and I am not needlessly adversely affected by the action.*

*Therefore, before taking any action to that end, I am seeking your written approval to rebuild a house "on the footprint" of the existing structure. My concerns, which motivates this request, stems from the size and configuration (L-shaped) of the land. Under normal circumstances, the building on this property would not comply with present Planning regulations. However, since the structure pre-dates the existence of the Dept., I am hoping that the situation could be dealt with in this way which would be more speedy and more fair to all than other possible options. While endeavouring to be fair to all parties concerned, I wish, naturally, to preserve my own investment and to guard against the possibility of being deprived of my right to develop the property.*

*The new structure, if approved and built in the footprint of the present one, should serve to bring a solution to all parties as the complainants will have their "problem" removed and I will not have to sustain a loss by so doing. I await your instructions on the matter.*

*Thank you for your fair and favourable consideration of this matter."*

### **PLANNING DEPARTMENT ANALYSIS**

The applicant is requesting planning permission to construct a two storey house located off Northwest point Road onto Watercourse and Ebanks Road, West Bay.

On the basis of the plans submitted to the Department a review of the application revealed that it does not comply with the lot size, density, rear setback requirements of Regulation 9(8) of the Development and Planning Regulations (2006 Revision). More specifically:

- The density of the applied unit equates to 4 units per acre. Per Regulation 9(7)(a), the maximum density for detached dwellings is 3 per acre. Clearly, the density on the subject site does not comply with stated Regulation.

- The lot size required for 1 detached dwelling is 12,500 square feet per regulation 9(8)(d). The minimum lot size for the detached and semi-detached house is 12, 500 square feet and 11,600 square feet respectively. The subject parcel size is 0.203 acres or 8,712 square feet. The existing parcel was registered with the Land and Survey Department on 28th February 1974. This lot size clearly does not comply with the calculated minimum required lot size.
- Concerning the building subject to the application, the rear setback, which is facing to the Ebanks Road, which is consideration the road frontage ranges from 3 feet to 10 feet. The main reason why the rear setback does not comply is that the applicant has design the proposal into the existing setback and footprint of the Dilapidated Buildings noted above. This setback does not comply with the required minimum setbacks as specified in Regulation 9(8) (i) (2006 Revision).

### **SUPPLEMENTARY ANALYSIS #1**

May 2, 2007 (CPA/12/07; Item 2.32) - it was resolved to adjourn the application to invite the applicant to appear before the Authority to discuss concerns regarding the proposal. Now, the Department has schedule for the applicant to appear before the Authority to discuss concerns regarding the proposal.

### **SUPPLEMENTARY ANALYSIS #2**

The Department has scheduled for the applicant to appear before the Authority to discuss their progress with the National Trust on restoring the existing development (or structure) on site.

**At 11:00am, Mr. Sammy Jackson appeared on behalf of the applicant.**

**CPA** There are concerns with the state that the land is in. It's been 2 years and there's been no action.

**Mr. Jackson** His client truly thought that the application was dead. She wants to re-build the house as it was. He needs to get more instruction from her on the timing and such.

**CPA** Then it would help to put the matter off for a while so they can come back with more information on how they plan to proceed.

**Mr. Jackson** Yes.

**CPA** Thanked him for attending the meeting.

**2. 2 DR. FRANK MCFIELD Block 14CF Parcel 89 (FA89-0202) (P05-1153) (\$113,000) (DE)**

Application for a change-of-use from commercial to apartments on the second floor and an application for after-the-fact additions to the building.

**An appearance was scheduled for 11:20, but the applicant did not attend the meeting.**

**FACTS**

<i>Location</i>	At the corner of School and McField Lane, George Town
<i>Zoning</i>	<b>G COM</b>
<i>Notice Requirements</i>	No Objectors
<i>Advertisements</i>	Advertising Complete
<i>Parcel Size</i>	0.35 acres
<i>Current Use</i>	Mixed-Use Development
<i>Proposed Use</i>	Commercial/Residential
<i>Building Size</i>	5,710 sq. ft.
<i>Building Coverage</i>	37.45%
<i>Parking Coverage</i>	19.5%
<i>Total Site Coverage</i>	56.95%
<i>Existing Parking</i>	7
<i>Proposed Handicapped Spaces</i>	1
<i>Proposed Parking</i>	15
<i>Required Handicapped Spaces</i>	1
<i>Required Parking</i>	22

**BACKGROUND**

June 1, 2005 (**CPA/13/05; Item 5.4**) - It was resolved to authorize the issuance of an Enforcement Notice & Stop Notice Section 18 (2003 R).

February 22, 2006 (**CPA/05/06; Item 2.2**) - It was resolved to adjourn the application for the after-the-fact building addition, for the following reason:

1. The site plan must be revised in accordance with the comments from the National Roads Authority.

It was further resolved to adjourn the application for the new building and change-of-use, for the following reasons:

1. The applicant shall complete the notification process per section 15(4) of the Development and Planning Law (2005 Revision).

2. The site plan shall be revised to show a properly functioning parking area.

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

- 1) The applicant is required to obtain the necessary approvals from the Chief Building Control Officer for the apartments, restaurant kitchen addition and the covered patio.
- 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.**

### **AGENCY COMMENTS**

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

#### **Chief Environmental Health Officer**

*“The following comments are submitted with respect to the above application:*

##### ***1.0 Solid Waste***

1. *There is no solid waste facility provided for this site. The addition of a restaurant will create a type of waste that should be adequately stored on site to prevent odour problems and prevent the breeding of rodents and other vermin. This site needs to be provided with an enclosure to house a mechanically serviced container. The facility shall be designed and located to satisfy the department's guidelines as set out below:*
  - *The enclosure shall be placed such that access to these containers can be kept clear at all times. The facility shall be centrally located, and so placed, as to allow easy access for servicing by the Department's vehicles.*
  - *The enclosure shall be located so that the vehicle can access the container directly and have adequate room to lift it into the discharge position.*
  - *The facility shall be located away from overhead power lines and other protrusions that can cause electrical shock, injury, or other difficulties during servicing.*
  - *Where there is a canopy or other overhead projection under which the service vehicle must pass to access the onsite solid waste facility the minimum vertical clearance of 15 feet must be provided.*
  - *A minimum clear space of 50-feet shall be provided directly in front of the facility to allow the vehicle sufficient area to back out of the facility.*

- *A minimum turning radius of 35-feet to the facility shall be appropriated.*
- *The facility shall be located such that the vehicle will not impede normal vehicular flow or create potentially dangerous traffic situations while the container is being serviced.*
- *The enclosure shall have minimum internal dimensions of 10 ft by 10 ft and shall have a minimum height of 5 ft 6 in.*
- *The base of the enclosure shall be constructed of reinforced concrete.*
- *The facility shall be provided with a drain and liquid waste disposal system designed to the satisfaction of the department.*
- *A water supply, under pressure, shall be provided to the enclosure to facilitate cleansing.*
- *Design details of the enclosure shall be submitted to the department for review and approval.*

## **2.0 Restaurant**

1. *Revised plans and specifications for the food preparation area are required and This must address the following:*
  - *Food preparation area must be arranged such that there is a process flow from intake of raw food products to finished product to eliminate the possibility of cross contamination.*
  - *The sanitizing and cleaning cannot be placed adjacent to the area where final product is being prepared, as it presents the potential for cross contamination to occur.*
  - *The toilet in the kitchen area shall not open directly onto the food preparation area.*
  - *The dry storage area shall be increased to a minimum of 90-sqaure feet*
  - *The volume of cold storage area is inadequate for the capacity of the restaurant. An adequate cold storage area shall be provided.*
  - *A food preparation sink shall be provided.*
  - *A hand wash sink shall be provided in the kitchen and the bar area.*
  - *A mop sink shall be provided.*
  - *A hot water system capable of providing a minimum hot water supply of 88 gallons per hour shall be installed. Specifications for the heater shall be submitted for review and approval.*
  - *An exhaust hood system shall be provided for the cooking equipment. Design details of the system shall be submitted for review and approval.”*

## **Water Authority**

*“Please be advised that the Water Authority's requirements for this development*

are as follows:

- *The developer shall provide an on-site aerobic wastewater treatment system(s) with a treatment capacity of at least 3,262 US gallons per day (gpd).*
- *The aerobic treatment system shall be designed to produce an effluent quality of 30 mg/l BOD5 and 30 mg/l Suspended Solids.*
- *The developer shall also provide a grease interceptor with a liquid volume of at least 1,000 US gallons to treat the wastewater from restaurant's kitchen plumbing fixtures utilized in the preparation or clean up of food. The outlet of the grease interceptor shall be plumbed to the sewage line leading to the aerobic wastewater treatment system required above. The grease interceptor shall be constructed in accordance with the Water Authority standards.*
- *Prior to installation, the developer shall provide detailed information on the proposed treatment system and grease interceptor to the Water Authority for approval.*
- *Adequate area shall be reserved for the treatment system. The location shall comply with the minimum setback requirements of the Planning Department. Special consideration shall be given to the elevation of the treatment system, relative to the elevation of the local water table.*
- *All treated effluent shall be discharged into a disposal well. The disposal well shall be constructed in strict accordance with the Authority's standards. The discharge pipe from the treatment system shall enter the disposal well at a height of at least two feet above the water table level in the well. Discharge into the disposal well shall be by gravity-flow.*
- *If a lift (pumping) station is required as part of the wastewater collection system due to elevation and/or length of run, it shall be installed upstream of the treatment system, to meet the above requirement that the discharge from the treatment system to the disposal well is gravity-flow. Full details of any proposed pumping station (i.e., size of wet well and pump specifications) shall be submitted to the Water Authority for approval.*
- *The treatment system shall have easy access for operation, maintenance and inspection.*

*Please be advised that this development is situated within the Water Authority's public water supply area and will be connected to the system upon request by the owner. The location of that connection will be at the discretion of the Water Authority.”*

#### **National Roads Authority**

*“As per your memo dated November 18th, 2009 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

### ***Boundary Plan 401***

*BP 401 gazetted under Section 3 of the Roads Law (Revised) and published within gazette number 23 of 2000, runs along the western boundary of the above site which the applicant appears to have respected.*

*The construction of BP 401 began in 2004 but because of some outstanding issues was terminated before it could be completed as designed. Please see attached 2004 schematic.*

*The NRA asks that the six (6) ft sidewalk requirement be left out of the conditions of approval for the applicant. If built, by the applicant, the NRA would have to rip it out later in order to complete the widening of McField Lane as well as construct a sidewalk as is part of the designed works for the project.*

### ***Road Capacity Issues***

*The traffic demand to be generated by the proposed development could not be accurately assessed. However, the impact of the proposed development onto School Rd and McField Lane is considered to be minimal.*

### ***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 (Amendment) Law, 2004 (Law 11 of 2004). 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;"*

### **PLANNING DEPARTMENT ANALYSIS**

Subsequent to a complaint received a site investigation was carried out on February 8, 2005 and it was observed that construction was carried out by the applicant without planning approval. The applicant was notified on several occasions to stop construction, who in the following months/weeks (April 21, 2005) submitted the necessary drawings and application to the Department. However, the application and drawings were incorrect.

On May 9, 2005 the Department received an objection letter to the after-the-fact commercial additions and change of use of building. Subsequently, the Central Planning Authority authorized the issuance of Enforcement and Stop Notices at a meeting held on June 1, 2005. The applicant submitted the correct information on July 13, 2005 to the Department.

The Department would like to point out two (2) keys concerns. First, the after-the-fact addition does not meet the minimum road setback as outlined in Regulation 8 (8):

"In Commercial zone and Industrial zones:

- a) The minimum roads setbacks shall be twenty and the minimum side and rear setbacks shall be six feet, unless otherwise specified by the Authority".

The after the fact additions interfere with the National Roads Authority Road amendments to McField Lane especially at the T-Junction of this parcel, as shown in the photo below.

Secondly, the existing parking area does not properly function because of vehicles reversing onto a public road. The applicant needs to provide sufficient parking based on Regulation 13 (12) where parking facilities shall be on the basis of one car parking space for every three hundred square feet of commercial development. The applicant has proposed nine (9) parking spaces for the existing and proposed commercial changes. Based on Regulation 13 (12), the applicant will be required to provide twenty-two (22) parking spaces.

The Department has received an objection on April 22, 2005 to the after-the-fact addition and change of use. The objector has stated that *"the tenants of Gould's plaza now find themselves in a very difficult position. With the closure of the road immediately in front of the building, it is very difficult to negotiate the turn to enter parking lot of the premises. This has minimized the parking space which was made to accommodate Gould Plaza. It is an inconvenient situation"*.

The applicant is also requesting planning permission to construct a commercial restaurant and two (2) commercial shops on the ground floor and, on the second floor, five (5) apartment units. The Department has contacted the applicant on several occasions to submit the following documents:

1. Revised site plan showing the parking area functioning properly
2. Third floor plan showing the floor layout of bedrooms for 5 apartments
3. 300 feet radius Notices and 2 ad's in local newspaper

To this date the applicant has not submitted the above documents to the Planning Department for further review, therefore the Department does not support the application based on the evidence shown.

### **SUPPLEMENTARY ANALYSIS**

Since the Authority's consideration of the said application on February 22, 2006 (CPA/05/06; Item 2.2), the applicant has now submitted revised plans per the Authority's conditions. The applicant has also withdrawn the application for the proposed commercial restaurant.

The Department would like to point out the following concern:

#### **Building Setback**

The after-the-fact addition does not meet the minimum road setback as outlined in Regulation 8 (8). The after-the-fact stairwell addition is 3' away from McField Lane. Also, the after-the-fact outdoor dining area/restaurant patio area does not meet the road setback. The setback is measured at 0 feet. The covered roof area overhangs onto the public road off School Road. Regulation 8 (8) states: "In Commercial zone and Industrial zones: The minimum roads setbacks shall be twenty feet and the minimum side and rear setbacks shall be six feet, unless otherwise specified by the Authority".

#### **Parking Requirement**

The Department has no issues with parking. The applicant has 7 existing parking spaces and is proposing 15 spaces at the rear of the existing building. The applicant is required to provide 22 parking spaces for the existing mixed-use development.

**2. 3 JOHN & KENT BURKE Block 9A Parcel 35 (F04-0181) (P09-1110)  
(\$50,000) (DE)**

Application for after-the-fact planning permission for an entrance gate (lowest section 5' extending to 12') and a 144 sq. ft. guardhouse.

**An appearance was scheduled for 11:40am. Kent Burke, Troy Burke, Craig Burke and Sammy Jackson were available to attend the meeting, but the Authority approved the application and did not require a presentation from the applicant's representatives.**

**Mr. Antonio Smith declared a conflict and left the meeting room.**

**FACTS**

<i>Location</i>	Shorelink Terrace, 'The Shores', West Bay
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	NA
<i>Advertisements</i>	NA
<i>Current Use</i>	Residential Subdivision
<i>Building Size</i>	144 sq. ft.

**BACKGROUND**

June 2, 2004 (**CPA/11/04; Item 2.7**) - It was resolved to adjourn the application, for the following reason:

1. The Central Planning Authority has the following concerns regarding the application:
  - a) The entrance gate removes unrestricted access on a twenty-four hour basis to the lands for public purposes (Vulgunners Pond and the launching ramp).
  - b) Gated communities promote obvious social separation, which is not in keeping with Caymanian tradition and culture.
  - c) In promoting tourism the Cayman Islands advocate serenity, social cohesiveness and relatively low crime, therefore having a barrier like the gate would relay a message contrary to what is promoted.

June 23, 2004 (**CPA/13/04; Item 2.1**) - It was resolved to refuse the application, for the following reasons:

1. The entrance gate removes unrestricted access on a twenty-four (24) hour basis to the lands for public purposes (Vulgunners Pond and the launching ramp).
2. Gated communities promote obvious social separation, which in not in keeping with Caymanian tradition and culture.

3. In promoting tourism the Cayman Islands advocate relatively low crime, therefore having a barrier like the gate would relay a message contrary to what is promoted.

November 25, 2009 (**CPA/29/09; Item 2.12**) - It was resolved to adjourn the application to allow the applicant to appear before the Authority to discuss concerns regarding access to the boat ramp and suitability of the gate.

December 9, 2009 (**CPA/30/09; Item 2.2**) - It was resolved to adjourn the application to allow the Department an opportunity to investigate the original subdivision to determine whether the boat ramp was designated as Lands for Public Purposes.

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

- 1) The gate shall remain open other than between 9:00pm and 6:00am. The pedestrian gate shall remain open at all times.
- 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 is reminded that the Department will update its mapping database to ensure that the boat ramp is not designated as Land for Public Purposes.

**LETTER FROM RCIPS** (dated June 2, 2004)

*"Re: Application for security entrance Gates at "The Shore"*

*I have no objection to the security gates with one condition that the West Bay Police Station will be given a key/Pass code enter the property for emergency purposes.*

*Please contact Inspector Courtney Myles at the West Bay Police Station, telephone number: 949-3990 to arrange gate access."*

**LETTERS FROM APPLICANT** (dated June 25, 2004)

**Letter #1**

*"I am instructed to write to you on the behalf of my client Mr. John Burke, the proprietor and developer of the Shores subdivision on the above parcel.*

*My company was commissioned to design and subsequently set out the subdivision in accord with the Planning approval which was then obtained.*

*The Shores subdivision was developed as a closed body separated from the North Sound and divisions including the canals and Shore winds drive are registered parcels in the name "Invicta Construction Ltd. The canals and shores wind drive are registered as Block 9A Parcel 592.*

*It is therefore necessary for all proprietors or other persons to obtain legal easements from Invicta construction Ltd. over these roads and canal which as aforesaid mentioned are all private property.*

*A small scale copy of the survey is here attached for your information."*

Letter #2 (dated July 12, 2004)

*"Regrettably, I was not able to attend the C.P.A. meeting on 23<sup>rd</sup> of June, but the main concern seems to have been whether the Boat Launching Ramp is for public use. Unfortunately my Son, Kent, who represented me at the meeting, did not have a full understanding of the situation to properly explain to the Board at the meeting.*

*About some 12 to 13 years ago the issue of the boat launching ramp was addressed the CPA explaining that this ramp was a private facility for the residents of "The Shores". There has also been a sign at the ramp for the past 13 years stating that it is a Private Facility but it is well known, n that in any emergency: Hurricane, Flood, etc., the facility is available to everyone.*

*In fact, several people have been given permission to use the facility that abide by the rules and regulations such as no commercial activity, no litter, profanity or other inconsiderate behavior or disregard for the residents of the Project.*

*Attached, please find a letter from Patrick Broderick & Co. (Surveyor), which Confirms that tile said Launching Ramp is private and is a part of 9A Parcel 592 comprising some 37.7 acres, \chiciii includes the Waterways, and is registered in the name of Invicta Construction Ltd. (A copy of tile Land Register is also attached.)*

*In view of this new information, and in order to resolve my legal obligations to the Resident,, as previously explained in my letter to the C.P.A. dated 26th May 2004, I am appealing to you to request the Board to re-consider our application as soon as possible. This approach would save both parties additional time and effort, or if you would prefer, we could make a new application.*

Letter #3 (dated October 14, 2009)

*"As you are aware, we have installed traffic control gates which are only closed (9pm - 6am). They are located at the front entry way (Block 9A Parcel 35 & 506) where we have conveniently provided a parking area (lighted) for visitors who regularly enjoy our peaceful community that is a favorite for leashed dog walkers, families who bike or rollerblade etc... CPA Board members are encouraged to visit the community to witness how neighbors from near and far utilize this parking facility which we have provided.*

*The primary purpose for the installation of this gate is to inhibit undesirable traffic particularly at night between 9pm and 6am which infringes on the security & sobriety of the neighborhood. As the developer of "The Shores" Waterfront Development, I am requesting the Board to approve this application based on the reasons set out below which may not have been explained in sufficient detail*

*previously. Furthermore, the times in which we live have significantly changed in the last few years.*

#### **REDUCTION OF INSTANCES OF CONFRONTATION & POLICE INVOLVEMENT**

*Over the years I (along with my three sons) have taken on a good deal of the responsibility for security within The Shores including frequent patrols to investigate suspicious activities. Our involvement in our development has reduced the need for police to handle these burdensome and difficult issues in the past, but by no means replaced their role. Since the gates have been in place, these aggravating issues have dissipated, despite the concurrent alarming increase in crime Island wide. The gates have reduced the burden to Police and have also inhibited theft from construction sites at night. Furthermore having a Judge in the neighborhood, knowing the increased risk this represents, continued Police access and patrol is very important to all residents. I implore the Board to read the letters by residents, dated from June 2004 which refer to activities, such as drug trading, car racing despite speed bumps, sex in cars by the roadside, break & enters, and boat and personal watercraft theft. Further information on the Operation of the Gates*

*The gates automatically open by the sound of EMS Vehicle sirens and the gate remains open for at least 15 minutes for a stream of EMS vehicles. This has been tested with on-site by the WB Fire Dept. Safety is of the utmost importance, hence we have also installed full battery backup for the gates. In the event that we experience a power outage the gates automatically swing to an open position and remain there until power is restored. The Police have access in the evenings for regular patrol using a code specifically designated for them.*

#### **DISGUSTING AND HAZARDOUS LITTER FROM UNDESIREABLE NIGHT ACTIVITY**

*A very serious aggravation that resulted from non-residential traffic after hours was the garbage left by people who chose to come here to "park". Litter, such as used condoms, tissues, empty and broken alcohol bottles, food containers, and so forth was left scattered everywhere. This litter was found in the early mornings by walkers and children at play and has had to be removed by residents or by my staff. Since evening gate closures were in effect between the hours of 9pm and 6am the proliferation of hazardous garbage has practically ceased! In the previous application for the gates there were some concerns raised by the CPA which we bring to your attention:*

#### **ACCESS TO OPEN SPACE**

*The gates do not remove unrestricted 24 hour access to Vulgunners Pond. There is a paved parking lot which is generously illuminated. The pedestrian access is not blocked but the vehicular access is blocked during the night (9pm - 6am). Please refer to the site plan attached with this application outlining the pedestrian access way.*

## *ACCESS TO THE BOAT LAUNCHING RAMP*

*For proper clarification on this point please refer to the letter that I sent July 21, 2004 and the letter by Patrick C. Broderick (dated June 25, 2004) to Kenneth Ebanks, the then Director of Planning. Please see the land Registry document also attached.*

*The Surveyor's letter clearly states that the canal beds and the roads including the section of road that becomes the Boat Launching Ramp between Block A lots 509 and 610 are all part of lot 592, which is privately owned by Invicta. Please see the Land Registry document also attached. You will note on the easement section of the registry, that an easement for use of the boat launching ramp was given in favor of lots located in the Shores development. As stated in his letter, Mr. Broderick says "It is therefore necessary for all proprietors or other persons to obtain a legal easement from Invicta Construction Ltd over these roads and canal as, which as aforesaid mentioned are all private." The ramp has been signed since it's creation to inform the user that it is private property and to set out guidelines of use. The ramp has been chained in the past to prevent misuse. I have always allowed and will continue to allow general public to use the ramp in case of hurricane preparation or other emergency situations.*

## *SOCIAL SEPARATION AND CAYMANIAN TRADITION*

*Visitors are always welcome to visit the Shores, but for security reasons, it is no longer acceptable in the late night or early morning hours to drive around or to "park".*

*The majority of traditional Cayman homes usually have their own walls, fences and gates around them (with no set-backs from the road) for their security and peace of mind and we understand their intention as such. The covenants (see excerpt below) were developed to prevent "The Shores" from appearing as a series of "minifortresses" with individual walls, fences, and gates. That would be contrary to my vision of the development and its atmosphere.*

*Section 9 of the Registered Restrictive Covenants of "The Shores" state:*

*FENCES & EASEMENTS: No fences are allowed unless approved by the Developer. Enclosures for pets or swimming pools are permissible but must be approved by the Developer. An easement ten feet wide along the street-side boundary line is reserved from each lot for visibility and to service future underground utilities. Any plantings and or structures that may interfere with servicing those utilities are not permitted.*

*Therefore the Homeowner's ability to self-protect is restricted by the covenant above for the sake of aesthetics. Fortunately, The Shores only has one entry so we were able to install the gates to achieve a certain level of security for the Homeowners peace of mind without compromising the open welcoming atmosphere.*

*We do not argue with the idea that a 24hr gated community could be seen as "social separation". There are gated communities established throughout the Island that have tall gates that remain closed around the clock, some open as cars*

*approach, some do not (please see attached photos of other gated communities.) These are clearly examples of developments that demonstrate social separation.*

*I need to reinforce the fact that The Shores gates are only closed 9 hours out of every 24. They are closed only during the time that the majority of the community, and the Island, are sleeping. The gates are left wide open all day and into the evening. With the exception of those who arrive before 6am, most people do not see the gates in their closed position.*

### ***TOURISM***

*The gates do not impede any tourism activity during daylight hours, when the majority of tourist activities such as jeep and bus tours take place. Since the gates have been in place rental cars, tourist busses, and Jeep Safari tours and the general public visit The Shores regularly and it is a known fact that The Shores makes a strong impression with the beauty and the openness to all visitors and tourists alike.*

*The letter I wrote July 21, 2004 requested the Board to reconsider their decision in light of the Surveyor, Patrick Broderick's information (see attached), or to indicate to me whether I should make a new application.*

*I did not receive a response to this letter. The post Hurricane Ivan events, particularly the looting, resulting in the need for continual patrolling by me and my sons including blockading the entrance with the use of heavy equipment clearly highlighted the need for the Gate. Developments such as Snug Harbour, Governors Harbour, and the Yacht Club were opened to the public and ransacked. Construction on The Shores gate commenced early 2005 and yet this matter did not get raised until March 25, 2009. Furthermore, some 5 years later, crime on the Island has escalated to a point that it can't be overlooked. I believe you will agree that the prudent use of night time traffic control gates and the benefits they provide is well justified and I anticipate that all the concerns raised in the past have been adequately clarified by this new 2009 application.*

*Our Lawyer has advised that a drop-down swing arm traffic control gate would not have required approval. However, rather than just installing a cheap "commercial looking" gate that would have compromised the integrity of this upscale "West Bay" development, we installed a beautiful, award winning piece of art.*

*Please bear in mind that The Shores represents over 22 years of my 41 years of efforts to improve the image and raise the credibility of this District. I expect that the Board will favorably view this application.*

*Please bear in mind that The Shores represents over 22 years of my 41 years of efforts to improve the image and raise the credibility of this District. I expect that the Board will favorably view this application."*

### **LETTER OF SUPPORT**

**Letter #1 (dated June 7, 2004)**

*"I am writing to you as a resident of The Shores and a concerned individual. The*

*Shores is a great place to live,, it is quiet, scenic, safe and friendly. Every day my husband and I walk with our dogs and our son along the roads in the community and are well aware of the continuing battle waged by the Burke family and residents alike to keep The Shores quiet, scenic, safe and friendly.*

*Each evening between 9 and 10 pm we take our last stroll. Most evenings we are witness to a parade of cars, which do not belong to neighbors, nor are they delivery vehicles of any sort. Some of the drivers simply "park". They choose secluded spots by the waterside, under a grove of palm trees at the end of our road or they have even parked down on the boat ramp. The evidence of these evening parking adventures is strewn all over the place the next morning and include used condoms and general garbage which I do not relish cleaning up on our morning walk, nor should anyone else have to.*

*More disturbing than the parking is the "meeting" at the end of the road. Typically a few evenings a week my husband and I witness a strange car driving in and parking for a few moments at the very end of the road. We see another car enter the community shortly there after and it is driven to the end as well. Both cars then exit the community about 5 to 10 minutes later. Both my husband and I conjecture that this is a great place to sell drugs. It is quiet, secluded, with no one to bother the trade at hand. I cannot imagine any legitimate activity that could be characterized by this pattern. I would like to have this sort of traffic in our community stopped immediately and believe an evening gate would be very effective.*

*I am further concerned by the increase in late night "break and enters" on this island in general. I believe that if cars were restricted from entering the community from 9pm to 6 am we would reduce our exposure to this type of crime. It would be more difficult to plan a robbery without the use of a vehicle nearby. I would hate to have our house broken into while my toddler was asleep in his own room.*

*A late night gate would be very helpful in curbing the destructive activity that is currently ongoing and it would be a good device for preventing evening break and enters. It would help my family sleep better at night and it would certainly allow the Burkes and all other residents here some rest as well. I would appreciate, therefore, a positive ruling regarding our application to install an evening gate."*

Letter #2 (dated June 10, 2004)

*"We are writing on behalf of the request for a security entrance gate at The Shores. We have been enjoying Grand Cayman for over 15 years starting with a month a year at Bonnie's Arch Condominiums and finally to a lease on a home in "The Shores" where we lived for 6 to 9 months annually between 2000 thru 2003. We were in the home at the end of the development for 3 years and then this past year purchased another home on Shoreline Drive where we presently live. When we first started coming to the island we loved to ride bicycles in "The Shores" because of the safety and excellent roads. We always felt if we invested in the*

*island this development was where we wanted to be. Luckily for us this dream has come true but things have changed in 15 years.*

*To us this is still the best place to be but the nighttime traffic has certainly increased. When we lived in the home at the end of the development we were always concerned about the number of cars that came and parked out close to the house and odd hours. We were always in contact with Mr. John Burke and his sons in regards to this unwanted traffic and they have done so much to try to curtail this activity.*

*But, no matter how much they patrol on a regular basis there is always unwanted items such as used condoms, beer bottles, garbage, etc. Not to mention on several occasions when we have approached parked vehicles with a flashlight there is behavior that is not acceptable under any circumstance. We also continually observe people parking and boarding some of the boats that are docked here when the owner is not present.*

*We love the fact that families walk bicycles and stroll with their children here and we offer a welcoming, atmosphere within the community. These are safe roads. But we also have the people who drive recklessly and at unsafe speeds and who are in "The Shores" at hours when they should not be."*

### Letter #3

*"We feel that a security entrance gate will benefit the people who have chosen to invest here and make it safer for everyone. The gate is intended to prevent traffic at hours that should not be acceptable in any residential area. We feel with the gates being open from 6 am to 9 pm during the day people who come to possibly see what is available will be able to see the appeal The Shores have and also appreciate the security and privacy that will be in place during hours when no traffic should be allowed.*

*We respectfully appreciate your consideration in this application. The security gate will be beneficial to all that live in The Shores as well as those who will invest here. It is not intended to keep the families out who love to walk here but to discourage often suspicious and illicit activity at hours that should not be acceptable in any residential area on the islands.*

*The Burke family has done an exceptional job over the years and the West Bay Police have been a tremendous help in discouraging unacceptable behavior. However, they have so many important issues that our community should not have to be burdened. We truly feel the security gate will help keep the safety that The Shores is known for intact."*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is seeking after-the-fact planning permission for an entrance gate (lowest section 5' extending to 12') and a 144 sq. ft. guardhouse. On June 23, 2004 (CPA/13/04; Item 2.1), it was resolved to refuse the structure, for the following reasons:

1. The entrance gate removes unrestricted access on a twenty-four (24) hour basis to the lands for public purposes (Vulgunners Pond and the launching ramp).
2. Gated communities promote obvious social separation, which is not in keeping with Caymanian tradition and culture.
3. In promoting tourism the Cayman Islands advocate relatively low crime, therefore having a barrier like the gate would relay a message contrary to what is promoted.

### **Zoning**

The property is zoned Low Density Residential and while the proposed structure is generally permitted per Regulation 9 (8), the Department would offer the following comments regarding specific issues noted below.

### **Specific Issues**

#### **a) Suitability**

The applicant has indicated that the gate will be opened from 6am to 9pm to facilitate public access. The intended purpose of the gate is not fully outlined therefore the Department is not convinced of the importance of the gate.

However, having the gate placed on parcel 9A35 is unacceptable. It should be noted that the said parcel is a road (Shorelink Terr) leading to Bayshore Dr, thus connecting the surrounding areas of West Bay as well as other parts of the island to lands for public purposes including the "launching ramp" and "Vulgunnars Pond".

Although the applicant has indicated that there will be unobstructed access to fire/police vehicles the Department would like to note that if the gate is placed on the road as proposed it will interfere with traffic flow, contributing to controlled pedestrian and vehicular movements. Such controlled movements are obstructions to emergency operations and movements of the general public. The applicant has indicated that access will be given to emergency vehicles and footpath for pedestrians, however the Department is concerned with the limitation of traffic movements. The emergency vehicles and pedestrians would have to rely on the applicant for movements, which can be very inconvenient and dangerous (loss of lives).

The island is promoting tourism and some of the island's products include serenity, social cohesiveness and crime free, therefore having a barrier like the gate would relay a message contrary to what is promoted. On a national perspective, even though the road is private, the Department strongly recommends that the roadway remain unobstructed and the public having direct access at all times. Gates promote obvious social separation, which is not in keeping with tradition and culture.

Gated communities have been viewed by previous CPA in different ways. Traditionally, gated apartment complexes have been viewed differently from gated subdivisions. Whereas gated apartment complexes have generally been

considered acceptable, gated subdivisions have caused concern for some previous CPA's. Subdivisions have Land for Public Purposes which could be blocked by gates and the gates would block the ability of people enjoying a drive around the Island. Some have been approved (e.g. Crystal Harbour) and others refused (e.g Patrick's Island and The Shores).

The Department would suggest that this application could lead the Authority into a general discussion of the merits or demerits of gated communities and determine whether the proposal is suitable in this instance.

**SUPPLEMENTARY ANALYSIS**

December 9, 2009 (CPA/30/09; Item 2.2), it was resolved to adjourn the application to allow the Department an opportunity to investigate the original subdivision to determine whether the boat ramp was designated as Land for Public Purposes. The Department has now determined that the boat ramp is not LPP as an error had been made in 1999 when it was labelled as LPP.

**2. 4 RACHEL ASHLEY SMYTH Block 4E Parcel 243 (FA84-0336) (P09-1343) (\$5,000) (DE)**

Application for a three (3) lot subdivision.

**Appearance at 1:00**

**FACTS**

<i>Location</i>	Off Gunters Link and West Church Street, West Bay
<i>Zoning</i>	<b>HDR</b>
<i>Notice Requirements</i>	Objectors
<i>Advertisements</i>	NA
<i>Parcel Size</i>	0.57 acres
<i>Current Use</i>	House
<i>Proposed Use</i>	Subdivision
<i>Number of Parcels</i>	3

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

- 1) The applicant shall submit a revised subdivision plan showing a 3' strip of land set aside for future road widening purposes.
- 2) The surveyor's final drawing **shall include the surveyed dimensions of all lots** and shall be submitted to the Planning Department for approval prior to the survey being registered.

## **AGENCY COMMENTS**

Comments from the Water Authority are noted below.

### **Water Authority**

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

#### ***Water Supply:***

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

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

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

#### ***Wastewater Treatment:***

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

## **OBJECTIONS**

*“In reference to the notice I received, I hereby register my objection. I have no objection to the development itself. But shouldn't they contribute to the widening of the road which now stands at 17'. It is a very busy road and traffic have to stop at certain points to allow other traffic to pass by.*

*NB. My development across from this proposed development was forced by the CPA to contribute 7' of land for road widening and a side walk. I am glad this was done because it assists greatly with the flow of traffic and this is the reasons why I think other developers on this Gunter Link road should contribute as well.”*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for a three (3) lot subdivision located off Gunters Link and West Church Street-West Bay

### **Zoning**

The property is zoned High Density Residential zone and the proposed use is a permitted use per Regulation 9 (6) (2006 R). The subject parcel is partial vacant. Lot 3 has an existing house on site and the surrounding parcels are residential dwelling houses and apartments.

The proposed lot size does comply with Regulation 9 (6) (d) "the minimum lot size for each detached and semi-detached house is 6,500 square feet and 5,000 square feet respectively".

The Department has no issues with the application. The Department received an objection to the proposal as noted above.

**At 1:00pm, Rachel Smyth appeared as the applicant. Dillon Claassers and O'Neil Ashman appeared with her.**

**CPA** There isn't any great concern with the application, but would she be willing to give up 3 feet for a road widening?

**Ms. Smyth** Yes, 3 feet would be okay.

**CPA** Thanked them for attending the meeting.

**2. 5 FUJIGMO Block 12C Parcels 394 and 3 H8 (F04-0384) (P09-1237) \$2.575 million) (CS)**

Application for clearing of land, debris removal, mangrove replanting and seawall.

**Appearance at 1:30**

**FACTS**

<i>Location</i>	On Seven Mile Beach, along the North Sound, near the Port Authority site
<i>Zoning</i>	<b>MANGROVE BUFFER</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	136 acres
<i>Current Use</i>	Golf Course
<i>Proposed Use</i>	Seawall, Land Clearing, Debris Removal and Mangrove Replanting

**BACKGROUND**

July 2, 2008 (**CPA/22/08; Item 2.2**) - The Authority refused planning permission for 158 apartments, land clearing and a seawall, located within the Mangrove Buffer.

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

- 1) The applicant shall submit a revised plan indicating a minimum 50' wide mangrove buffer on the outside of the proposed sea wall.
- 2) The applicant shall submit a report developed in consultation with the Water Authority, Department of Environment, Department of Environmental Health

and the Chief Petroleum Inspector detailing how the debris in the existing mangroves will be removed/cleaned-up. The debris removal/clean-up operations shall not commence until the report has been submitted to and approved by the Director of Planning.

- 3) The seawall shall be constructed per the rock revetment section (C-401) date November 18, 2009.
- 4) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans, including the replanting of the 50' wide mangrove buffer.

### **AGENCY COMMENTS**

Comments from the Chief Environmental Health Officer, Water Authority and Chief Petroleum Officer are noted below. Comments from the Department of Environment were provided to the members as a separate attachment to the Agenda (Attachment 1).

#### **Chief Environmental Health Officer**

*“The following comments are submitted with respect to the above application:*

*The department has no objections to these plans.”*

#### **Water Authority**

*“In respect of the email below from the Chief Petroleum Inspector, our comments only relate to the proper clean-up/removal of oil drums or possible hazardous waste from the property. The other aspects of this application appear to have no relation to the Water Authority’s development control function. In our opinion the clean up of oil drums hazardous waste can be addressed separately from the Planning application.*

*The Water Authority agrees with the comments of the Chief Petroleum Inspector.*

*Fuel spills and the subsequent clean-ups are normally dealt with by the Department of Environment, the Department of Environmental Health, Chief Petroleum Inspector and the Water Authority. There is good coordination between these entities.*

*In this instance a site inspection should be carried out to determine whether any of the hazardous materials has spilled from the drums, if there is evidence of such a spill a basic site assessment needs to be carried out that will determine the scope of the clean-up. It may be best if the initial inspection is carried out by DOE/WA, we will be in touch with DOE about this. Depending on what we find further specific action for the clean up will be determined between the 4 agencies.”*

#### **Chief Petroleum Inspector**

*“I received this request for planning approval for the removal of oil drums and debris from Parcel 362 caused by Hurricane Ivan. The drums should be removed*

*and you have my approval but this is probably more of a decision for the DOE and DEH and possibly the Water Authority. If possible the oil should be removed without damaging the drums if they are not empty. The proper disposal of the oil at the landfill would be a decision that the DEH will have to make but I can't see where anyone would object to the cleanup provided it is done properly. If our assistance is needed, we will be glad to help in any way,"*

### **LETTER FROM APPLICANT**

*"The attached applications are submitted in relation to our request for permission to clear and clean-up debris/pollution within the eastern most portion of the Ritz-Carlton parcel to allow construction of a seawall providing required storm buffering along the subject property's frontage along North Sound. Permission will allow for the long overdue clean-up of this unsafe, unproductive and unsightly area and removal of debris and potentially harmful pollutants as well as providing the Ritz-Carlton Resort a critical storm surge protection. This was demonstrated when the mangrove buffer failed to adequately protect The Ritz-Carlton property from the impacts of Hurricane Ivan.*

*The Planning and Development Regulations (Section 18 (2)) contains a provision that allows for development within the Mangrove Buffer Zone in instances of "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." This application meets all of these requirements and provides a net environmental benefit to the property and the North Sound ecosystem. Hurricane Ivan and its associated impacts to the subject property constitute "exceptional circumstances". The mangrove buffer did not protect the property and was itself also heavily damaged and contaminated as a result of the storm.*

*To address the ecological role of the peripheral mangroves, the application proposes establishment of a 25 foot wide peripheral edge along the entire frontage with North Sound. Existing red mangroves within this area will be preserved and rehabilitated and areas that are not recovering will be cleaned up, rehabilitated and replanted so the peripheral mangroves are fully restored.*

*The recent acquisition of the adjacent mangrove island through the agreement with Cayman Island Government allows for the rehabilitation of 15.4 acres of additional damaged mangroves. This provides, as summarized in the attached material, for a net 100% benefit of mangrove habitat.*

*The package includes a detailed environmental assessment of the subject area prepared by Haley & Aldrich which includes mitigation measures to offset the proposed impacts to the Mangrove Buffer Zone. The mitigation provides for a 2:1 ratio of rehabilitated and preserved red mangrove habitat and critical red mangrove fringe areas fronting North Sound. As noted, this includes clean-up, replanting and preservation of a 25 foot wide mangrove fringe along the North Sounds frontage as well as clean-up, replanting and rehabilitation of the large mangrove island located just east of the subject parcel.*

*The use of the mangrove island (Block 12C Parcel 362), which is owned by the Crown, as part of the mitigation is provided for in the main Agreement between Government and the Applicant related to Parcel 17A 10/1. The agreement approved a 99 year lease over the mangrove island which allows for the proposed clean-up, replanting and rehabilitation by the Applicant. Since the mitigation proposed includes work on the mangrove island, this package includes a separate application requesting permission to perform the proposed clean-up and replanting on the island.”*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is a request to clear 378,972 sq. ft. of Mangrove Buffer on Parcel 394; to construct a seawall; and to rehabilitate a 25’ wide mangrove buffer. The application also includes a request to remove debris and rehabilitate a 7 acre mangrove island (Parcel 362).

### **Major Development Application**

Pursuant to Section 6 of the Development and Planning Law (2008 Revision), the Central Planning Authority has the responsibility of reviewing major development applications with respect to: a) the potential impact on the Island's infrastructure; and b) other issues of national importance. The subject application qualifies as a major application with respect to Section 6 (2) f). Accordingly, the Authority must review this application with specific consideration given to Sections 6 (1), (3), (4), (5), (6) and Section 7. The following outline has been formulated to assist the Authority in reviewing the application with respect to the aforementioned sections of the Law. The Department has included responses for each section of the Law for the Authority's consideration.

**Sec 6 (1) (a)** Consider the likely impact of the proposed development on the infrastructure of the Islands as well as on the educational, social, medical and other aspects of life in the Islands:

***Response:** The proposal will negatively impact the natural storm surge protection and water filtration that the mangrove habitats provide to the island.*

**Sec 6 (1) (b)** Consider whether there are other issues of national importance which are relevant to the determination of the application for development and require evaluation:

***Response:** The proposal will negatively impact the natural storm surge protection and water filtration that the mangrove habitats provide to the island.*

**Sec 6 (1) (c)** Consider whether there are technical or scientific aspects of the proposed development which are of so unfamiliar a character as to jeopardise a proper determination of the question unless there is a special inquiry for the purpose:

***Response:** Although the importance of mangrove habitats is recognized in Planning and Environmental policies, the Authority may request additional analysis.*

**Sec 6 (1) (d)** Identify and investigate the considerations relevant to, or the technical and scientific aspects of, the proposed development which in the opinion of the Authority were relevant to the question whether the application should be approved:

*Response: To be decided by the Central Planning Authority.*

**Sec 6 (1) (e)** Assess the importance to be attached to those considerations or aspects:

*Response: To be decided by the Central Planning Authority.*

**Sec 6 (3)** The Law gives the Authority the discretion whether to permit the applicant for planning permission an opportunity to appear before the Authority and to be heard by five or more Members of the Authority:

*Response: The applicant is scheduled to appear before the Authority.*

**Sec 6 (4)** Consider whether the development proposed in the application should instead be carried out at an alternative site:

*Response: The proposal is suitable for this site, however the extent of land clearing in the Mangrove Buffer is not suitable.*

**Sec 6 (5)** The Authority may arrange for the carrying out of research of any kind appearing to it to be relevant to an application referred to it:

*Response: No additional research is necessary based on the consideration given to items 6(1)(a-e).*

**Sec 6 (6)** The Authority may hold an inquiry, if it thinks it necessary, for the proper discharge of its functions:

*Response: An inquiry is deemed not necessary.*

**Sec 7** The Authority shall, to the greatest possible extent consistent with its duties under the Law, consult with departments and agencies of the Government having duties or having aims or objects related to those of the Authority:

*Response: The Authority should consider and take into account the agency reports presented thus far.*

### **Development Plan**

Section 2.3 of the Development Plan 1997 states: "New developments proposed in the mangrove areas or wetlands may be subject to the environmental analysis provisions contained in Appendix 3 and other relevant provisions of the Statement in a manner which enables the Authority to be satisfied that-

- (i) the application site is suitable for the use and form of development proposed
- (ii) the development will not have a detrimental impact on the natural, human and built environments in the area: and
- (iii) the scale, density and design of development take proper account of a site's physical and environmental characteristics.

Section 3.08 of the Development Plan 1997 states: "The policy for Mangrove Buffer Zones will comprise and be subject to control of the development in the following ways: - Red and predominately red mangroves in the area defined on the map as Mangrove Buffer will be protected from development except in exceptional circumstances."

### **Zoning**

The property is zoned Mangrove Buffer. Per Section 18(1) of the Development & Planning Regulations (2006 Revision), "any matter relating to a Mangrove Buffer zone the Authority 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."

Additionally, Section 18 (2) states: "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 Department wishes to discuss the following concerns regarding the application.

### **Specific Issues**

#### **a) Storm Protection**

The applicant is proposing to clean-up and revegetate a 25' wide strip of the 300' wide Mangrove Buffer. A seawall will be constructed behind the 25' strip and the remaining 250' will be cleared and filled to allow for future development. The applicant states in their letter, "Hurricane Ivan and its associated impacts to the subject property constitute "exceptional circumstances". The mangrove buffer did not protect the property and was itself also heavily damaged and contaminated as a result of the storm."

It is noted that the Mangrove Buffer greatly suffered as a result of Hurricane Ivan. However, the devastation occurred only 5 years ago, which has not provided proper time for the mangroves to regenerate naturally. The Environmental Assessment shows the extent of damage to the buffer that mostly resulted from Hurricane Ivan. It appears, as shown on Figure 3, that the mangroves in the deeper portions of the mangrove buffer did survive and still flourish. Per review of the 2008 aerial photos, it appears that the areas proposed to be cleared (behind the seawall) are the most healthy. Therefore, it

seems the mangrove buffer did provide storm protection and was able to withstand some damage.

Additionally, it appears the mangroves stayed rooted to the ground and prevented at least some erosion. Dead or alive, the mangroves still play an important function by providing a nursery for aquatic life, stabilising sediment, and dissipating wave action through the root system.

The Department is of the opinion that there is not an existing exceptional circumstance to allow clearing 250' of the buffer, especially when there is healthy mangroves. As the applicant states that they are concerned about storm protection, the Department believes there are other measures for them to address that issue.

**b) Previous application**

On July 2, 2008 (CPA/22/08; item 2.2), the CPA refused an application for 158 apartments, land clearing and a seawall for the reasons provided below. Planning notes that the application was submitted by the same applicant for the current application. Furthermore, the location of the apartments were in the same location as the area proposed to be cleared in the Mangrove Buffer.

The CPA's reason for refusal were:

1. Regulation 18 (1) states that when considering any matter relating to a Mangrove Buffer zone the Authority shall have regard to the ecological functions performed by the mangroves and specifies a variety of those important functions. Subsection (2) states further 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 that the ecological role of the peripheral mangroves will not be substantially adversely affected. The Authority would note that the wording of these sub-regulations is very precise and provides very clear direction. Further, these provisions are contained in a Zone category as defined in the Regulations and not in an overlay, which is the case for scenic coastlines and historic districts. Clearly, the importance of the mangrove buffer is recognized by the existence of its own Zone and by the clear and strong wording in that Zone expressing the prohibition of development - wording which is not found in any other zone category. It is clear to the Authority that the review of development proposals in this Zone must not be taken lightly and it must be demonstrated clearly, definitively and without doubt that an exceptional circumstance exists in order for a development proposal to be favourably considered.
2. In determining whether the stringent tests of Regulation 18(1) and (2) have been met, the Authority has reviewed the documentation available, as submitted by the applicant, the Planning Department and other agencies and has determined that exceptional circumstances do not exist to allow

approval of the proposed development in the mangrove Buffer zone. More specifically:

- i. The existing mangrove buffer still performs the important ecological functions detailed in Regulation 18(1)(a-d), albeit in a somewhat diminished manner due to previous hurricane damage. It is reasonable to expect however, that the mangrove is replenishing itself and simply requires more time for nature to run its course and re-establish the buffer as it once was and the photograph evidence available to the Authority demonstrate that this is happening. Additionally, the Authority is of the view that even the dead mangroves perform valuable ecological and physical functions as they act as a sediment stabilizer as well as providing a nursery for juvenile fish seeking refuge from predators.
- ii. There is no clear evidence that the storm surge provided by the mangrove buffer has been compromised and again, with the natural re-growth that is occurring, the buffer will be re-established.
- iii. The applicant contends that the existing mangrove buffer represents an environmental hazard due to the existence of various debris, toxins and pollution. There was no real evidence provided to support this statement and even if there is some existing debris, it needs to be urgently removed from the site, but not through the wholesale removal of the mangrove buffer.
- iv. The applicant also contends that the dead mangroves are an unsightly eyesore and that this is having a negative impact on Cayman's natural beauty. Both statements are clearly subjective and are not supported by the Authority. There may be some existing dead mangroves within the buffer, but any perceived aesthetic diminishment is certainly outweighed by the important ecological functions they perform. Also, the Authority finds it difficult to understand how retaining a natural 300' wide vegetative buffer instead of replacing it with a manmade seawall and a replanted 25' wide strip of mangroves can possibly have a negative impact on Cayman's natural beauty.
- v. The applicant has proffered the position that the proposed seawall will provide storm protection equivalent to the existing mangrove buffer. The Authority saw no evidence to support this contention. Further, the applicant contends that removing the very wide existing mangrove buffer and replacing it with a seawall and a replanted thin strip of mangrove will not adversely affect the peripheral red mangroves. Again, no evidence was provided to adequately support this assertion and to the contrary, the proposal for the whole sale removal of the exiting mangrove buffer clearly destroys the peripheral red mangroves.
- vi. Finally, the applicant contends that there is an established precedent set by the Central Planning Authority through the approval of a similar application known as the Limestone Investments Ltd application. The

Authority is aware that like applications should be considered in a like manner, but is of the opinion that there are substantive differences between the two applications and is therefore not bound in any way to blindly grant approval for the current application based on the reasons for approving the previous Limestone proposal. The following chronology is helpful in reviewing the previous application(s):

The Department is not of the opinion that circumstances have changed that would give the Authority a reason to grant permission for the clearing of mangroves.

**c) Timeliness of application**

With recent applications to clear land, CPA has often adjourned requests until a development proposal was submitted to planning. For this site, Planning has not been made aware of any imminent development on this portion of Parcel 394 and believes the request to clear land is premature.

**d) Re-vegetation of Mangroves**

The Department has no objections to the clearing of debris by hand and revegetating mangrove habitat on the mangrove island or through the extent of the Mangrove Buffer. Planning recommends the applicant proceed with such works in coordination with DEH, DOE, Water Authority and the Chief Petroleum Inspectorate to ensure the procedures are undertaken using Best Practices.

The Department further recommends, if the applicant chooses to clean up the Mangrove Buffer, that the construction materials, containers, and construction debris currently located next to the mangroves be cleaned up and be screened or setback from the buffer to restrict future preventable pollution of the buffer.

**At 1:30pm, Michael Ryan, Kenneth Crews, J. Samuel Jackson, Frances Doud, Pearse Murphy, Eric Cronier, and Michael Herman appeared on behalf of the applicant.**

**CPA** Summarized the basic purpose of each of the three applications. Asked them if they could discuss the strata lot aspect first.

**Mr. Ryan** They want to modify the strata lot subdivision and Ken can give the details.

**Mr. Crews** The modification will include some existing lots into the strata and will exclude the golf course from the strata. There is also a piece in Mitchell's Creek that will not be part of the Strata.

**Mr. Cronier** The golf course was common property. He explained the need to keep it separate from the rest of the strata. It will remain as a remainder of 17A 10.

**CPA** Ok, that's been dealt with. Can they address the issue of clearing the land?

**Mr. Ryan** They also would like to deal with the modification application for the phasing requirement. *(The Assistant Director of Planning explained that*

*that application had just been submitted yesterday and staff hadn't had the time to review it.)*

**CPA** That's okay, it can be dealt with today.

**Mr. Ryan** The prior CPA granted approval with conditions. They have been moving forward to address them. They have already had a modification to increase the depth of the canals, but then they were informed that DOE had made a presentation to CPA and made comments about himself and his professionals – comments about water quality. It seemed that CPA was going to change the phasing requirement. The phasing was done so that the Port Authority portion got done first. This has caused delays in the process. It's difficult to move forward if they can't have confidence in the CPA's decision and that it won't be changed. This is a commercial decision for the phasing, and it shouldn't be a role for CPA. They will start the project, will move forward and will finish it. They want to remove the condition about phasing. It is tough enough anyway with this economy and then the rug gets pulled out from under them. They will do what the Law requires.

**CPA** So, the phasing plan came about because the previous CPA wanted to ensure that the Port Authority was done?

**Mr. Ryan** That's accurate.

**CPA** Then that became something different and he wants that removed?

**Mr. Ryan** Yes. It should be up to the developer to move forward based on a commercial decision.

**CPA** What is the plan for the piece of land to be cleared? There was an application for apartments, which was refused, and that is under appeal.

**Mr. Jackson** Yes. They applied for the clearing and outline permission for the apartments – based on advice from the Department. The plan was only to show the concept of the buildings. This led to heated discussions regarding putting buildings in the Mangrove Buffer – it spun out of control. The application was really just for the clearing and seawall.

**CPA** So that appeal could be withdrawn?

**Mr. Jackson** Yes, at any stage, depending on the outcome of this application.

**CPA** They are discussing the buffer zone, so can they address the exceptional circumstances why the Board has the authority to approve it?

**Mr. Ryan** Yes, they have that in their presentation.

**CPA** Through their preliminary discussion, the members felt that the 25' wide buffer is too meagre.

**Mr. Ryan** It is not being left as a buffer. The 25' is to provide red mangroves and rehabilitate others. It is the most crucial 25', but they could leave another 25'.

**CPA** So if the Board asks for 50', that's okay?

**Mr. Ryan** It will all be within their property so no coastal works license is needed.

**Mr. Jackson** Those involved with Planning will know that pre 1997, we had storm belts, not mangrove buffers. The Law still calls it that. In 1997, there was a re-designation of the Mangrove Buffer zone. It became mores restrictive, but the Law wasn't changed. He could argue that this wasn't legal. When you look at Regulation 18, coastal protection was moved to the bottom of the list. The regulations allows for exceptional circumstances and providing equivalent protection. They meet both tests. The proposed revetment is much better storm protection. Regarding ecological function, they will install a strip of mangrove of appropriate width. And they will have the benefit of the mangrove on the island – which will be restored at his client's cost. This will provide red mangrove which far exceeds the mangrove that was there.

**Mr. Ryan** He has entered into an agreement with Government regarding the rehabilitation of the island. He will be providing 2 times net benefit in red mangroves.

**CPA** Eventually that island will grow into the buffer.

**Mr. Jackson** The Limestone application allowed them to clear the Mangrove Buffer because an island was preserved, but there was no condition to rehabilitate it. This application goes much further and that is an exceptional circumstance and allows the CPA to reasonably grant permission.

**CPA** How high is the seawall?

**Mr. Crews** Four feet.

**CPA** The wall will be an asset and will help the mangroves to grow.

**Mr. Ryan** *Presented the slide show – attached as Appendix 1.*

**CPA** They were granted a canal depth of 20', do they have any thoughts on whether that could be reduced?

**Mr. Ryan** Their goal is to work cooperatively and it seems that the Board is expressing that perhaps less would be better. He would be happy to reduce the depth to 18' in an effort to listen to those concerns.

**CPA** DOE had a presentation with CPA which showed evidence that sea life would not grow below 14'. They are not trying to force this and change the previous decision, but they wonder if he would voluntarily reduce the depth?

**Mr. Ryan** The CPA presentation seems to have started as a discussion on phasing and then it gave them a second kick at the canal depth. DOE made public statements about how he misled them and he finds that very offensive. He has experts that can rebut their arguments. He is confident that the canal depth will have no impact on sea life in the Sound – he has a \$9 million investment in it. But he would voluntarily go to 18'.

**Mr. Murphy** DOE contends that anything greater than 12' is a problem, but on-going monitoring of canals, and DOE is aware of this, has shown it not to be a

problem. If the canals are designed properly and managed well then canals up to 20' work well.

**CPA** If the canals have dead ends then they probably are a problem, but these are different.

**Mr. Herman** They stand behind the modelling work they did. They are very qualified and have worked with other Governments to protect eco-systems.

**Mr. Ryan** A big part of the modelling was related to water quality and this showed it would be okay.

**Mr. Jackson** And DOE is wrong, the Aggregate Policy does not apply.

**Mr. Ryan** They just want to be treated within the scope of the Regulations and be treated fairly.

**CPA** How much fill is needed? Instead of 18', could it be even less?

**Mr. Ryan** They will use all and more of the fill even at 20'. Some of the material won't be structural.

**CPA** Thanked everyone for attending the meeting.

The Authority considered the applications further and determined that:

- 1) The subject application qualifies as a major application with respect to Section 6 (2) f) of the Development and Planning Law (2008 Revision). Specifically, it cannot be said that clearing almost 9 acres of land that is currently zoned Mangrove Buffer is in any way common or familiar to the Islands. As such, the application is considered a Special Purpose Development and the Authority must review the application with specific consideration given to Sections 6 (1), (3), (4), (5), (6) and Section 7.

**Sec 6 (1) (a)** Consider the likely impact of the proposed development on the infrastructure of the Islands as well as on the educational, social, medical and other aspects of life in the Islands:

*Response: The impact of the proposed development will be minimal.*

**Sec 6 (1) (b)** Consider whether there are other issues of national importance which are relevant to the determination of the application for development and require evaluation:

*Response: There are no other such aspects.*

**Sec 6 (1) (c)** Consider whether there are technical or scientific aspects of the proposed development which are of so unfamiliar a character as to jeopardise a proper determination of the question unless there is a special inquiry for the purpose:

*Response: There are no such aspects.*

**Sec 6 (1) (d)** Identify and investigate the considerations relevant to, or the technical and scientific aspects of, the proposed development which in the

opinion of the Authority were relevant to the question whether the application should be approved:

**Response:** *There are no such aspects identified in 6(1)(c) that need to be investigated.*

**Sec 6 (1) (e)** Assess the importance to be attached to those considerations or aspects:

**Response:** *There are no considerations to be assessed.*

**Sec 6 (3)** The Law gives the Authority the discretion whether to permit the applicant for planning permission an opportunity to appear before the Authority and to be heard by five or more Members of the Authority:

**Response:** *The applicant is scheduled to appear before the Authority.*

**Sec 6 (4)** Consider whether the development proposed in the application should instead be carried out at an alternative site:

**Response:** *The site is suitable for the proposed development.*

**Sec 6 (5)** The Authority may arrange for the carrying out of research of any kind appearing to it to be relevant to an application referred to it:

**Response:** *No additional research is necessary based on the consideration given to items 6(1)(a-e).*

**Sec 6 (6)** The Authority may hold an inquiry, if it thinks it necessary, for the proper discharge of its functions:

**Response:** *An inquiry is deemed not necessary.*

**Sec 7** The Authority shall, to the greatest possible extent consistent with its duties under the Law, consult with departments and agencies of the Government having duties or having aims or objects related to those of the Authority:

**Response:** *The Authority should consider and take into account the agency reports presented thus far.*

- 2) The Authority determined that the new seawall and 50' wide strip of red mangroves would preserve the ecological functions of mangroves outlined in Regulation 18(1) of the Development and Planning Regulations (2006 Revision). However, the Authority does not agree with the applicant's position that because coastal protection is identified as the last function in the regulation that it is somehow relegated to a position of lesser importance. The list of ecological functions has been provided in the regulation in no particular order of importance.
- 3) Per section 3.08 of The Development Plan 1997 and Regulation 18(2), development is 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. In this instance:

- a) The existing mangroves in the Mangrove Buffer zone were substantially damaged or destroyed by hurricane Ivan. Some five and a half years later, a small percentage of those mangroves have regenerated. As a result, the role of the existing mangroves in performing the ecological functions noted in regulation 18(1) has been greatly minimized. The Authority is of the view that the existing state of the mangroves represents an exceptional circumstance that would warrant their removal to be replaced with a seawall and a new 50’ wide strip of red mangroves.
- b) The applicant’s proposal to build a seawall; replant a mangrove strip, which is required by the Authority to be a minimum width of 50’; and rehabilitate/restore the mangrove island represents equivalent storm protection compared to the existing, damaged mangroves.
- c) The Authority is satisfied that the applicant has demonstrated that the various aspects of the proposal will not substantially adversely affect the ecological role of the peripheral mangroves.
- 4) For the reasons stated above, the Authority is satisfied that the proposed development complies with Regulation 18(6).

**2. 6 FUJIGMO Block 12C Parcel 362 (F04-0384) (P09-1240) (\$300,000) (CS)**

Application for debris clean up and mangrove revegetation.

**Appearance at 1:30**

**FACTS**

<i>Location</i>	A mangrove island near to Parcel 394 in the Seven Mile Beach District. near to the canal that services the Port Authority site
<i>Zoning</i>	<b>MANGROVE BUFFER</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	7 acres
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	Clean-up and Replanting Mangrove

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

- 1) The applicant shall submit a report developed in consultation with the Water Authority, Department of Environment, Department of Environmental Health and the Chief Petroleum Inspector detailing how the debris in the existing mangroves will be removed/cleaned-up. The debris removal/clean-up

operations shall not commence until the report has been submitted to and approved by the Director of Planning.

- 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.

### **AGENCY COMMENTS**

Comments from the Chief Environmental Health Officer and Water Authority are noted below. Comments from the Department of Environment were provided to the members as a separate attachment to the Agenda (Attachment 1)

#### **Chief Environmental Health Officer**

*“The following comments are submitted with respect to the above application:*

*The department has no objections to these plans.”*

#### **Water Authority**

*“In respect of the email below from the Chief Petroleum Inspector, our comments only relate to the proper clean-up/removal of oil drums or possible hazardous waste from the property. The other aspects of this application appear to have no relation to the Water Authority’s development control function. In our opinion the clean up of oil drums hazardous waste can be addressed separately from the Planning application.*

*The Water Authority agrees with the comments of the Chief Petroleum Inspector.*

*Fuel spills and the subsequent clean-ups are normally dealt with by the Department of Environment, the Department of Environmental Health, Chief Petroleum Inspector and the Water Authority. There is good coordination between these entities.*

*In this instance a site inspection should be carried out to determine whether any of the hazardous materials has spilled from the drums, if there is evidence of such a spill a basic site assessment needs to be carried out that will determine the scope of the clean-up. It may be best if the initial inspection is carried out by DOE/WA, we will be in touch with DOE about this. Depending on what we find further specific action for the clean up will be determined between the 4 agencies.”*

### **LETTER FROM APPLICANT**

*“The attached applications are submitted in relation to our request for permission to clear and clean-up debris/pollution within the eastern most portion of the Ritz-Carlton parcel to allow construction of a seawall providing required storm buffering along the subject property's frontage along North Sound. Permission will allow for the long overdue clean-up of this unsafe, unproductive and unsightly area and removal of debris and potentially harmful pollutants as well as providing the Ritz-Carlton Resort a critical storm surge protection. This*

*was demonstrated when the mangrove buffer failed to adequately protect The Ritz-Carlton property from the impacts of Hurricane Ivan.*

*The Planning and Development Regulations (Section 18 (2)) contains a provision that allows for development within the Mangrove Buffer Zone in instances of "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." This application meets all of these requirements and provides a net environmental benefit to the property and the North Sound ecosystem. Hurricane Ivan and its associated impacts to the subject property constitute "exceptional circumstances". The mangrove buffer did not protect the property and was itself also heavily damaged and contaminated as a result of the storm.*

*To address the ecological role of the peripheral mangroves, the application proposes establishment of a 25 foot wide peripheral edge along the entire frontage with North Sound. Existing red mangroves within this area will be preserved and rehabilitated and areas that are not recovering will be cleaned up, rehabilitated and replanted so the peripheral mangroves are fully restored.*

*The recent acquisition of the adjacent mangrove island through the agreement with Cayman Island Government allows for the rehabilitation of 15.4 acres of additional damaged mangroves. This provides, as summarized in the attached material, for a net 100% benefit of mangrove habitat.*

*The package includes a detailed environmental assessment of the subject area prepared by Haley & Aldrich which includes mitigation measures to offset the proposed impacts to the Mangrove Buffer Zone. The mitigation provides for a 2:1 ratio of rehabilitated and preserved red mangrove habitat and critical red mangrove fringe areas fronting North Sound. As noted, this includes clean-up, replanting and preservation of a 25 foot wide mangrove fringe along the North Sounds frontage as well as clean-up, replanting and rehabilitation of the large mangrove island located just east of the subject parcel.*

*The use of the mangrove island (Block 12C Parcel 362), which is owned by the Crown, as part of the mitigation is provided for in the main Agreement between Government and the Applicant related to Parcel 17A 10/1. The agreement approved a 99 year lease over the mangrove island which allows for the proposed clean-up, replanting and rehabilitation by the Applicant. Since the mitigation proposed includes work on the mangrove island, this package includes a separate application requesting permission to perform the proposed clean-up and replanting on the island."*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is a request to remove debris and rehabilitate the 7-acre mangrove island.

## **Development Plan**

Section 2.3 of the Development Plan 1997 states: "New developments proposed in the mangrove areas or wetlands may be subject to the environmental analysis provisions contained in Appendix 3 and other relevant provisions of the Statement in a manner which enables the Authority to be satisfied that-

- (i) the application site is suitable for the use and form of development proposed
- (ii) the development will not have a detrimental impact on the natural, human and built environments in the area: and
- (iii) the scale, density and design of development take proper account of a site's physical and environmental characteristics.

Section 3.08 of the Development Plan 1997 states: "The policy for Mangrove Buffer Zones will comprise and be subject to control of the development in the following ways: - Red and predominately red mangroves in the area defined on the map as Mangrove Buffer will be protected from development except in exceptional circumstances."

## **Zoning**

The property is zoned Mangrove Buffer. Per Section 18(1) of the Development & Planning Regulations (2006 Revision), "any matter relating to a Mangrove Buffer zone the Authority 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."

Additionally, Section 18 (2) states: "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 Department wishes to discuss the following concerns regarding the application.

## **Specific Issues**

### **a) Suitability**

The applicant is proposing to clean-up and revegetate the 7-acre mangrove island, which is leased from the Crown. It is noted that the east half of the Mangrove Island suffered as a result of Hurricane Ivan, however much of the

mangrove habitat proved resilient. The devastation occurred 5 years ago and is still in the process of regenerating naturally.

The applicant is proposing a 2:1 mitigation ratio for replanting damaged mangrove in the damaged areas. The proposal is in keeping with the intent of the Development Plan 1997 Sections 2.3 & 3.08 as no development is proposed for the island. Additionally, the proposal is in compliance with Development and Planning Regulations (2006 Rev.) Section 18(1) as the applicant proposes to enhance the mangrove wetland by clearing debris and mangrove revegetation in damaged area.

Planning has no concerns regarding the proposal, although the Department does recommend the replanting is done per DOE's recommendations. Furthermore, any clearing of debris should be conducted without clearing land and in coordination with the Water Authority, DEH, DOE and the Chief Petroleum Inspectorate.

**At 1:30pm, Michael Ryan, Kenneth Crews, J. Samuel Jackson, Frances Doud, Pearse Murphy, Eric Cronier, and Michael Herman appeared on behalf of the applicant.**

**CPA** Summarized the basic purpose of each of the three applications. Asked them if they could discuss the strata lot aspect first.

**Mr. Ryan** They want to modify the strata lot subdivision and Ken can give the details.

**Mr. Crews** The modification will include some existing lots into the strata and will exclude the golf course from the strata. There is also a piece in Mitchell's Creek that will not be part of the Strata.

**Mr. Cronier** The golf course was common property. He explained the need to keep it separate from the rest of the strata. It will remain as a remainder of 17A 10.

**CPA** Ok, that's been dealt with. Can they address the issue of clearing the land?

**Mr. Ryan** They also would like to deal with the modification application for the phasing requirement. *(The Assistant Director of Planning explained that that application had just been submitted yesterday and staff hadn't had the time to review it.)*

**CPA** That's okay, it can be dealt with today.

**Mr. Ryan** The prior CPA granted approval with conditions. They have been moving forward to address them. They have already had a modification to increase the depth of the canals, but then they were informed that DOE had made a presentation to CPA and made comments about himself and his professionals – comments about water quality. It seemed that CPA was going to change the phasing requirement. The phasing was done so that the Port Authority portion got done first. This has caused delays in the process. It's difficult to move forward if they can't have confidence in the CPA's decision and that it won't be changed. This is a commercial decision for the phasing, and it shouldn't be a role for CPA.

They will start the project, will move forward and will finish it. They want to remove the condition about phasing. It is tough enough anyway with this economy and then the rug gets pulled out from under them. They will do what the Law requires.

**CPA** So, the phasing plan came about because the previous CPA wanted to ensure that the Port Authority was done?

**Mr. Ryan** That's accurate.

**CPA** Then that became something different and he wants that removed?

**Mr. Ryan** Yes. It should be up to the developer to move forward based on a commercial decision.

**CPA** What is the plan for the piece of land to be cleared? There was an application for apartments, which was refused, and that is under appeal.

**Mr. Jackson** Yes. They applied for the clearing and outline permission for the apartments – based on advice from the Department. The plan was only to show the concept of the buildings. This led to heated discussions regarding putting buildings in the Mangrove Buffer – it spun out of control. The application was really just for the clearing and seawall.

**CPA** So that appeal could be withdrawn?

**Mr. Jackson** Yes, at any stage, depending on the outcome of this application.

**CPA** They are discussing the buffer zone, so can they address the exceptional circumstances why the Board has the authority to approve it?

**Mr. Ryan** Yes, they have that in their presentation.

**CPA** Through their preliminary discussion, the members felt that the 25' wide buffer is too meagre.

**Mr. Ryan** It is not being left as a buffer. The 25' is to provide red mangroves and rehabilitate others. It is the most crucial 25', but they could leave another 25'.

**CPA** So if the Board asks for 50', that's okay?

**Mr. Ryan** It will all be within their property so no coastal works license is needed.

**Mr. Jackson** Those involved with Planning will know that pre 1997, we had storm belts, not mangrove buffers. The Law still calls it that. In 1997, there was a re-designation of the Mangrove Buffer zone. It became mores restrictive, but the Law wasn't changed. He could argue that this wasn't legal. When you look at Regulation 18, coastal protection was moved to the bottom of the list. The regulations allows for exceptional circumstances and providing equivalent protection. They meet both tests. The proposed revetment is much better storm protection. Regarding ecological function, they will install a strip of mangrove of appropriate width. And they will have the benefit of the mangrove on the island – which will be restored at his client's cost. This will provide red mangrove which far exceeds the mangrove that was there.

**Mr. Ryan** He has entered into an agreement with Government regarding the rehabilitation of the island. He will be providing 2 times net benefit in red mangroves.

**CPA** Eventually that island will grow into the buffer.

**Mr. Jackson** The Limestone application allowed them to clear the Mangrove Buffer because an island was preserved, but there was no condition to rehabilitate it. This application goes much further and that is an exceptional circumstance and allows the CPA to reasonably grant permission.

**CPA** How high is the seawall?

**Mr. Crews** Four feet.

**CPA** The wall will be an asset and will help the mangroves to grow.

**Mr. Ryan** *Presented the slide show – attached as Appendix 1.*

**CPA** They were granted a canal depth of 20', do they have any thoughts on whether that could be reduced?

**Mr. Ryan** Their goal is to work cooperatively and it seems that the Board is expressing that perhaps less would be better. He would be happy to reduce the depth to 18' in an effort to listen to those concerns.

**CPA** DOE had a presentation with CPA which showed evidence that sea life would not grow below 14'. They are not trying to force this and change the previous decision, but they wonder if he would voluntarily reduce the depth?

**Mr. Ryan** The CPA presentation seems to have started as a discussion on phasing and then it gave them a second kick at the canal depth. DOE made public statements about how he misled them and he finds that very offensive. He has experts that can rebut their arguments. He is confident that the canal depth will have no impact on sea life in the Sound – he has a \$9 million investment in it. But he would voluntarily go to 18'.

**Mr. Murphy** DOE contends that anything greater than 12' is a problem, but on-going monitoring of canals, and DOE is aware of this, has shown it not to be a problem. If the canals are designed properly and managed well then canals up to 20' work well.

**CPA** If the canals have dead ends then they probably are a problem, but these are different.

**Mr. Herman** They stand behind the modelling work they did. They are very qualified and have worked with other Governments to protect eco-systems.

**Mr. Ryan** A big part of the modelling was related to water quality and this showed it would be okay.

**Mr. Jackson** And DOE is wrong, the Aggregate Policy does not apply.

**Mr. Ryan** They just want to be treated within the scope of the Regulations and be treated fairly.

**CPA** How much fill is needed? Instead of 18', could it be even less?

**Mr. Ryan** They will use all and more of the fill even at 20'. Some of the material won't be structural.

**CPA** Thanked everyone for attending the meeting.

## 2.0 APPLICATIONS

### REGULAR AGENDA (Items 2. 7 TO 2. 27)

#### 2. 7 JOHNSON FAMILY PROPERTIES INC. Block 31A Parcel 26 (F09-0234) (P09-1349) (P09-1350) (\$50,000) (BES)

Application for subdivision (seventy four (74) detached houses lots, two (2) road parcels, one (1) lot reserved for commercial development and two (2) LPP lots) and excavation (23,900 cu yds).

#### FACTS

<i>Location</i>	Woodland Drive, Savannah
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	40 acres
<i>Proposed Use</i>	Subdivision/Excavation
<i>Number of Parcels</i>	79

#### BACKGROUND

**CPA/21/09; Item 2.11** - The Authority granted planning permission for land clearing with conditions.

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

- 1) Prior to the commencement of any site works such as filling, grading and road construction, the applicant shall submit the following:
  - a) A revised subdivision plan showing the landscape buffer on lots 52 through 56 increased in width to as close as possible to 20' while maintaining the minimum required lot size.
  - b) A stormwater management plan prepared in accordance with the requirements of the Managing Director, NRA and approved by the Central Planning Authority. The plan shall be designed to embrace storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and should include, but not be limited to, the location of all drainage facilities and general grading details of the parcels (roads included). In general, the entire site shall be graded in such a manner that stormwater runoff is no more than that which occurred during predevelopment conditions along private boundaries with any excess runoff directed to one central drainage facility or a series of facilities. ***The plan shall include proposed lot grading in order to facilitate the implementation of condition 2) a) below. Additionally, if the plan includes drainage swales then cross-sections of the swales must be provided. Further, there shall be no direct drainage to the lake from the***

- 2) Prior to the subdivision plan being finalized, the following conditions shall be satisfied:
- a) The property shall be filled in such a manner as to ensure that the subdivision road and a reasonable building envelope for each lot are filled to 4 feet above mean sea level, with the remaining subdivision land being filled and/or graded to a level that will assist in the drainage of the subdivision per the stormwater management plan required in condition 1) a) above. After filling the site, the applicant shall submit a plan prepared by a registered land surveyor indicating spot heights at regular intervals, including the finished grade of constructed access road (s), if any.
  - b) The approved stormwater management system shall be installed on site.
  - c) The final subdivision plan shall indicate a vehicular easement over the subdivision access road in favour of each lot. The final plan must be accompanied with the requisite grant of easement forms detailing the easements to be registered.
  - d) The access road (s) abutting the proposed lots shall have a minimum of a 30' demarcated road parcel and shall be constructed with asphalt and approved by the Central Planning Authority prior to the lots being registered. The applicant shall liaise with the Managing Director, National Roads Authority (NRA), at predetermined stages of road construction to ensure compliance with the requisite standards. Failure to do so may render the project unacceptable. Please be advised that the road base shall be constructed to National Roads Authority (NRA) minimum design and construction specifications for subdivision roads. The NRA shall inspect and certify road base construction prior to road surfacing activities.
  - e) The 130' wide future by-pass road must be fully constructed and operation before any lots in phase (L1 to L48) can be finalized.
  - f) Access to all lots must be gained from the internal subdivision road(s) and not the east-west by-pass road.
  - g) The applicant shall provide water infrastructure for the entire sub-division. The applicant shall submit plans for the water supply system for approval by the Water Authority. The water supply system shall be installed to the Water Authority's specifications, under the Water Authority's supervision. Copies of these specifications are available at the Water Authority's office on Red Gate Road.
  - h) The applicant shall request to have the sub-division connected to the Water Authority's public water system. This request will be acted upon after the pipelines on the sub-division have been installed in accordance with the WAC specifications and have passed all specified tests.
  - i) No excavated material is allowed to leave the site.

- j) The excavation depth shall not exceed 20 feet and the amount of material excavated shall not exceed 24,000 cubic yards. To assist in implementing this condition, the applicant shall provide a survey every 6 months, prepared by a licensed land surveyor, demonstrating the depth of the lake at regular intervals and the amount of material that has been excavated.
- k) The remaining excavation application fee shall be paid.
- l) The surveyor's final drawing **shall include the surveyed dimensions of all lots** and shall be submitted to the Planning Department for approval prior to the survey being registered. The applicant shall notify the Chief Surveyor in writing once survey Kaps have been placed in the ground in order for the survey to complete its authentication process and to thereby initiate lifting of the Parcel Survey Restrictions by the Registrar of Lands.

The applicant is reminded that the existing Land for Public Purposes on Parcel 18 will be removed.

### **AGENCY COMMENTS**

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

#### **Department of Environment**

*"The Department's Technical Review Committee has reviewed the above noted application and provides the following comments for consideration.*

#### ***Location of Property***

1. *Topography maps show that the parcel is of low elevation (> 4ft above MSL). Soil maps for Grand Cayman show the parcel having mangrove swamp and Bodden Town clay loam. These soils indicate that the area may have high water retention. Vegetation maps also indicate areas of buttonwood, these trees also indicate a wetland area.*
2. *The combined low elevation and soil and vegetation types suggest that the area is prone to flooding. Indeed, aerial photographs of the area taken shortly after Hurricane Ivan (2004) show extensive flooding of the area. Flooding was especially severe in areas where the vegetation was seen to be disturbed. This needs to be taken into consideration when development begins in the subdivision.*

#### ***LPP location***

3. *Examples of LPP cited in the Development and Planning Regulations (2005 Revision) include "children's playgrounds, sport fields, parks, churches and public rights of way". The DOE regards these provisions as intent to maintain usable green-space within developing communities, towards retaining some environmental value and facilitating recreational benefit to residents. The majority of the subdivision's LPP is sited around the lake. Caution should be give to designating this area as LPP since it is adjacent to individual lots, and*

owners may feel that this property belongs to them and not want their privacy infringed on by having public space in their back yard. In addition, the location of such a large LPP at this site reduces the LPP at the second parcel, where it is limited to a thin strip between lots and the road. The Department questions the usefulness of this second smaller site for the purpose of LPP. The DOE would request that the applicant place areas designated for LPP in an area that would best serve the needs of the subdivision, as intended in the Development and Planning Regulations, without infringing on the privacy of land owners.

### **Phasing**

4. A master plan for the subdivision which outlines how phasing of the subdivision development will work in coordination with excavation of the lake is recommended. The plan should address the development of the subdivision, excavation of the lake including any methods (such as blasting) that may impact existing properties, and storage of excavated material for use in future phases.

### **Stormwater Management and Landscaping**

5. As mentioned previously the area is low lying and prone to flooding. A stormwater management plan should be developed for the subdivision, with the objectives of flood prevention, onsite treatment, control of stormwater runoff and minimizing untreated runoff into water bodies. The DOE recommends consideration of the following stormwater management methods:
  - a. Stormwater should never be allowed to flow directly into the lake without first being treated to remove pollutants and solids. Contaminants from the developed subdivision and roadways collected in the stormwater runoff can degrade water quality within the lake. If the applicant wishes to use the lake for stormwater retention the Department would strongly suggest that runoff is treated prior to entering the lake. Vegetated swales with effective grading and strategic landscape planning may be used to promote infiltration and treatment of this runoff before entering the lake.
  - b. Lake water quality may also degrade if runoff from lakeside properties is allowed to flow into the lake untreated. Pollutants collected from hardscaped surfaces (e.g. hydrocarbons, heavy metals from driveways and roads) and excess fertilizer from landscaped areas that when directed into the lake can degrade water quality and contributing to algal blooms. Planting a submerged ledge and perimeter of the lake with fringing aquatic and upland plants will provide a biological buffer to filter runoff. This vegetation will have the added benefits of attracting wildlife and enhancing the general aesthetics of the lake. Plants used should be able to tolerate saline conditions if present.
  - c. Maintaining the natural drainage pattern as much as possible, controlling the sources of runoff and promoting infiltration will greatly assist stormwater management. These methods can be considered in

6. *When filling the subdivided properties, the footprints of the buildings should be raised, leaving other areas at lower grade, in order to allow for runoff away from buildings during storms.*
7. *Existing vegetation should be preserved whenever possible and incorporated into the stormwater management plan and landscaping scheme. Essential clearing of vegetation should be restricted to subdivision roadways and installation of services until development of individual lots is imminent. This practice will help reduce the risk of soil erosion and assist with storm water management. Future subdivision lot owners should be encouraged to keep vegetation on their parcel until they are ready to begin construction.*
8. *The use of native vegetation is encouraged when landscaping the subdivision, including individual lots, common areas and along roadways. Non-native species can be costly to establish and maintain as they typically require more water and fertilizer than those species adapted to local conditions. The applicant is encouraged to liaise with the DOE regarding suitable vegetation options to complement subdivision landscaping and storm water management plans.*
9. *Vegetation including mature trees that provide shading in combination with use of reflective surfaces (e.g. white roofs, open grid paving or gravel driveways, etc) will serve to reduce the urban heat island effect, making the localized outdoor living environment more pleasant.*

#### ***Fill Requirements and Design of Lake***

10. *The DOE consistently recommends that a project's fill requirements inform the design of lake excavations. The applicant should be required to calculate site fill requirements after undertaking soil investigations to ensure the material is adequate for use as fill, and design an excavation depth which reasonably meets onsite fill needs whilst ensuring that water quality will not become a serious health, nuisance or aesthetic issue in the long term. Poor water quality is often a result of improperly designed artificial systems and can lead to a number of chronic problems. Most issues relating to water quality can be mitigated during the planning and design phase. It should be noted that good water quality in an artificial lake generally becomes more difficult to maintain with increased depths.*
11. *The DOE does not support the excavation of a 20ft lake at this time, and would recommend that until the AAC pilot study for deeper excavations is complete lakes in residential areas not exceed 12ft in depth.*

12. *The DOE recommends a 10 ft wide submerged ledge or 'safety zone' gradually sloping to a depth of 3 ft constructed around the entire perimeter of excavated water bodies for safety reasons as well as to stabilize banks and facilitate re-vegetation thus providing habitat and cover for waterfowl as well as natural filtration for run-off. The Department request that a cross section of the lake showing this ledge be provided.*
13. *No excavated materials should be permitted to leave the site; if it is intended otherwise, then this application is considered a quarry per the CPA Aggregate Policy and must first be reviewed by the AAC.*
14. *When filling the site, the DOE recommends only the footprints of proposed buildings are elevated, leaving other areas at a lower grade. This will minimize alterations to the natural drainage pattern and flooding of adjacent properties as well as alleviate fill material requirements.*

### **Lake Maintenance**

15. *Future subdivision property owners should be encouraged to prevent pollutants from entering the lake by controlling them at their source, e.g. avoid over fertilizing or inappropriate timing of application, i.e. just prior to anticipated heavy rains, etc. and siting deep wells, septic tanks or treatment systems as far away from the lake as possible.*
16. *The applicant should plan for the long-term maintenance of vegetation planted around the lake perimeter and on the submerged ledge. There should be a covenant for future lakeside property owners to retain this vegetation.*
17. *The applicant is encouraged to investigate the cost benefit of various aeration or circulation systems (e.g. fountains) suitable to promote good water quality in this size of water body and the requirements for their long-term maintenance.*
18. *The feeding or stocking of any wildlife in the pond should be discouraged. The Department has always discouraged the feeding of wild animals. In addition, adding food to the pond increases eutrophication resulting in algal blooms and subsequent oxygen depletion resulting in fish kills and unappealing odors and aesthetics of the lake.*
19. *The DOE is not responsible for rectifying any water quality problems associated with this any other excavated lake should they arise, especially when recommendations provided have not been implemented.*

### **Land Clearing**

20. *Whenever possible, original vegetation should be preserved when developing the subdivision, especially in the LPP area and along property boundaries. This vegetation should be incorporated into the storm water management plan and landscaping scheme.*
21. *Clearing of vegetation should be restricted to required roadways and installation of services until development of individual lots is imminent. This*

*practice will help reduce the risk of soil erosion and assist with storm water management.*

22. *When vegetation must be cleared it should be chopped / mulched (not burned) and used on the site.”*

**Water Authority**

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

***Regarding proposed excavation:***

*Please be advised that Section 34 (1) of Water Authority Law (1996 revision) requires that anyone who undertakes the construction, replacement or alteration of a quarry (inland excavation) or canal (excavation connected to the sea) is required to obtain a permit from the Authority, subject to such terms and conditions as it deems fit. An excavation permit will be considered upon receipt of the quarry/canal permit application form, with all required submittals, including:*

1. *Proof of Planning Permission.*
2. *Proof of advertising for the proposed development.*
3. *Plans showing proposed area for excavation, elevations prior to excavation and finished elevations after proposed excavation, including cross sections and proposed depths. Plans shall be prepared by a licenced land surveyor.*
4. *Certified copy of Land Registry (issued less than 4 weeks before this application).*
5. *The Permit fees as set out in Schedule 2 of Water Authority Regulations are \$0.02 per square metre for quarries, \$0.02 per square metre for canals less than 2 metres in depth, and \$0.03 per square metre for canals 2 metres or more in depth).*
6. *Proof of third party liability insurance, if blasting will be carried out for this excavation.*

***Water Supply:***

*Please be advised that the proposed development site is located within the Water Authority's piped water supply area.*

- *The developer is required to notify the Water Authority's Engineering Services at 949-2837, without delay, to be advised of the site-specific requirements for connection.*
- *The developer is required to provide the water-supply infrastructure, specified by the Authority, within the site.*
- *The developer shall submit plans for the installation of the specified infrastructure to the Authority for approval.*

- *The site's water-supply infrastructure shall be installed to the Authority's specifications, under the Authority's supervision. Copies of the Authority's specifications are available at the Water Authority's office on Red Gate Road.*
- *The developer's request to have the development connected to the Water Authority's public water system will be acted upon after the site's water-supply infrastructure has been installed in accordance with the WAC specifications, and passed specified tests.*

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

***Wastewater Treatment:***

- *Please be advised that wastewater treatment and disposal requirements for built development are subject to review by the Water Authority.”*

**National Roads Authority**

*“As per your memo dated December 29<sup>th</sup>, 2009 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

***Section 26 Gazette***

*The proposed subdivision complies with the Approved Section 26 Gazetted of the Roads Law (May 2005).*

***Road Capacity Issues***

*Our understanding of the above development is that the site will be divided into 79 lots, the majority being single family. The traffic demand to be generated by a residential development of seventy-nine (79) single family units has been assessed in accordance with ITE Code 210. Thus, the assumed average trip rates per dwelling unit provided by ITE for estimating the daily, AM and PM peak hour trips are 9.57, 0.75 and 1.01 respectively. The anticipated traffic to be added onto Woodland Drive is as follows:*

<i>Expected Daily Trip</i>	<i>AM Peak Hour Total Traffic</i>	<i>AM Peak 16% In</i>	<i>AM Peak 84% Out</i>	<i>PM Peak Hour Total Traffic</i>	<i>PM Peak 67% In</i>	<i>PM Peak 33% Out</i>
<i>756</i>	<i>59</i>	<i>15</i>	<i>44</i>	<i>80</i>	<i>50</i>	<i>30</i>

*For peak hour conditions, this level of traffic generation of this phase of the development is considered to have minimal traffic impacts onto Woodland Drive*

***Access and Traffic Management Issues***

*The subdivision’s road base shall be constructed to NRA minimum design and construction specifications for subdivision roads - this includes elevations, minimum longitudinal slopes and minimum cross fall of minus 2 percent from the centre line to the shoulder. The applicant is advised to include the grading plan of the roadway when submitting the drainage plan.*

*The NRA shall inspect and certify the road base construction prior to HMA surfacing activities.*

*All internal roadway curves (horizontal alignment) shall be no less than 46 feet centreline radius. This requirement ensures that the minimum vehicle sweeps for a standard garbage and/or fire truck or school bus can be accommodated by the site layout.*

### ***Excavation***

*The NRA does not authorize blasting within 500 ft of any occupied building. This proposed excavation is within the 500 ft of several homes and therefore, any excavation of this lake will need to be undertaken without the use of explosives. Should you have any questions, please do not hesitate to contact Mr. Peter Ogden – Senior Project Engineer.*

### ***Stormwater Management Issues***

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

*For major developments, the applicant shall demonstrate that the Stormwater Management system can be designed to include storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and ensure that surrounding properties that are lower and nearby public roadways are not subject to stormwater runoff from this site. The plan should depict existing condition levels as well as detail of finish levels of the roadway.*

### ***Traffic Calming***

*It is recommended to make provisions for traffic calming features, such as speed humps, neck-downs and/or small neighbourhood circles (this feature would require some land). The NRA feels that this should be a condition of planning approval so that government does not have to incur the cost of installation of such measures once future residents complain.*

*Please contact the NRA if you wish to pursue this recommendation for guidance on how to develop any of these traffic calming features.”*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for a subdivision (seventy four (74) detached houses lots, two (2) road parcels, one (1) lot reserved for commercial development and two (2) LPP lots) and excavation (23,000 cu yds to a depth of 20'). Phase I of the proposal includes the subdivision lots on parcel 18 and the lake excavation on parcel 26. Phase II would include the subdivision lots on parcel 26 and the construction of the future NRA highway.

Access to parcel 18 would be via Woodland Drive. In addition, the applicant is proposing to obtain access via the future by-pass road for parcel 26.

## **Major Development Consideration**

Pursuant to Section 6 of the Development and Planning Law (2008 Revision), the Central Planning Authority has the responsibility of reviewing major development applications with respect to their potential impact on the infrastructure of the Island. The subject application qualifies as a major application with respect to Section 6 (2) (d). Accordingly, the Authority must review this application with specific consideration given to Sections 6 (1), (3), (4), (5), (6) and Section 7. The following chart has been formulated to assist the Authority in reviewing the application with respect to the aforementioned sections of the Law. The Department has included its reasoned recommendations for each section of the Law for the Authority's consideration.

**Sec 6 (1) (a)** Considered the likely impact of the proposed development on the infrastructure of the Islands as well as on the educational, social, medical and other aspects of life in the Islands and found that:

*Response: It is likely that the proposed development will have an effect on traffic and the housing supply on the Island.*

**Sec 6 (1) (b)** Considered whether there are other issues of national importance which are relevant to the determination of the application for development and require evaluation and found that:

*Response: There are no such aspects.*

**Sec 6 (1) (c)** Considered whether there are technical or scientific aspects of the proposed development which are of so unfamiliar a character as to jeopardise a proper determination of the question unless there is a special inquiry for the purpose and found that:

*Response: There are no such aspects*

**Sec 6 (1) (d)** Identified and investigated the considerations relevant to, or the technical and scientific aspects of, the proposed development which in the opinion of the Authority were relevant to the question whether the application should be approved and found that:

*Response: Stormwater management plan must be addressed.*

**Sec 6 (1) (e)** Assessed the importance to be attached to those considerations or aspects and found that

*Response: High Importance*

**Sec 6 (3)** The Chairman informed the Authority that the Law gave the Authority the discretion whether to permit the applicant for planning permission an opportunity to appear before the Authority and to be heard by five or more Members of the Authority and decided that:

*Response: No objections were received.*

**Sec 6 (4)** The Authority considered whether the development proposed in the application should instead be carried out at an alternative site and found that:

*Response: No other site was proposed.*

**Sec 6 (5)** The Authority noted that it may arrange for the carrying out of research of any kind appearing to it to be relevant to an application referred to it and decided that:

*Response: No further research required*

**Sec 6 (6)** The Authority noted that it may hold an inquiry, if it thinks it necessary, for the proper discharge of its functions and decided that:

*Response: Not required*

**Sec 7** The Authority noted that it shall, to the greatest possible extent consistent with its duties under the Law, consult with departments and agencies of the Government having duties or having aims or objects related to those of the Authority and decided that:

*Response: The Authority considered and took into account the agency reports presented thus far.*

### **Development Plan**

The application is in general conformity with the provisions of The Development Plan 1997.

### **Zoning**

The property is zoned Low Density Residential and while the proposed use is a permitted use per Regulation 9(8) the Department would offer the following comments regarding specific issues noted below.

### **Specific Issues**

#### **a) Stormwater Management Plan.**

Based on topography maps and aerial photographs after Hurricane Ivan, the area was subject to extensive flooding. From a planning perspective, a stormwater water management plan should be developed for the subdivision addressing the following:

- Stormwater should never be allowed to flow directly into the lake without first being treated to remove pollutants and solids. Contaminants from the developed subdivision and roadways collected in the stormwater runoff can degrade water quality within the lake. If the applicant wishes to use the lake for stormwater retention the Department would strongly suggest that runoff is treated prior to entering the lake. Vegetated swales with effective grading and strategic landscape planning may be used to promote infiltration and treatment of this runoff before entering the lake.
- Lake water quality may also be degraded if runoff from lakeside properties is allowed to flow into the lake untreated which can degrade water quality. Planting vegetation around the lake will provide a biological buffer to filter storm-water runoff. This vegetation will have

the added benefits of attracting wildlife and enhancing the general aesthetics of the lake.

- Maintaining the natural drainage pattern as much as possible, controlling the sources of runoff and promoting infiltration will greatly assist stormwater management.

**b) Excavation**

The DoE has recommended that the excavation depth should not exceed 12' until the AAC pilot study for deeper excavations is completed.

It is also recommended that a 10' wide submerged ledge or 'safety zone' gradually sloping to a depth of 3' be constructed around the entire perimeter of excavated water bodies for safety reasons as well as to stabilize banks and facilitate re-vegetation thus providing habitat and covering for waterfowl as well as natural filtration for run-off.

**c) Filling of Lots**

When filling the site, the footprints of the buildings should be elevated, leaving other areas at a lower grade. This would minimize alterations to the natural drainage pattern and flooding of adjacent properties as well as alleviate fill material requirements.

**d) Phasing Plan**

The applicant should submit a master plan of the subdivision that details how the subdivision would be phased including the blasting/excavation and storage of excavated material for the sites.

**e) LPP**

As depicted on the subdivision plan, the applicant is proposing a buffer strip along the future highway and an area around the lake as LPP. It should be pointed out that there is existing LPP on parcel 18 from the original Woodland Estates subdivision from 1971. The applicant has designed the subdivision to incorporate standard lots in this existing LPP. The Authority needs to ascertain whether or not to exclude lots # 69, 70, 71 and 77 as LPP. The Department is of the view that lots 67 and 68 should be remain as LPP based on the 5% x 13 acres or 0.65 acre of parcel 18. The said lots would have a combined acreage of 0.66 acre for LPP.

**f) Traffic Impacts**

In the absence of the NRA comments, the Department is of the view that the applicant should submit a traffic impact study that addresses the existing and proposed traffic impacts on Woodland Drive.

**2. 8 ELEANOR CONOLLY Block 72C Parcel 103 (FA86-0242) (P09-1265) (\$600,000) (BES)**

Application for a commercial building.

**Mr. Steve McLaughlin declared a conflict and left the meeting room.**

**FACTS**

<i>Location</i>	Sea View Road, East End
<i>Zoning</i>	<b>N COM</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	4,356 sq. ft.
<i>Proposed Use</i>	Commercial Building
<i>Building Size</i>	564 sq. ft.
<i>Building Coverage</i>	12.9%
<i>Proposed Parking</i>	3
<i>Required Handicapped Spaces</i>	1
<i>Required Parking</i>	2

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

Conditions (1-3) listed below shall be met before building permit drawings can be submitted to the Building Control Unit.

- 1) 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.
- 2) 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.**
- 3) 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.gov.ky](http://www.planning.gov.ky)) under Policy Development, Policy Drafts.*
- 4) The applicant is required to obtain a Building Permit from the Chief Building Control Officer. Construction shall not commence prior to the issuance of a Building Permit.
- 5) Unless specifically authorized otherwise in writing by the Central Planning

Authority, the Development shall be carried out strictly in accordance with the approved plans.

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

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, [i.e. two feet (2') above the Vidal Bench Mark].

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.**

The applicant is reminded that the proposed development is subject to compliance with the Public Health Law, Fire Brigade Law, Water Authority Law and Roads Law.

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.**

### **AGENCY COMMENTS**

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

#### **Chief Environmental Health Officer**

*“The following comments are submitted with respect to the above application:*

*The department has no issues with the proposed building.*

*A 5’x5’ enclosure shall be placed no more than 3 ft from the road side to house 4 32 gallon bins.*

#### **Chief Fire Department**

*“The CFO approved the site layout.”*

#### **Water Authority**

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

##### ***Wastewater Treatment:***

- *The developer shall provide a septic tank with a capacity of at least 750 US gallons for the proposed commercial building. The septic tank shall be constructed in strict accordance with the Authority's standards.*

- *All treated effluent shall be discharged into a disposal well by gravity-flow. The disposal well shall be constructed in strict accordance with the Authority's standards. The discharge pipe from the treatment system shall enter the disposal well at a height of at least two feet above the water table level in the well. Disposal wells shall be located at least 100 feet from the mean high waterline of any water body (sea, lakes, canals, etc.), or as far as practical given the dimensions of the lot.*

***Water Supply:***

*Please be advised that the proposed development site is located within the Water Authority's piped water supply area.*

- *The developer is required to notify the Water Authority's Engineering Services at 949-2837, without delay, to be advised of the site-specific requirements for connection.*
- *The developer is required to provide the water-supply infrastructure, specified by the Authority, within the site.*
- *The developer shall submit plans for the installation of the specified infrastructure to the Authority for approval.*
- *The site's water-supply infrastructure shall be installed to the Authority's specifications, under the Authority's supervision. Copies of the Authority's specifications are available at the Water Authority's office on Red Gate Road.*
- *The developer's request to have the development connected to the Water Authority's public water system will be acted upon after the site's water-supply infrastructure has been installed in accordance with the WAC specifications, and passed specified tests.*

*The Authority shall not be held responsible for delays and/or additional costs incurred by the developer.”*

**LETTER FROM APPLICANT**

*“We write on behalf of our client Eleonor Conolly with regard to the seaside setback of a proposed commercial building.*

*The rear of the proposed building is located 54'-5" from the high water mark as per a high water mark survey dated August 4, 2009. The required setback is 75'-0". Parcel 103 is zoned neighborhood commercial and it is well known that both the districts of Bodden Town and East End, with regard to development on the seaside, rarely meet the minimum Planning requirements. In addition we label this proposal as a redevelopment project as a commercial shop previously existed onsite. This building was severely damaged by hurricane Ivan and was demolished. Please take to consideration that the proposed commercial structure does not infringe upon setbacks anymore than the previous building did.*

*We look forward to your positive response to this variance request.”*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for a 564 square foot, one storey commercial building. The site is located on Sea View Road, East End. As submitted, the application is for replacing a commercial building damaged by Hurricane Ivan.

### **Development Plan**

The application is in general conformity with the provisions of The Development Plan 1997.

### **Zoning**

The property is zoned Neighborhood Commercial and while the proposed use is a permitted use per Regulation 13(9), the Department would offer the following comments regarding specific issues noted below.

### **Specific Issues**

#### **a) High Water Setback**

As indicated in site plan, the proposed setback is 54'-5" from the HWM. In accordance with Regulation 8(10)(h), the minimum setback is 50' from the HWM.

#### **b) Parking Layout**

Due to the lot width and required setback from the High Water Mark, the applicant is proposing vehicles to reverse onto the public road. From a planning perspective, three parking spaces on the site should not adversely impact the traffic flow on Sea View Road.

**2. 9 TREVOR MCINTOSH Block 14CF Parcel 112 (FA91-0180) (P10-0027) (\$10,000) (BES)**

Application for a commercial patio (to be used as a smoking area for the existing nightclub/sports bar), 20' container for storage and 144 sq. ft. outdoor jerk centre.

**FACTS**

<i>Location</i>	Off Shedden Road across from Funky Tang and Central Plaza
<i>Zoning</i>	<b>G COM</b>
<i>Notice Requirements</i>	No Objectors
<i>Advertisements</i>	NA
<i>Parcel Size</i>	0.41 acres (17,859.60 sq. ft.)
<i>Current Use</i>	Commercial Bar/Restaurant
<i>Proposed Use</i>	Commercial Patio
<i>Building Size</i>	829 sq. ft.
<i>Building Coverage</i>	20%
<i>Total Site Coverage</i>	20%
<i>Existing Parking</i>	10
<i>Required Parking</i>	18

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

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for a commercial patio (to be used as a smoking area for the existing nightclub/sports bar) located off Shedden Road across from Funky Tang and Central Plaza.

**Zoning**

The property is zoned General Commercial and while the proposed use is a permitted use per Regulation 13, the Department would offer comments on certain specific issues addressed below.

**Specific Issues**

**a) Access**

The Department is of the opinion that there are several after-the-fact ancillary structures such as 40' ft. containers for storage and outdoor bar stalk will

obstruct the customer's from accessing the existing car parking. Additionally, the existing parking layout does not current function.

**b) Abatement Notice**

Subsequent to the applicant, Mr. McIntosh submitting an application for a commercial patio addition, a complaint was received by the Planning Department; a site investigation was carried out and it was observed that the property is in unsafe, ruinous and dilapidated conditions with illegal signs by the road side, 40 ft. containers onsite for storage, outdoor food stall and two tents at the side of the existing commercial building.

The Department spoke to the applicant about restoring the property to a suitable condition and removes all illegal activities and structures that is not appropriate for the site or the community. To date the applicant has not adhered to the Department warning.

Therefore, the Department recommends to the Authority to issue an Abatement Notice such to the approval for the commercial patio addition application.

Under Section 27 of the Development and Planning Laws (2008 Revision) which states "If it appears to the Authority that the amenity of any area is seriously injured, by reason of the ruinous or dilapidated condition of any building, or by the condition of any buildings, or by the condition of land due to deposit of refuse , spoil or derelict vehicles or the occupation of land or a public road for purposes of the repair of vehicles, it may serve on the owner or occupier of the land or the person responsible a notice requiring such steps to be taken for abating the injury as may be specified by the Authority. Whoever fails to comply with such notice is guilty of an offence and liable on summary conviction to a fine of two hundred dollars and in default of payment or in lieu of such fine to imprisonment for three months an in the case of a continuing offence to a further fine of ten dollars for each day on which the offence continues."

Therefore, the application has been brought forward for the Authority's consideration.

**2. 10 SUNRISE ADULT TRAINING CENTER Block 9A Parcel 273 (FA92-0167) (P09-1209) (\$80,000) (CS)**

Application for a modular classroom.

**FACTS**

<i>Location</i>	In northwest West Bay, off Powery Road
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	20,473 sq. ft.
<i>Current Use</i>	Adult Learning Center
<i>Proposed Use</i>	Modular Classroom
<i>Building Size</i>	846 sq. ft.
<i>Building Coverage</i>	29%
<i>Existing Parking</i>	5
<i>Required Parking</i>	20

**BACKGROUND**

September 1992 (**CPA/19/92; Item 2.2**) - The Authority granted planning permission for a duplex.

May 2003 (**CPA/13/03; Item 3.07**) - The Authority granted planning permission for a change-of-use from a duplex to an Adult Training Facility. Planning permission was valid for only 5 years.

October 8, 2008 (**CPA/33/08; Item 2.17**) - The Authority granted planning permission to change a duplex to an adult care facility.

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

- 1) The applicant is required to obtain a Building Permit from the Chief Building Control Officer. Construction shall not commence prior to the issuance of a Building 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.**

## **AGENCY COMMENTS**

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

### **Chief Environmental Health Officer**

*“The following comments are submitted with respect to the above application:*

*The plans meet the department’s requirements.”*

### **Water Authority**

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

#### ***Wastewater Treatment:***

*The plans do not indicate any sanitary fixtures within the facilities that would require wastewater treatment by septic tank. If the modular building requires sanitary fixtures, please submit drawings to the Authority for further review to determine wastewater requirements.”*

### **National Roads Authority**

*“As per your memo dated November 20th, 2009 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

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

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is requesting planning permission for a modular classroom to the Sunrise Learning Centre facility, which was approved in 2008.

### **Zoning**

The site is zoned Low Density Residential. The proposed use is not inherently allowed in the zone, therefore the Department wishes to discuss the following concerns.

### **Specific Issues**

#### **a) Site Coverage**

The maximum site coverage allowed in the LDR zone is 25%. The proposed modular building increases the site coverage to 29%. As this is a non-residential use, the Authority is recommended to consider how the increased footprint will impact the residential neighbourhood.

#### **b) Parking**

The site currently has 5 parking spaces. Although the applicant is proposing to increase the floor space, no additional parking is proposed. At present the Centre has 17 staff and serves 28 clients on any given day. The Department is

concerned that not enough parking is provided to serve the needs of the Centre. If the parking was calculated based on 1 space per 300 sq. ft., then 20 parking spaces are required. Or, Planning could use a liberal calculation of 1 space per 2 staff members and assume all clients are bussed to the Centre. This would require 9 parking spaces plus 1 bus space.

**2. 11 AREBA LIMITED Block 28C Parcel 528 (FA90-0156) (P09-1337) (F09-0327) (\$3.2 million) (CS)**

Application for fourteen (14) apartments, pool and cabana.

**FACTS**

<i>Location</i>	In Savannah at the end of Larva Drive
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	3.17 acres
<i>Current Use</i>	Apartments
<i>Proposed Use</i>	Apartments
<i>Building Size</i>	12,288 sq. ft.
<i>Density</i>	11
<i>Allowable Density</i>	15
<i>Building Coverage</i>	21%
<i>Proposed Parking</i>	59
<i>Required Parking</i>	54
<i>Number of Units</i>	14

**BACKGROUND**

November 19, 2008 (CPA/36/08; Item 2.10) - The Authority granted planning permission for sixteen (16) apartments.

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

Conditions (1-4) listed below shall be met before building permit drawings can be submitted to the Building Control Unit.

- 1) The applicant shall submit a site plan that shows the location, dimensions and **size** of the wastewater treatment system (including the disposal system) which is to be installed in accordance with the Water Authority's standards. 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.gov.ky](http://www.planning.gov.ky)) under Policy Development, Policy Drafts.*

In addition to Building Permit requirements, conditions (5-6) listed below shall be met before a Building Permit can be issued.

- 5) 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.
- 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 is required to obtain a Building Permit from the Chief Building Control Officer. Construction shall not commence prior to the issuance of a Building Permit.
- 8) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

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

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, [i.e. two feet (2') above the Vidal Bench Mark].

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.**

The applicant is reminded that the proposed development is subject to compliance with the Public Health Law, Fire Brigade Law, Water Authority Law and Roads

Law.

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.**

### **AGENCY COMMENTS**

Comments from the Water Authority and National Roads Authority are noted below.

#### **Water Authority**

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

#### ***Wastewater Treatment:***

- *The developer shall provide an on-site aerobic wastewater treatment system with a treatment capacity of at least 3,150 US gallons per day (gpd) for Phase II.*
- *The developer shall submit a proposal for the provision of an aerobic wastewater treatment system(s) certified to produce an effluent quality of 30 mg/l BOD5 and 30 mg/l Suspended Solids which discharges, via gravity flow, to an effluent disposal well constructed in strict accordance with the Authority's standards.*

#### ***Proposals shall include the following information:***

1. *Indicate the make, model and quantity of a certified package plant(s) that will be installed to meet the above requirements. If there is more than one building or system, clearly indicate which building(s) are to be served by which system(s).*
2. *Indicate, on a site sketch, the proposed layout of flows from building(s) to system(s) to well(s). The location of the system(s) shall comply with the minimum setback requirements of the Planning Department and provide easy access for operation, maintenance and inspection. Disposal wells shall be located at least 100 feet from the mean high waterline of any water body (sea, lakes, canals, etc.), or as far as practical given lot dimensions.*
3. *Indicate the ground floor level of the building(s) relative to the groundwater level at the site. This information is necessary to determine whether a lift station is necessary to meet the requirement that the discharge pipe from the treatment system enters the disposal well at a height of at least two feet above the water level in the well.*
4. *If a lift (pumping) station is necessary, it shall be installed upstream of the treatment system, to ensure that the discharge from the treatment system to the disposal well is gravity-flow. Details of the proposed lift station*

*(dimensions of wet well, pump specifications) as well as details of any proposed mechanism to split or distribute the flows, shall be submitted to the Authority for approval.*

**Water Supply:**

*Please be advised that connection of the proposed development to the Water Authority's piped water supply system will require an extension. It is the policy of the Water Authority - Cayman to extend water distribution lines in public roads at no cost; extensions in non-public areas are done at the owner's expense. The timing of any pipeline extension is at the sole discretion of the Water Authority.*

- The developer is required to notify the Water Authority's Engineering Department at 949-6352, without delay, to be advised of the timing of the extension and the site specific requirements for connection.*
- The developer is required to provide the water-supply infrastructure, specified by the Authority, within the site.*
- The developer shall submit plans for the installation of the specified infrastructure to the Authority for approval.*
- The site's water-supply infrastructure shall be installed to the Authority's specifications, under the Authority's supervision. Copies of the Authority's specifications are available at the Water Authority's office on Red Gate Road.*
- The developer's request to have the development connected to the Water Authority's public water system will be acted upon after the site's water-supply infrastructure has been installed in accordance with the WAC specifications, and passed specified tests.*

*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 December 29th, 2009 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

**Road Capacity Issues**

*The traffic demand to be generated by a residential development of a Fourteen (14) multi-family units has been assessed in accordance with ITE Code 220. Thus, the assumed average trip rates per dwelling unit provided by ITE for estimating the daily, AM and PM peak hour trips are 6.63, 0.51 and 0.62 respectively. The anticipated traffic to be added onto Larva Drive is as follows:*

<i>Expected Daily Trip</i>	<i>AM Peak Hour Total Traffic</i>	<i>AM Peak 16% In</i>	<i>AM Peak 84% Out</i>	<i>PM Peak Hour Total Traffic</i>	<i>PM Peak 67% In</i>	<i>PM Peak 33% Out</i>
<i>93</i>	<i>7</i>	<i>1</i>	<i>6</i>	<i>9</i>	<i>6</i>	<i>3</i>

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

***Access and Traffic Management Issues***

*Driveway aisles shall be a minimum of twenty-two (22) ft wide with entrance and exit curves having no less than fifteen (15) feet radius curves*

*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***

*SWM Plan was approved on December 11th, 2009.”*

**PLANNING DEPARTMENT ANALYSIS**

**General**

The applicant is requesting planning permission for fourteen (14) apartments, pool and gazebo.

**Zoning**

The site is zoned Low Density Residential. The proposal is an extension to a previously approved apartment development. The expansion complies with all planning regulations, including overall density, site coverage and parking for the entire parcel.

The Department has no concerns regarding the proposal.

**2. 12 AREBA LIMITED Block 28C Parcel 528 (FA90-0156) (P09-1339) (CS)**

Application to modify planning permission to decrease buildings B and C from 2-storeys to 1-storey.

**FACTS**

<i>Location</i>	In Savannah near the end of Larva Drive
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	NA
<i>Parcel Size</i>	3.17 acres
<i>Current Use</i>	Apartments
<i>Proposed Use</i>	Apartments
<i>Building Size</i>	-1230 sq. ft.
<i>Density</i>	11
<i>Building Coverage</i>	21%
<i>Proposed Parking</i>	59
<i>Required Parking</i>	54

## **BACKGROUND**

November 19, 2008 (CPA/36/08; Item 2.10) - The Authority granted planning permission for sixteen (16) apartments.

**Decision:** It was resolved that having regard to the Development Plan and other material considerations it is expedient to modify planning permission. Now therefore the Central Planning Authority in pursuance of Section 17 of the Development and Planning Law (2008 Revision) hereby orders that planning permission CPA/36/08; item 2.10 be modified to reduce the height of buildings B and C from two storeys to one storey.

All other conditions of CPA/36/08; item 2.10 remain applicable.

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is requesting to modify planning permission to reduce the height of two approved apartment buildings from 2-storeys to 1 storey.

### **Zoning**

The site is zoned Low Density Residential. The proposed use is allowed in the zone. The modification proposal does not change the number of apartments nor alter the building footprints. Therefore parking, density and setback requirements are still in compliance with Development & Planning Regulations.

**2. 13 DANIEL BOREL Block 33B Parcel 27 (F06-0580) (P10-0021) (\$107,500) (DE)**

Application for a single storey house and guest suite (no kitchen) with a patio deck and car garage.

**FACTS**

<i>Location</i>	Off Sand Point Road in the Rum Point area of North Side
<i>Zoning</i>	<b>LDR</b>
<i>Advertisements</i>	NA
<i>Parcel Size</i>	0.4 acres
<i>Current Use</i>	House
<i>Proposed Use</i>	House
<i>Building Size</i>	4,300 sq. ft.
<i>Density</i>	3
<i>Building Coverage</i>	24.68%
<i>Total Site Coverage</i>	24.68%
<i>Existing Parking</i>	1
<i>Proposed Parking</i>	2
<i>Required Parking</i>	1

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

- 1) The applicant is required to obtain a Building Permit from the Chief Building Control Officer. Construction shall not commence prior to the issuance of a Building 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.**

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, [i.e. two feet (2') above the Vidal Bench Mark].

## **LETTER FROM APPLICANT**

*"Our client requests the Central Planning Authority's approval to demolish the existing home and to build the proposed residence, garage and associated works in its place.*

### ***Variance request***

*Our client also requests the CPA's approval to vary the setback from the water's edge referring to recent correspondence with the Planning Department in relation to building frontages for proposed homes on Sand Point Road and that these should respect the alignment of existing building along that coastline.*

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

*We look forward to hearing from you in due course."*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for a single storey house and guest suite (no kitchen) with a patio deck and car garage, located off Sand Point Road in the Rum Point area of North Side.

### **Zoning**

The property is zoned Low Density Residential and while the proposed use is a permitted use per Regulation 9 (8) of the Development and Planning Regulations (2006 R), the Department would offer comments on certain specific issues addressed below.

### **Specific Issues**

#### **a) Waterfront Property Setbacks**

The proposed house is setback 59 feet from the HWM and the patio is setback 50' is 50 feet to 64 feet from the High Water Mark. In accordance with Regulation 8 (10) (b) *"in areas where the shore line is beach or mangrove (Except in a Hotel/Tourism zone), all structures and buildings including ancillary buildings, structural and walls shall be setback a minimum of seventy-five feet from the high water mark"*. The proposal does not comply with the Regulation, but the applicant has submitted a variance request based on the established building setbacks in the area. In this regard, Authority is reminded of Regulation 8 (11) *"Notwithstanding paragraphs (b) to (h) of sub-regulation (10) (2006 Revision of the Development and Planning Regulations), the Authority may grant permission for a setback to be located at a lesser distance than that prescribed in those paragraphs, 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."

**b) Patio Deck Setback**

The proposed patio deck at the south west corner of the proposed house and guest quarter is 4' from parcel 26 which does not comply with the minimum required setback of 10'. The applicant has not provided a written consent letter from parcel 26 for the patio deck.

**2. 14 DREAM RENTAL INC. Block 33B Parcel 26 (FA90-0400) (P10-0034) (\$50,000) (EJ)**

Application for a swimming pool.

**FACTS**

<i>Location</i>	Sand Point Road
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	NA
<i>Parcel Size</i>	21,780 sq. ft.
<i>Current Use</i>	House
<i>Proposed Use</i>	Swimming Pool
<i>Density</i>	2
<i>Allowable Density</i>	3
<i>Existing Parking</i>	1
<i>Required Parking</i>	1
<i>Number of Units</i>	1

**BACKGROUND**

**CPA/22/90; Item 6.15** - The Authority granted permission for a house.

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

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

- 1) The 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

- 2) The applicant is required to obtain a Building Permit from the Chief Building Control Officer. Construction shall not commence prior to the issuance of a Building Permit.
- 3) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

### **LETTER FROM APPLICANT**

*“Hereby I respectfully request variance for the sea setback to the above swimming pool to be permitted at fifty feet from the high-water-mark.*

*There are a number of swimming pools on the same Sandy Point Road finger at that setback, for example on Block 33B Parcel 94, on Block 33B 96 and also on Block 33B Parcel 98.*

*And on the Water Cay Road Finger, for example on Block 33B Parcel 85, elsewhere for example on Block 33B Parcel 9.*

*I enclose herewith a copy of the surveyor's topographic survey of the property showing the high water mark.*

*This accompanied by three copies of that same plan illustrating the swimming pool and deck surround within the requested setback of fifty feet from the High Water Mark.*

*Also enclosed are a copy of the registry map extract and the Register together with the completed application form and my cheque in the amount of seventy-five Cayman dollars.*

*I thank you for your consideration and await your response.”*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The application is for proposed swimming pool.

#### **Zoning**

The property is zoned Low Density Residential and while the proposed use is a permitted use per Regulation 9 (8), the Department would offer comments on certain specific issues addressed below.

#### **Specific Issues**

##### **a) Setback Variances**

The applicant is seeking the Authority's permission for a 25-ft setback variance for the swimming pool, proposed at 50-ft instead of the required 75-ft side setback from the HWM.

The Department is of the opinion that the proposal could be located more to the south (side) of the subject parcel, however, this would possibly require removing some mature trees which the Department does not encourage. The Authority should bear in mind that the subject parcel boundary extends beyond the current High Water Mark, recorded on November 26, 2009. The proposed pool and decking falls in line with and does not extend significantly beyond current line of development on the subject site or adjacent site.

**2. 15 ELOISE CHRISTIAN Block 43A Parcel 374 (F10-0012) (P10-0043) (\$225,000) (EJ)**

Application for a two-storey, five-bedroom house.

**FACTS**

<i>Location</i>	Off Bombay Street
<i>Zoning</i>	<b>MDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Advertisements</i>	NA
<i>Parcel Size</i>	0.2304 acres
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	House
<i>Building Size</i>	3,095 sq. ft.
<i>Density</i>	4
<i>Footprint</i>	2,013 sq. ft.
<i>Building Coverage</i>	20%
<i>Total Site Coverage</i>	20%
<i>Proposed Parking</i>	2
<i>Required Parking</i>	1

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

- 1) The applicant is required to obtain a Building Permit from the Chief Building Control Officer. Construction shall not commence prior to the issuance of a Building 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.**

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, [i.e. two feet (2') above the Vidal Bench Mark].

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for a two-storey house (3095 sq. ft) located off Bombay Street.

### **Zoning**

The property is zoned Medium Density Residential and while the proposed use is a permitted use per Regulation 9 (8), the Department would offer comments on certain specific issues addressed below.

### **Specific Issues**

#### **a) Setback**

The proposed rear and front setbacks do not comply with Regulation 9 (8) (i) of the Development and Planning Regulations (2008 R), which states the minimum front and rear setback is 20 feet. The proposed front setback is 17 feet from the access road (Private V.R.O.W) and rear setback is 19 feet from Block 43A Parcel 6. This Regulation is further supported by Regulation 8 (5) Subject to sub regulation (6), setbacks (building lines) are to be measured to septic tanks, sewage treatment plants, deep wells and cisterns, and to the walls, stairs or balconies of the buildings; and setbacks governed by the Roads Law (2005 Revision) shall be in accordance with the requirements thereof and in all other cases the requirements of these regulations apply.

Therefore, the applicant is requesting for a variance and has not received written consent letter from the adjoining landowners as noted above.

**2. 16 BOB WATLER Block 25B Parcel 584 (F10-0010) (P10-0029) (\$15,000) (BES)**

Application to erect a four (4') feet high entrance wall with 5' and 7' columns for the existing subdivision.

**FACTS**

<i>Location</i>	Adjacent to the Patrick Islands Subdivision off Poindexter Road, George Town
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	NA
<i>Advertisements</i>	NA
<i>Parcel Size</i>	5.49 acres
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	Entrance Wall

**BACKGROUND**

Previous Subdivision Records

**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.

**PLANNING DEPARTMENT ANALYSIS**

**General**

The applicant is requesting planning permission to erect a four (4') feet high entrance subdivision wall with 5' and 7' columns for the existing subdivision. The site is adjacent to the Patrick Islands Subdivision off Poindexter Road, George Town.

**Zoning**

The property is zoned Low Density Residential and the proposed use is a permitted use per Regulation 9 (1), (2) (8) of the Development and Planning Regulations (2006 R), but the Department would raise certain issues outlined below.

**Specific Issues**

**a) Setback and column height**

The Department is of the opinion that the proposal 5' and 7' columns at the entrance of the subdivision should be setback to a minimum of 6' from

Poindexter Road to allow drivers to have better visibility when exiting from the existing and nearby subdivisions. The proposed columns are shown to be 0 feet from the parcel boundary line of Poindexter road which could cause a disturbance for drivers exiting the existing subdivisions. Also, the department recommends that the 7' high columns be reduced to 5' high columns.

**2. 17 SOUTH BAY BEACH CLUB Block 13B Parcel 193 (FA80-0184) (P09-1358) (\$50,000) (BES)**

Application for an after-the-fact 500 gallon generator.

**FACTS**

<i>Location</i>	Adjacent to Marriot Beach Resort on West Bay Road
<i>Zoning</i>	<b>H/T</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	1.39

**BACKGROUND**

**CPA/21/06; Item 2.46** - The CPA granted planning permission for apartments.

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

- 1) The applicant is required to obtain a Building Permit from the Chief Building Control Officer. Construction shall not commence prior to the issuance of a Building Permit.
- 2) The applicant is required to obtain the necessary approvals from the Chief Petroleum Inspector.
- 3) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

**LETTERS FROM APPLICANT**

**Letter #1**

*“This letter is with respect for planning approval by the Central Planning Authority for an after the fact generator application for South Bay Beach Club condominiums submitted Dec 29, 2009.*

*The location of the building generator is at the North East corner of the property. This location complies with all planning regulation of 4.3.2.1 but one: the required 10' set back from the property line. With the site being extremely dense this was the only possible location in order to maintain fire lane widths,*

*create required parking numbers and achieve desirable neighborhood aesthetics. There was no other location on the site for the generator.*

*While the generator is only 3'-6" from the North East property line of Comfort Suite there is still a great distance from any buildings or amenities because of a 13' planting bed separating between the properties. While the planter provides an adequate distance for safety and noise it also creates a visual blind for our neighbor with plants and large trees.*

*In compliance with the Central Planning Authority request we have submitted a letter of variance from Comfort Suites regarding the encroachment toward their property line. In this letter Gary Rutty, managing director, stated that he had seen the location of the generator and had no objections.*

*As with all of our buildings Butler Property Development Group aims to create residential properties which are not only elegant on their own but also enhance their neighbors and surroundings. Through work with our surrounding neighbors it is our opinion that South Bay Beach Club accomplishes this mission and by no means does our generator detract from the sight nor present any danger or hazard.*

*We respectfully ask that the board review this application and consider these exceptional circumstances."*

Letter #2

*"This letter serves as a confirmation that I have seen the generator and transformer and I have no issues regarding its location at South Bay Beach Club block 13B parcel 193."*

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for an after-the-fact 500 gallon generator at South Bay Beach Club adjacent to Marriot Beach Resort on West Bay Road.

**Zoning**

The property is zoned Hotel/Tourism and while the proposed use is a permitted use per Regulation 10, the Department would offer the following comments regarding specific issue noted below.

**Specific Issue**

**a) Setback**

The generator is setback 3'- 8" from the eastern property line and 11' from the northern boundary respectively. The minimum setbacks are 20' from the boundaries.

**2. 18 CLINTON JUDSON Block 3D Parcel 156 (F97-0265) (P10-0011) (\$3,705) (DE)**

Application for a two (2) lot subdivision.

**FACTS**

<i>Location</i>	Off Conch Point Road and Caribbean Lane
<i>Zoning</i>	<b>BRR</b>
<i>Notice Requirements</i>	No Objectors
<i>Advertisements</i>	NA
<i>Parcel Size</i>	0.65 acres
<i>Current Use</i>	House
<i>Proposed Use</i>	Subdivision
<i>Number of Parcels</i>	2

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

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

**AGENCY COMMENTS**

Comments from the Water Authority are noted below.

**Water Authority**

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

***Water Supply:***

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

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

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

***Wastewater Treatment:***

*Please be advised that the development is outside the Water Authority's West Bay Beach Sewage System (WBBSS) collection area; therefore, the required onsite*

*treatment of wastewater will be specified by the Water Authority when the proposal for built development is reviewed.”*

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for a two (2) lot subdivision located off Conch Point Rd & Caribbean Lane. The subject parcel is partial vacant. Lot B has an existing house on site and the surrounding parcels are residential dwelling houses.

**Zoning**

The property is zoned Low Density Residential and while the proposed lots are generally permitted per Regulation 9 (8) (2006 R), the Department would raise the following issue.

**Specific Issues**

**a) Road Width**

Proposed Lot B has existing road access over Caribbean Lane (4C 365) which is estimated at 10’ or less. Lot A will gain access from Conch Point Road which is estimated between 22’ to 30’ in width. The Department is concerned with the width of the road access for Lot B.

**2. 19 ROHAN DENNIS Block 23C Parcel 13 (F09-0406) (P09-1357) (\$205,000) (DE)**

Application for an after-the-fact commercial auto sales lot.

**FACTS**

<i>Location</i>	Off Shamrock Road across from Spinnaker Square (S.T. Bodden)
<i>Zoning</i>	<b>N COM</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	1.46 acres
<i>Current Use</i>	Auto Sales Lot
<i>Proposed Use</i>	Auto Sales Lot
<i>Building Size</i>	4,100 sq. ft.
<i>Parking Coverage</i>	6.45%
<i>Total Site Coverage</i>	6.45%
<i>Existing Parking</i>	8
<i>Proposed Handicapped Spaces</i>	1
<i>Proposed Parking</i>	12
<i>Required Handicapped Spaces</i>	1

**Decision:** It was resolved to grant planning permission **for 12 months only, subject to the following conditions:**

- 1) The perimeter of the auto sales lot should be demarcated with a low fence (no higher than 3'-6").
- 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.

### **AGENCY COMMENTS**

Comments from the Chief Environmental Health Officer, Chief Fire Officer, Building Control Unit and Water Authority are noted below.

#### **Chief Environmental Health Officer**

*“What exactly does this plan entail; the description and drawing do not allow me to make a decision as to what is needed.”*

#### **Chief Fire Officer**

*“No Objection.”*

#### **Building Control Unit**

*“Recommend Approval.”*

#### **Water Authority**

*“Please be advised that the Water Authority has no requirements for this proposal, as the proposal does not call for a water source and will therefore not generate any wastewater.*

*In the event of any built development please be advised that wastewater treatment and disposal requirements are subject to review by the Water Authority.”*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The application is for an after-the-fact commercial auto sales lot that would be 4,100 square feet in size. The subject parcel is located off Shamrock Road across from Spinnaker Square (S.T. Bodden).

#### **Zoning**

The property is zoned Neighborhood Commercial and the proposed use is a permitted use per Regulation 13 (9), (11), (12) and 8 (7), (8) (b) and 12 (5) (2006 Revision), as it is not an intense form of development and will cater the needs of persons residing in the immediate area. The Department would raise certain issues though.

## **Specific Issues**

### **a) Parking lot surface**

The applicant is applying for planning permission for 12 parking spaces which is proposed to be surfaced with crusher run at the front of the lot which is off Shamrock Road. The current parcel has 8 existing vehicles parked onsite. As the auto sales lot would appear to be a reasonable interim use of the land until further development proposals are received, the proposed crusher run surface should be sufficient.

### **b) Setback**

The auto sales lot is setback a minimum of 20' from the property line adjacent to the road.

### **c) Fencing**

The perimeter of the auto sales lot should be demarcated with a low (no higher than 3' 6") fence to improve the visual appearance of the proposed use and to help ensure that the sales lot does not begin to spread out across the rest of the site. This requirement was imposed on the auto sales lot adjacent to the Savannah Texaco, off Shedden Road next to NAPA, on Bobby Thompson Way, north of the traffic signal and seems to have been successful.

**2. 20 GREEN PILGRIM LTD Block 5C Parcels 289 and 290 (F08-0458) (P10-0033) (DE)**

Application for modification to decrease floor area of the approved commercial development from 10,962.26 square foot to 9,461.69 sq. ft.

**FACTS**

<i>Location</i>	Adjacent to Foster’s Food Fair Supermarket and Sundial Condominium, off West Bay Road
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	NA
<i>Advertisements</i>	NA
<i>Parcel Size</i>	1.008 acres
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	Commercial
<i>Building Size</i>	9461.69 sq. ft.
<i>Building Coverage</i>	15%
<i>Parking Coverage</i>	35%
<i>Total Site Coverage</i>	50%
<i>Proposed Handicapped Spaces</i>	3
<i>Proposed Parking</i>	36
<i>Required Handicapped Spaces</i>	2
<i>Required Parking</i>	37

**BACKGROUND**

February 4, 2009 (**CPA/05/09; Item 2.1**) - It was resolved to grant planning permission for a 10,962.26 sq. ft., 3-storey commercial office building, two (2) signs on building facade, one (1) commercial generator unit, 6' high concrete wall along the southern boundary of the parcel and a shared electronic gate between the applicant’s and Foster's Food Fair.

**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 (2008 Revision) hereby orders that planning permission CPA/05/09; item 2.1 be modified to reduce the size of the building.

All other conditions of CPA/05/09; item 2.1 remain applicable.

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for a modification to decrease floor area of the approved commercial development from 10,962.26 square foot to 9,461.69 sq. ft. The applicant's has noted " third floor staff room eliminated. Tower height & structure remains, building massing as per approved planning permission." The site is adjacent to the Foster Food Fair Supermarket and Sundial Condominium, off West Bay Road.

**Zoning**

The property is zoned Low Density Residential and while the proposed use may be a permitted use per Regulation 9 (2), (3) & (5) (2006 R) of the Development and Planning Regulations, the Department has no concerns with the proposed modification.

**2. 21 EMPIRE DEVELOPMENT CO. LTD Block 15C Parcel 191 (F06-0496) (P09-1347) (\$7,200,000) (CS)**

Application for thirty nine (39) apartments, pool and gazebo.

**FACTS**

<i>Location</i>	In George Town, off Fairbank Road, next to Field of Dreams
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	8.11 acres
<i>Current Use</i>	Apartments
<i>Proposed Use</i>	Apartments
<i>Building Size</i>	49,545 sq. ft.
<i>Density</i>	9
<i>Allowable Density</i>	15
<i>Building Coverage</i>	16%
<i>Existing Parking</i>	93
<i>Proposed Parking</i>	67
<i>Required Parking</i>	110
<i>Number of Units</i>	39

**BACKGROUND**

November 15, 2006 (CPA/36/06; Item 2.29) - The Authority granted planning permission for thirty four (34) apartments and a pool.

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

Conditions (1-4) listed below shall be met before building permit drawings can be submitted to the Building Control Unit.

- 1) The applicant shall submit a site plan that shows the location, dimensions and **size** of the wastewater treatment system (including the disposal system) which is to be installed in accordance with the Water Authority's standards. 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.gov.ky](http://www.planning.gov.ky)) under Policy Development, Policy Drafts.*

In addition to Building Permit requirements, conditions (5-6) listed below shall be met before a Building Permit can be issued.

- 5) 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.
- 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 is required to obtain a Building Permit from the Chief Building Control Officer. Construction shall not commence prior to the issuance of a Building Permit.
- 8) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

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

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, [i.e. two feet (2') above the Vidal Bench Mark].

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**.

The applicant is reminded that the proposed development is subject to compliance with the Public Health Law, Fire Brigade Law, Water Authority Law and Roads Law.

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.**

### **AGENCY COMMENTS**

Comments from the Water Authority and National Roads Authority are noted below.

#### **Water Authority**

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

#### ***Wastewater Treatment:***

- *The developer shall provide an on-site aerobic wastewater treatment system with a treatment capacity of at least 8,200 US gallons per day (gpd). The required capacity is based on the following:*
- *The developer shall submit a proposal for the provision of an aerobic wastewater treatment system(s) certified to produce an effluent quality of 30 mg/l BOD5 and 30 mg/l Suspended Solids which discharges, via gravity flow, to an effluent disposal well constructed in strict accordance with the Authority's standards.*

*Proposals shall include the following information:*

1. *Indicate the make, model and quantity of a certified package plant(s) that will be installed to meet the above requirements. If there is more than one building or system, clearly indicate which building(s) are to be served by which system(s).*
2. *Indicate, on a site sketch, the proposed layout of flows from building(s) to system(s) to well(s). The location of the system(s) shall comply with the minimum setback requirements of the Planning Department and provide easy access for operation, maintenance and inspection. Disposal wells shall be*

*located at least 100 feet from the mean high waterline of any water body (sea, lakes, canals, etc.), or as far as practical given lot dimensions.*

- 3. Indicate the ground floor level of the building(s) relative to the groundwater level at the site. This information is necessary to determine whether a lift station is necessary to meet the requirement that the discharge pipe from the treatment system enters the disposal well at a height of at least two feet above the water level in the well.*
- 4. If a lift (pumping) station is necessary, it shall be installed upstream of the treatment system, to ensure that the discharge from the treatment system to the disposal well is gravity-flow. Details of the proposed lift station (dimensions of wet well, pump specifications) as well as details of any proposed mechanism to split or distribute the flows, shall be submitted to the Authority for approval.*

**Water Supply:**

*Please be advised that the proposed development site is located within the Water Authority's piped water supply area.*

- The developer is required to notify the Water Authority's Engineering Services at 949-2837, without delay, to be advised of the site-specific requirements for connection.*
- The developer is required to provide the water-supply infrastructure, specified by the Authority, within the site.*
- The developer shall submit plans for the installation of the specified infrastructure to the Authority for approval.*
- The site's water-supply infrastructure shall be installed to the Authority's specifications, under the Authority's supervision. Copies of the Authority's specifications are available at the Water Authority's office on Red Gate Road.*
- The developer's request to have the development connected to the Water Authority's public water system will be acted upon after the site's water-supply infrastructure has been installed in accordance with the WAC specifications, and passed specified tests.*

*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 December 30th, 2010 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

**Section 26 Proposed Road Corridor**

*Please Note: For the applicant's information, a Proposed Section 26 corridor may affect Phase 3 of this development, please see attached schematic. As it is a*

Section 26 per the Roads Law (2005 Revision) the location is conceptual at this time and could shift either way.

**Road Capacity Issues**

The traffic demand to be generated by the proposed development has been assessed in accordance with ITE Code 220. The anticipated traffic to be added onto Fairbanks Road is as follows:

<i>Expected Daily Trip</i>	<i>AM Peak Hour Total Traffic</i>	<i>AM Peak 20% In</i>	<i>AM Peak 80% Out</i>	<i>PM Peak Hour Total Traffic</i>	<i>PM Peak 65% In</i>	<i>PM Peak 35% Out</i>
259	20	6	16	24	16	8

Based on these estimates, the impact of the proposed development onto Fairbanks 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-two (22) ft.

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

**Stormwater Management Issues**

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

- The applicant shall demonstrate, prior to the issuance of any Building Permits, that the Stormwater Management system is designed to embrace storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and ensure that surrounding properties and/or nearby roads are not subject to stormwater runoff from the subject site.
- The stormwater management plan shall include spot levels (existing and finished levels) with details of the overall runoff scheme. Please have applicant provide this information prior to the issuance of a building permit.
- Construct a gentle 'hump' at the entrance/exit (along the entire width of each driveway) in order to prevent stormwater runoff from and onto Fairbanks 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 (Amendment) Law, 2004 (Law 11 of 2004). 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 thirty nine (39) apartments, pool and gazebo. The proposal is the second phase of an existing apartment development, which has thirty four (34) apartments in its first phase.

### **Major Development Application**

Pursuant to Section 6 of the Development and Planning Law (2008 Revision), the Central Planning Authority has the responsibility of reviewing major development applications with respect to: a) the potential impact on the Island's infrastructure; and b) other issues of national importance. The subject application qualifies as a major application with respect to Section 6 (2) a). Accordingly, the Authority must review this application with specific consideration given to Sections 6 (1), (3), (4), (5), (6) and Section 7. The following outline has been formulated to assist the Authority in reviewing the application with respect to the aforementioned sections of the Law. The Department has included responses for each section of the Law for the Authority's consideration.

**Sec 6 (1) (a)** Consider the likely impact of the proposed development on the infrastructure of the Islands as well as on the educational, social, medical and other aspects of life in the Islands:

*Response: The impact of the proposed development will be minimal.*

**Sec 6 (1) (b)** Consider whether there are other issues of national importance which are relevant to the determination of the application for development and require evaluation:

*Response: There are no other such aspects.*

**Sec 6 (1) (c)** Consider whether there are technical or scientific aspects of the proposed development which are of so unfamiliar a character as to jeopardise a proper determination of the question unless there is a special inquiry for the purpose:

*Response: There are no such aspects.*

**Sec 6 (1) (d)** Identify and investigate the considerations relevant to, or the technical and scientific aspects of, the proposed development which in the opinion of the Authority were relevant to the question whether the application should be approved:

*Response: There are no such aspects identified in 6(1)(c) that need to be investigated.*

**Sec 6 (1) (e)** Assess the importance to be attached to those considerations or aspects:

*Response: There are no considerations to be assessed.*

**Sec 6 (3)** The Law gives the Authority the discretion whether to permit the applicant for planning permission an opportunity to appear before the Authority and to be heard by five or more Members of the Authority:

*Response: The applicant is not scheduled to address the Authority.*

**Sec 6 (4)** Consider whether the development proposed in the application should instead be carried out at an alternative site:

*Response: The site is suitable for the proposed development.*

**Sec 6 (5)** The Authority may arrange for the carrying out of research of any kind appearing to it to be relevant to an application referred to it:

*Response: No additional research is necessary based on the consideration given to items 6(1)(a-e).*

**Sec 6 (6)** The Authority may hold an inquiry, if it thinks it necessary, for the proper discharge of its functions:

*Response: An inquiry is deemed not necessary.*

**Sec 7** The Authority shall, to the greatest possible extent consistent with its duties under the Law, consult with departments and agencies of the Government having duties or having aims or objects related to those of the Authority:

*Response: The Authority should consider and take into account the agency reports presented thus far.*

### **Development Plan**

The application is in general conformity with the provisions of The Development Plan 1997.

**Zoning**

The property is zoned Low Density Residential and the proposed use is a permitted use per Regulation 9 (8). The second phase of the development complies with Development & Planning Regulations (2006 Rev.) for density, setbacks, building height, site coverage and parking.

Planning has no concerns regarding the proposal.

**2. 22 DONNA WELCOME Block 28C Parcel 15 (FA89-0515) (P09-1117) (\$60,000) (CS)**

Application for a change of use from a house to a child-care facility.

**FACTS**

<i>Location</i>	In Savannah, off Hirst Road
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Advertisements</i>	Complete
<i>Parcel Size</i>	2.25 acres
<i>Current Use</i>	Three (3) Houses
<i>Proposed Use</i>	Day care
<i>Building Size</i>	1,682 sq. ft.
<i>Building Coverage</i>	5%
<i>Existing Parking</i>	3
<i>Proposed Parking</i>	6

**BACKGROUND**

December 13, 1989 (CPA/34/89; Item 2.13) - The Authority resolved to grant planning permission for a house.

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

- 1) The applicant is required to obtain a Building Permit from the Chief Building Control Officer. Construction shall not commence prior to the issuance of a Building Permit.
- 2) The applicant shall comply with the requirements of the Early Childhood Unit.
- 3) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

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

### **AGENCY COMMENTS**

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

#### **Chief Environmental Health Officer**

*“The following comments are submitted with respect to the above application:*

*1. The department has the following issues with the application.*

- *The kitchen must conform with commercial kitchen requirements*
  - *Dishwasher / 3 compartment sink*
  - *Hand wash basin*
  - *Cold and dry storage*
  - *Prep sink*
- *A full equipment schedule is needed for the kitchen.*

#### **Bathrooms**

*There must be specific bathrooms for male and female. These must have public access. i.e. should not be accessed through a classroom only.*

*The property should be separated and fenced off from the other buildings on the site.*

*Four 32 gallon bins must be placed no more than 3 feet from the road side.*

*A detailed plan must be submitted to DEH for review and approval.”*

#### **Water Authority**

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

##### ***Wastewater Treatment:***

- *The developer shall provide a septic tank with a capacity of at least 1,500 US gallons for the proposed Day Care Facility. The septic tank shall be constructed in strict accordance with the Authority's standards.*
- *All treated effluent shall be discharged into a disposal well by gravity-flow. The disposal well shall be constructed in strict accordance with the Authority's standards. The discharge pipe from the treatment system shall enter the disposal well at a height of at least two feet above the water table level in the well. Disposal wells shall be located at least 100 feet from the mean high waterline of any water body (sea, lakes, canals, etc.), or as far as practical given the dimensions of the lot.*

- *The developer is advised that the proposed development on this parcel brings it to the maximum size/use allowed for treatment by septic tank(s). Further development on this parcel, including any change of use that increases the estimated wastewater flows (e.g. residential to commercial; low-water-use commercial to high-water-use commercial) will require that all wastewater generated on the parcel; i.e., from proposed and existing structures, shall be treated in an onsite aerobic wastewater treatment system(s).*

**Water Supply:**

*Please be advised that the proposed development site is located within the Water Authority's piped water supply area.*

- *The developer is required to notify the Water Authority's Engineering Services at 949-2837, without delay, to be advised of the site-specific requirements for connection.*
- *The developer is required to provide the water-supply infrastructure, specified by the Authority, within the site.*
- *The developer shall submit plans for the installation of the specified infrastructure to the Authority for approval.*
- *The site's water-supply infrastructure shall be installed to the Authority's specifications, under the Authority's supervision. Copies of the Authority's specifications are available at the Water Authority's office on Red Gate Road.*
- *The developer's request to have the development connected to the Water Authority's public water system will be acted upon after the site's water-supply infrastructure has been installed in accordance with the WAC specifications, and passed specified tests.*

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

**National Roads Authority**

*“As per your memo dated October 27th, 2009 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 proposed development for thirty (30) children has been assessed in accordance with ITE Code 565. The anticipated traffic to be added onto Hirst Road is as follows:*

<i>Land Use (ITE Code)</i>	<i>Daily Rate</i>	<i>AM Peak Hour Trip Rate</i>	<i>In/Out Ratio</i>	<i>PM Peak Hour Trip Rate</i>	<i>In/Out Ratio</i>
<i>Day Care Center (565)</i>	<i>4.48</i>	<i>0.80</i>	<i>53%/47%</i>	<i>0.82</i>	<i>47%/53%</i>

The anticipated traffic to be generated by the Day Care Center development is as follows:

<i>Land Use</i>	<i>Expected Daily Trip</i>	<i>AM Peak Hour Total Traffic</i>	<i>AM Peak Inbound</i>	<i>AM Peak Outbound</i>	<i>PM Peak Hour Total Traffic</i>	<i>PM Peak Inbound</i>	<i>PM Peak Outbound</i>
<i>Day Care Center</i>	<i>134</i>	<i>24</i>	<i>13</i>	<i>11</i>	<i>25</i>	<i>12</i>	<i>13</i>

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

A six (6) foot sidewalk shall be constructed on Hirst 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 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 Hirst Road. Suggested dimensions of the 'hump' would be a width of 6 feet and a height of 2-4 inches.
- Curbing is required for the parking areas to control stormwater runoff.
- Roof water runoff for the existing buildings 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 (Amendment) Law, 2004 (Law 11 of 2004). 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."*

#### **Building Control Unit**

*"The plans do not show any accessible features which are required such as parking, toilet rooms and level entry and door landings."*

#### **Response to Agency Comments**

DEH and BCU have concerns regarding accessibility, bathrooms, and kitchen facilities. Planning recommends these issues be addressed during the building permit review process.

#### **PLANNING DEPARTMENT ANALYSIS**

##### **General**

The applicant is requesting planning permission to convert a house to a child-care facility.

##### **Zoning**

The site is zoned Low Density Residential. The proposed use is not inherently allowed in the zone and therefore the Department wishes to discuss the following concerns.

##### **Specific Issues**

###### **a) Setbacks**

The applicant is proposing a fenced-in play area in the front yard of the house. The play area will be setback 6' from the side property line. The Authority shall determine if the play area should comply with the required 10' setback for single-storey houses.

###### **b) Sidewalk along Hirst Road**

Typically, the CPA and NRA require sidewalks along road frontages for new commercial developments. The applicant is requesting this requirement be

waived.

**c) Suitability**

The estimated enrolment for the child-care centre is 30 children. As this centre is a mid-size business, the Authority shall determine if a child care facility of this size is a suitable use for this neighbourhood.

The Department notes that no objections have been received for this proposal and the house does front a major collector road (Hirst Road).

**2. 23 FUJIGMO Block 17A Parcel 10 (FE85-0240) (P09-1331) (CS)**

Modification of planning permission to remove the golf course as strata lot.

**FACTS**

<i>Location</i>	The SafeHaven Site and the North Sound Club golf course
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	NA
<i>Advertisements</i>	NA
<i>Parcel Size</i>	200 acres
<i>Current Use</i>	Goff Course/Vacant

**BACKGROUND**

May 19, 2009 (**CPA/14/09; Item 2.1**) - The Authority granted planning permission for a 29-lot raw land strata subdivision and 12-foot deep canal excavation.

October 14, 2009 (**CPA/26/09; Item 2.3**) - The Authority resolved to modify planning permission to allow a 20-foot canal depth.

November 25, 2009 (**CPA/29/09; Item 2.26**) - It was resolved to adjourn review of the supplementary Traffic Impact Analysis to allow additional time to review the document.

It was also 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 (2008 Revision) hereby orders that planning permission CPA/14/09; item 2.1 be modified to change condition 2) h).

**Condition 2) h) shall be changed to:**

*"You shall provide water infrastructure for each respective phase of the subdivision. Design, engineering, installation and testing of water and wastewater infrastructure shall be carried out by the developer at the developer's expense, in accordance with the specifications and under supervision of the Cayman Water Company and the Water Authority. The water supply system shall be installed to*

*the Water Authority's specifications, under the Water Authority's supervision. Copies of these specifications are available at the Water Authority's office on Red Gate Road."*

December 9, 2009 (**CPA/30/09; Item 2.8**) - The Authority resolved to approve the supplementary Traffic Impact Analysis.

December 9, 2009 (**CPA30/09; Item 6.1**) - The Authority resolved to adjourn review of the excavation, phasing, operations, and maintenance plan until a presentation from the DOE was given before the CPA.

December 16, 2009 (**CPA/31/09; Item 6.3**) - The Authority resolved to adjourn consideration of the matter, **for the following reason:**

1. The applicant shall revise the Construction Sequencing Plan to illustrate the first phase of excavation starting on the western end of the development. The plan shall also note that: a) connection to Mitchell's Creek will not commence until acceptable water quality levels are achieved from the internal canal system; and b) connection to the North Sound will not commence until the last phase of excavation is completed and acceptable water quality levels are achieved from the internal canal system

**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 (2008 Revision) hereby orders that planning permission CPA/14/09; item 2.3 be modified to allow the revised subdivision design as shown on the plan date stamped December 14, 2009.

All other conditions of CPA/14/09; item 2.3, as previously modified, remain applicable.

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is requesting to modify planning permission to the lot configuration of an approved raw land strata subdivision.

### **Zoning**

The site is zoned Hotel Tourism. The proposed use is allowed in the zone, however the Department wishes to discuss the following concerns.

### **Specific Issues**

#### **a) Lot Assignment**

The number of strata lots on the Safehaven parcel remains the same, however the new site plan now excludes the golf course and the Mitchell's Creek lot.

Planning notes that the golf course will be a remainder parcel surrounded subdivided lots, therefore questions how the golf course could not be a part of this subdivision. The applicant's response to this is, "We intend to retain ownership and control of the golf course and do not want it to be owned by the strata, which is why we are not designating it common area. In addition, since it will be a privately owned entity, there is no reason why it should be in the strata at all."

**At 1:30pm, Michael Ryan, Kenneth Crews, J. Samuel Jackson, Frances Doud, Pearse Murphy, Eric Cronier, and Michael Herman appeared on behalf of the applicant.**

**CPA** Summarized the basic purpose of each of the three applications. Asked them if they could discuss the strata lot aspect first.

**Mr. Ryan** They want to modify the strata lot subdivision and Ken can give the details.

**Mr. Crews** The modification will include some existing lots into the strata and will exclude the golf course from the strata. There is also a piece in Mitchell's Creek that will not be part of the Strata.

**Mr. Cronier** The golf course was common property. He explained the need to keep it separate from the rest of the strata. It will remain as a remainder of 17A 10.

**CPA** Ok, that's been dealt with. Can they address the issue of clearing the land?

**Mr. Ryan** They also would like to deal with the modification application for the phasing requirement. *(The Assistant Director of Planning explained that that application had just been submitted yesterday and staff hadn't had the time to review it.)*

**CPA** That's okay, it can be dealt with today.

**Mr. Ryan** The prior CPA granted approval with conditions. They have been moving forward to address them. They have already had a modification to increase the depth of the canals, but then they were informed that DOE had made a presentation to CPA and made comments about himself and his professionals – comments about water quality. It seemed that CPA was going to change the phasing requirement. The phasing was done so that the Port Authority portion got done first. This has caused delays in the process. It's difficult to move forward if they can't have confidence in the CPA's decision and that it won't be changed. This is a commercial decision for the phasing, and it shouldn't be a role for CPA. They will start the project, will move forward and will finish it. They want to remove the condition about phasing. It is tough enough anyway with this economy and then the rug gets pulled out from under them. They will do what the Law requires.

**CPA** So, the phasing plan came about because the previous CPA wanted to ensure that the Port Authority was done?

**Mr. Ryan** That's accurate.

**CPA** Then that became something different and he wants that removed?

**Mr. Ryan** Yes. It should be up to the developer to move forward based on a commercial decision.

**CPA** What is the plan for the piece of land to be cleared? There was an application for apartments, which was refused, and that is under appeal.

**Mr. Jackson** Yes. They applied for the clearing and outline permission for the apartments – based on advice from the Department. The plan was only to show the concept of the buildings. This led to heated discussions regarding putting buildings in the Mangrove Buffer – it spun out of control. The application was really just for the clearing and seawall.

**CPA** So that appeal could be withdrawn?

**Mr. Jackson** Yes, at any stage, depending on the outcome of this application.

**CPA** They are discussing the buffer zone, so can they address the exceptional circumstances why the Board has the authority to approve it?

**Mr. Ryan** Yes, they have that in their presentation.

**CPA** Through their preliminary discussion, the members felt that the 25' wide buffer is too meagre.

**Mr. Ryan** It is not being left as a buffer. The 25' is to provide red mangroves and rehabilitate others. It is the most crucial 25, but they could leave another 25'.

**CPA** So if the Board asks for 50', that's okay?

**Mr. Ryan** It will all be within their property so no coastal works license is needed.

**Mr. Jackson** Those involved with Planning will know that pre 1997, we had storm belts, not mangrove buffers. The Law still calls it that. In 1997, there was a re-designation of the Mangrove Buffer zone. It became mores restrictive, but the Law wasn't changed. He could argue that this wasn't legal. When you look at Regulation 18, coastal protection was moved to the bottom of the list. The regulations allows for exceptional circumstances and providing equivalent protection. They meet both tests. The proposed revetment is much better storm protection. Regarding ecological function, they will install a strip of mangrove of appropriate width. And they will have the benefit of the mangrove on the island – which will be restored at his client's cost. This will provide red mangrove which far exceeds the mangrove that was there.

**Mr. Ryan** He has entered into an agreement with Government regarding the rehabilitation of the island. He will be providing 2 times net benefit in red mangroves.

**CPA** Eventually that island will grow into the buffer.

**Mr. Jackson** The Limestone application allowed them to clear the Mangrove Buffer because an island was preserved, but there was no condition to rehabilitate

it. This application goes much further and that is an exceptional circumstance and allows the CPA to reasonably grant permission.

**CPA** How high is the seawall?

**Mr. Crews** Four feet.

**CPA** The wall will be an asset and will help the mangroves to grow.

**Mr. Ryan** *Presented the slide show – attached as Appendix 1.*

**CPA** They were granted a canal depth of 20', do they have any thoughts on whether that could be reduced?

**Mr. Ryan** Their goal is to work cooperatively and it seems that the Board is expressing that perhaps less would be better. He would be happy to reduce the depth to 18' in an effort to listen to those concerns.

**CPA** DOE had a presentation with CPA which showed evidence that sea life would not grow below 14'. They are not trying to force this and change the previous decision, but they wonder if he would voluntarily reduce the depth?

**Mr. Ryan** The CPA presentation seems to have started as a discussion on phasing and then it gave them a second kick at the canal depth. DOE made public statements about how he misled them and he finds that very offensive. He has experts that can rebut their arguments. He is confident that the canal depth will have no impact on sea life in the Sound – he has a \$9 million investment in it. But he would voluntarily go to 18'.

**Mr. Murphy** DOE contends that anything greater than 12' is a problem, but on-going monitoring of canals, and DOE is aware of this, has shown it not to be a problem. If the canals are designed properly and managed well then canals up to 20' work well.

**CPA** If the canals have dead ends then they probably are a problem, but these are different.

**Mr. Herman** They stand behind the modelling work they did. They are very qualified and have worked with other Governments to protect eco-systems.

**Mr. Ryan** A big part of the modelling was related to water quality and this showed it would be okay.

**Mr. Jackson** And DOE is wrong, the Aggregate Policy does not apply.

**Mr. Ryan** They just want to be treated within the scope of the Regulations and be treated fairly.

**CPA** How much fill is needed? Instead of 18', could it be even less?

**Mr. Ryan** They will use all and more of the fill even at 20'. Some of the material won't be structural.

**CPA** Thanked everyone for attending the meeting.

**2. 24 RAYMOND DELISSER Block 15B Parcel 287 (FA87-0108) (P09-1320) (\$5,000) (EJ)**

Application for a wood shed (200 sq. ft.) to be used for storage.

**FACTS**

<i>Location</i>	Websters Drive in Websters Estate
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	NA
<i>Parcel Size</i>	31,363 sq. ft.
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	Storage Shed
<i>Building Size</i>	200 sq. ft.
<i>Density</i>	1.38
<i>Allowable Density</i>	3
<i>Building Coverage</i>	0.63%
<i>Number of Units</i>	1

**BACKGROUND**

**November 12, 2009** - Administrative approval was granted for a house addition.

January 20, 2010 (**CPA/02/10; Item 2.8**) - The Authority adjourned the subject application.

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

- 1) The applicant is required to obtain a Building Permit from the Chief Building Control Officer. Construction shall not commence prior to the issuance of a Building 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.**

**LETTER FROM APPLICANT**

*“We are in the process of making application for an extension to the building presently located on Block 15B Parcel 311. The owner of the adjacent lot, Block 15B Parcel 287 has kindly given permission for us to erect a storage shed on their*

*parcel to facilitate us in storage of construction materials. A copy of this consent is attached.*

*I am therefore, asking Central Planning Authority to give permission for the construction of this shed.”*

### **LETTER OF CONSENT**

*“As the owners of the above piece of land we have no objection to Dandy Investments limited, the owner of the adjoining property South Sound Block 15B Parcel 311, erecting a permanent shed on our above property with dimensions of the order of 20 feet long by 10 feet wide by 10 feet high.”*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The applicant is seeking the Authority’s permission for a wood shed (200 sq. ft.) to be used for storage.

#### **Zoning**

The property is zoned Low Density Residential.

#### **Specific Issues**

The container is to be used as a temporary/permanent structure on a vacant parcel next to the applicant’s parcel which has been developed with a house. The Department is of the opinion that the applicant has more than sufficient space to locate the container on his own parcel (311) which has an existing house. However, the applicant has obtained a letter of consent from the adjacent parcel in order for him to locate the proposed shed.

The Department and the Authority has traditionally discouraged metal containers for residential use and in residential zone. The Authority should decide whether they want to allow or continue to discourage metal containers for residential uses or temporarily approve until June of 2010.

### **SUPPLEMENTARY ANALYSIS**

January 20, 2010 (CPA/02/10; Item 2.8), the Authority adjourned the subject application for the following reason:

1. Premature until application submitted for house addition.

However, this was erroneously stated in the applicant's letter, who already obtained planning permission administratively on November 12, 2009 for addition to house on parcel 311.

**2. 25 DWAYNE CRAWFORD Block 43A Parcel 119 (F06-0078) (P10-0026) (EJ)**

Application to modify planning permission for the as-built location of the septic tank.

**FACTS**

<i>Location</i>	Leroy Frederick Drive
<i>Zoning</i>	<b>MDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	12,497 sq. ft.
<i>Current Use</i>	House
<i>Proposed Use</i>	Septic
<i>Density</i>	3.48
<i>Allowable Density</i>	4
<i>Building Coverage</i>	19.94%
<i>Existing Parking</i>	2

**BACKGROUND**

**February 17, 2006** - The Department administratively granted permission for a four-bedroom house.

**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 (2008 Revision) hereby orders that planning permission be modified to allow the as-built location of the septic tank.

**LETTER OF CONSENT**

*“In reference to the septic tank relation, I Stephenson Simpson hereby declare that I have no objection to the relocation of the same septic tank.*

*If I can be of any further assistance, please do not hesitate to contact me.”*

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is to modify planning permission in order to allow the as-built location of the septic tank.

**Zoning**

The property is zoned Medium Density Residential and while the proposed use is a permitted use per Regulation 9 (8), the Department would offer comments on

certain specific issues addressed below.

**Specific Issues**

**a) Setback Variance**

The applicant is seeking the Authority permission for a 5’ setback variance from the side boundary, proposed at 5’ instead of the required 10’ side setback.

The Department is of the opinion that the subject septic tank should have been built in accordance with the approved plans, however, a letter of consent has been obtained from the affected parcel.

**2. 26 CAMEAL GARDNER Block 38B Parcel 473 (F99-0360) (P09-1022) (\$100,000) (EJ)**

Application for house addition with attached double garage.

**FACTS**

<i>Location</i>	Content Drive in Northward
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	13,503 sq. ft.
<i>Current Use</i>	House
<i>Proposed Use</i>	Addition and Pool
<i>Building Size</i>	1,086 sq. ft.
<i>Density</i>	3.22
<i>Allowable Density</i>	3
<i>Footprint</i>	1,460 sq. ft.
<i>Building Coverage</i>	18.86%
<i>Existing Parking</i>	1
<i>Proposed Parking</i>	1
<i>Required Parking</i>	1
<i>Number of Units</i>	1

**BACKGROUND**

**March 21, 2000** - The Department administratively approved a three-bedroom house on the subject parcel.

January 12, 2000 (**CPA/02/00; Item 6.04**) - The Authority granted planning permission for a twenty (20) lot subdivision.

November 25, 2009 (**CPA/29/09; Item 2.20**) - The Authority resolved to adjourn the application, for the following reason:

1. The applicant shall submit a letter of consent from the adjacent property owner.

December 9, 2009 (**CPA/30/09; Item 2.23**) - The Authority adjourned the application in order for the applicant to obtain a letter of consent from the adjacent parcel.

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

- 1) The applicant is required to obtain a Building Permit from the Chief Building Control Officer. Construction shall not commence prior to the issuance of a Building 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.**

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, [i.e. two feet (2') above the Vidal Bench Mark].

### **LETTER FROM APPLICANT**

*“We write in reference to the above subject. We wish to apply for a rear setback variance and ask for consideration to be given for us to construct a house addition to our existing house located off Shamrock Road and Content Drive in Bodden Town.*

*The existing rear setback is 20 feet from Block 38B Parcel 248. We are proposing rear setback of 10 feet from parcel 248 which is owned by Raymond Spencer Jackson (co-owner Kent Rankine) for the house additions and rear setback of 2 feet for the wooden or concrete deck which will be elevated between three(3') feet to four (4') feet from the existing grade level. We are also in the process of obtaining a consent letter from the said landowners for the rear setback variance. Please consider that the single store addition represent less than one third of the rear side with the existing building 1 story.*

*We hope that the above information provided to the Central Planning Authority will win in our favour and we look forward to your favourable approval on this project in due course.”*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for a house addition with attached double garage and swimming pool.

### **Zoning**

The property is zoned Low Density Residential and while the proposed use is a permitted use per Regulation 9 (8), the Department would offer comments on certain specific issues addressed below.

### **Specific Issues**

#### **a) Setback variances**

The applicant is seeking the Authority's permission for the following setback variances: 16' from the house addition, 10' from the pool edge and 8' from the pool deck, instead of the required 20' rear setback from the east boundary of the subject parcel.

The applicant was unsuccessful in obtaining a letter of consent from the affected parcel however; the Department has not received any objections.

The Department is of the opinion that the proposed could be better designed to achieve the desired square footage for the proposed addition and the pool could be located more to the side of the existing structure and meet all requirements.

### **SUPPLEMENTARY ANALYSIS #1**

The Department notes that the applicant did send a notification letter to the affected property owner; however, he has not received any response from the neighbouring property.

### **SUPPLEMENTARY ANALYSIS #2**

The applicant is now seeking permission from the Authority for the house addition only, which is proposed at 16' from the boundary, (a 4' variance) instead of the required 20' setback.

On January 4, 2010, the applicant once again sent a letter seeking consent from the affected parcel for the above mentioned (revised) setback variance and was once again unsuccessful in obtaining a letter of consent from the affected parcel.

**The Authority considered the matter and determined that the applicant had tried to contact the adjacent land owner on several occasions to try and obtain a letter of consent for the proposed setback. Unfortunately, contact was unsuccessful. The Authority views the proposed 16' setback as sufficient and that the 4' variance that must be granted will not negatively effect the adjacent land owner and can reasonably be allowed per Regulation 8(13)(b) of the Development and Planning Regulations (2006 Revision).**

**2. 27 JAY CHRISTENSON & MICHELE BERRY Block 24E Parcel 631 (F10-0005) (P10-0014) (\$600,000) (EJ)**

Application for a three-bedroom house with attached single garage and single carport.

**FACTS**

<i>Location</i>	Corner of Roxborough Street and Bay Islands Drive in Bonnieview Estate
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	NA
<i>Parcel Size</i>	12,689 sq. ft.
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	House
<i>Building Size</i>	6,601 sq. ft.
<i>Density</i>	3.43
<i>Allowable Density</i>	3
<i>Building Coverage</i>	22.32%
<i>Proposed Parking</i>	2
<i>Required Handicapped Spaces</i>	0
<i>Required Parking</i>	1
<i>Number of Units</i>	1

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

Condition (1) listed below shall be met before building permit drawings can be submitted to the Building Control Unit.

- 1) The applicant shall submit a revised site plan showing the septic tank and effluent well relocated to the south-east area of the property in an effort to achieve a setback from the canal as close as possible to 100 feet.
- 2) The applicant is required to obtain a Building Permit from the Chief Building Control Officer. Construction shall not commence prior to the issuance of a Building Permit.
- 3) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

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

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, [i.e. two feet (2') above the Vidal Bench Mark].

### **LETTER FROM APPLICANT**

*"We enclose the attached application for a multi-storey house in the Bonnieview Estates canal subdivision, Prospect.*

*Our client's parcel is an irregular shaped lot, with roads on two sides and a canal along the rear and other side boundaries. The parcel essentially ends up with a 20' setback requirement to all sides, leaving an average depth of only 51' for placement of a building. It was originally thought there would be one 15' side setback, but was later discovered that what was thought to be a private vacant adjacent was actually an undeveloped road followed by a vacant parcel. This led to the requirement for another 20' roadside setback.*

*We have positioned the house as close within setbacks as possible with the exception of a rear canal facing elevated screen porch which is proposed to be positioned at 15'-0" from the boundary where a 20' setback is prescribed. We therefore are requesting a variance for the setback. Given the shape and orientation of this lot, the placement of a column supporting the subject screen porch will not cause the interruption of views for any adjacent parcels. On the ground floor the portion of building around the column is not enclosed.*

*Should the CPA wish for our clients to consider any alternative for the positioning of the house we gladly to accommodate this.*

*We wish to thank the CPA for taking the time to consider this request. Please feel free to advise of any further clarification that we might be able to provide in relation to this request."*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The application is for a three-bedroom house with attached single garage and single carport.

#### **Zoning**

The property is zoned Low Density Residential and while the proposed use is a permitted use per Regulation 9 (8), the Department would offer comments on certain specific issues addressed below.

#### **Specific Issues**

##### **a) Setback Variances**

The applicant is seeking the Authority's permission for a 5' setback variance from the canal, proposed at 15' instead of the required 20' rear setback.

The Department is of the opinion that the proposal could be revised to achieve the desired square footage and layout for the proposed three-storey house and

meet all setback requirements. However, the Department has no major concerns for the variance for following reasons;

- 1. the subject setback variance is for a slab and column;
- 2. the subject parcel is awkwardly shaped;
- 3. the parcel is encompass by two roads (Roxborough Street & Bay Islands Drive) and canal at rear.

The Department is more concerned with the location of the proposed septic tank which meet Department setbacks, however, as proposed at about 28' from the canal. If the applicant could relocate to the southeast corner of the subject lot, this could possibly bring the septic tank about 70' from the canal if a road setback were granted, bearing in mind, this would fall more in line with Water Authority requirement to keep septic 100' from any body of water and be more environmentally safer.

**2. 28 THE BLOSSOMS LTD Block 28B Parcel 233 (F06-0391) (P10-0089) (RS)**

Application for modification to site layout.

**FACTS**

<i>Location</i>	In Savannah near the intersection Double Tree Lane and the East-West Bypass
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	NA
<i>Parcel Size</i>	1.8800 acres
<i>Current Use</i>	Apartments

**BACKGROUND**

October 25, 2006 (**CPA/33/06; Item 2.14**) The Authority granted planning permission for twenty one (21) apartments.

**Decision:** It was resolved that having regard to the Development Plan and other material considerations it is expedient to modify planning permission. Now therefore the Central Planning Authority in pursuance of Section 17 of the Development and Planning Law (2008 Revision) hereby orders that planning permission CPA/33/06; item 2.14 be modified to allow the as-built setbacks.

All other conditions of CPA/33/06; item 2.14 remain applicable.

**2. 29 CAYMAN SHORES LTD. Block 12D Parcel 95 (F03-0517) (P09-1235) (CS)**

Application for modification to excavate the canal to a depth of 20 feet.

**FACTS**

<i>Location</i>	South Section of Camana Bay Property
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	NA
<i>Parcel Size</i>	200 acres
<i>Current Use</i>	Camana Bay Development

**BACKGROUND**

Several commercial buildings and ancillary uses have been approved on this site.

May 13, 2009 (CPA/13/09; **Item 2.22**) – Approval granted for the excavation of a new canal.

**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 (2008 Revision) hereby orders that planning permission CPA/13/09; item 2.22 be modified to allow the canal to be excavated to a depth not to exceed 20 feet.

All other conditions of CPA/13/09; item 2.22 remain applicable.

**At 2:30pm, Burns Conolly and Sammy Jackson appeared on behalf of the applicant.**

**CPA** Asked them to present the proposal.

**Mr. Conolly** They have permission for a ‘U’ shaped canal to the south of the existing southern Camana Bay canal. They have connected to the Limestone canal and are planning on filling in the end of it. They have started to clear and dig the 15’ depth and are asking to modify that to go to 20’. This canal goes into another canal and not straight into the North Sound. They have been getting siltation in the canals, as much as 6’ or 7’ after they’ve been built. The bigger issue is that of final depth or dig depth. If you want a final depth of 15’ then you need to dig to 20’.

**CPA** They are not going back to dig the existing 15’ canals?

**Mr. Conolly** No, just the new one. The cross canals have not been done, but they will keep those at 15’. There are some benefits if the canal is deeper than the Sound as it creates a sink which contains things in the silt in the canal and not the sea.

**CPA** Can they angle the 20' canal where it meets the 15' canal?

**Mr. Conolly** Yes, the plans show it tapering.

**CPA** What will they do with the material?

**Mr. Conolly** It will be used to fill the site. But this won't be enough for all of Camana Bay.

**CPA** Thanked them for attending the meeting.

## **2. 30 FUJIGMO Block 17A Parcel 10 (FE85-0240) (P10-0090) (CS)**

Modification of planning permission to delete the requirement for a phasing plan.

### **FACTS**

<i>Location</i>	The SafeHaven Site and the North Sound Club golf course
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	NA
<i>Advertisements</i>	NA
<i>Parcel Size</i>	200 acres
<i>Current Use</i>	Goff Course/Vacant

### **BACKGROUND**

May 19, 2009 (**CPA/14/09; Item 2.1**) - The Authority granted planning permission for a 29-lot raw land strata subdivision and 12-foot deep canal excavation.

October 14, 2009 (**CPA/26/09; Item 2.3**) - The Authority resolved to modify planning permission to allow a 20-foot canal depth.

November 25, 2009 (**CPA/29/09; Item 2.26**) - It was resolved to adjourn review of the supplementary Traffic Impact Analysis to allow additional time to review the document.

It was also 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 (2008 Revision) hereby orders that planning permission CPA/14/09; item 2.1 be modified to change condition 2) h).

**Condition 2) h) shall be changed to:**

*"You shall provide water infrastructure for each respective phase of the subdivision. Design, engineering, installation and testing of water and wastewater infrastructure shall be carried out by the developer at the developer's expense, in accordance with the specifications and under supervision of the Cayman Water Company and the Water Authority. The water supply system shall be installed to*

*the Water Authority's specifications, under the Water Authority's supervision. Copies of these specifications are available at the Water Authority's office on Red Gate Road."*

December 9, 2009 (**CPA/30/09; Item 2.8**) - The Authority resolved to approve the supplementary Traffic Impact Analysis.

December 9, 2009 (**CPA30/09; Item 6.1**) - The Authority resolved to adjourn review of the excavation, phasing, operations, and maintenance plan until a presentation from the DOE was given before the CPA.

December 16, 2009 (**CPA/31/09; Item 6.3**) - The Authority resolved to adjourn consideration of the matter, **for the following reason:**

1. The applicant shall revise the Construction Sequencing Plan to illustrate the first phase of excavation starting on the western end of the development. The plan shall also note that: a) connection to Mitchell's Creek will not commence until acceptable water quality levels are achieved from the internal canal system; and b) connection to the North Sound will not commence until the last phase of excavation is completed and acceptable water quality levels are achieved from the internal canal system.

**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 (2008 Revision) hereby orders that planning permission CPA/14/09; item 2.3 be modified to replace condition 1) b) with the following:

- “1) b) The applicant shall submit an operations and maintenance plan for the canal excavation, to be reviewed by the Planning Department and the Department of Environment and approved by the Central Planning Authority. The plan shall include the following:
- i. an estimated timeline for all excavation activity;
  - ii. excavation methodology for the dredging of access channels in the North Sound and identify areas for dewatering;
  - iii. location of silt screens; and
  - iv. the logistics of disposing cleared material, drying and stockpiling material, pumping of water/slurry, silt containment within the project site, canal wall stabilization or bulkheading, and water quality maintenance.”

All other conditions of CPA/14/09; item 2.3, as previously modified, remain applicable.

**At 1:30pm, Michael Ryan, Kenneth Crews, J. Samuel Jackson, Frances Doud, Pearse Murphy, Eric Cronier, and Michael Herman appeared on behalf of the applicant.**

**CPA** Summarized the basic purpose of each of the three applications. Asked them if they could discuss the strata lot aspect first.

**Mr. Ryan** They want to modify the strata lot subdivision and Ken can give the details.

**Mr. Crews** The modification will include some existing lots into the strata and will exclude the golf course from the strata. There is also a piece in Mitchell's Creek that will not be part of the Strata.

**Mr. Cronier** The golf course was common property. He explained the need to keep it separate from the rest of the strata. It will remain as a remainder of 17A 10.

**CPA** Ok, that's been dealt with. Can they address the issue of clearing the land?

**Mr. Ryan** They also would like to deal with the modification application for the phasing requirement. *(The Assistant Director of Planning explained that that application had just been submitted yesterday and staff hadn't had the time to review it.)*

**CPA** That's okay, it can be dealt with today.

**Mr. Ryan** The prior CPA granted approval with conditions. They have been moving forward to address them. They have already had a modification to increase the depth of the canals, but then they were informed that DOE had made a presentation to CPA and made comments about himself and his professionals – comments about water quality. It seemed that CPA was going to change the phasing requirement. The phasing was done so that the Port Authority portion got done first. This has caused delays in the process. It's difficult to move forward if they can't have confidence in the CPA's decision and that it won't be changed. This is a commercial decision for the phasing, and it shouldn't be a role for CPA. They will start the project, will move forward and will finish it. They want to remove the condition about phasing. It is tough enough anyway with this economy and then the rug gets pulled out from under them. They will do what the Law requires.

**CPA** So, the phasing plan came about because the previous CPA wanted to ensure that the Port Authority was done?

**Mr. Ryan** That's accurate.

**CPA** Then that became something different and he wants that removed?

**Mr. Ryan** Yes. It should be up to the developer to move forward based on a commercial decision.

**CPA** What is the plan for the piece of land to be cleared? There was an application for apartments, which was refused, and that is under appeal.

**Mr. Jackson** Yes. They applied for the clearing and outline permission for the apartments – based on advice from the Department. The plan was only to show the concept of the buildings. This led to heated discussions regarding putting

buildings in the Mangrove Buffer – it spun out of control. The application was really just for the clearing and seawall.

**CPA** So that appeal could be withdrawn?

**Mr. Jackson** Yes, at any stage, depending on the outcome of this application.

**CPA** They are discussing the buffer zone, so can they address the exceptional circumstances why the Board has the authority to approve it?

**Mr. Ryan** Yes, they have that in their presentation.

**CPA** Through their preliminary discussion, the members felt that the 25' wide buffer is too meagre.

**Mr. Ryan** It is not being left as a buffer. The 25' is to provide red mangroves and rehabilitate others. It is the most crucial 25', but they could leave another 25'.

**CPA** So if the Board asks for 50', that's okay?

**Mr. Ryan** It will all be within their property so no coastal works license is needed.

**Mr. Jackson** Those involved with Planning will know that pre 1997, we had storm belts, not mangrove buffers. The Law still calls it that. In 1997, there was a re-designation of the Mangrove Buffer zone. It became mores restrictive, but the Law wasn't changed. He could argue that this wasn't legal. When you look at Regulation 18, coastal protection was moved to the bottom of the list. The regulations allows for exceptional circumstances and providing equivalent protection. They meet both tests. The proposed revetment is much better storm protection. Regarding ecological function, they will install a strip of mangrove of appropriate width. And they will have the benefit of the mangrove on the island – which will be restored at his client's cost. This will provide red mangrove which far exceeds the mangrove that was there.

**Mr. Ryan** He has entered into an agreement with Government regarding the rehabilitation of the island. He will be providing 2 times net benefit in red mangroves.

**CPA** Eventually that island will grow into the buffer.

**Mr. Jackson** The Limestone application allowed them to clear the Mangrove Buffer because an island was preserved, but there was no condition to rehabilitate it. This application goes much further and that is an exceptional circumstance and allows the CPA to reasonably grant permission.

**CPA** How high is the seawall?

**Mr. Crews** Four feet.

**CPA** The wall will be an asset and will help the mangroves to grow.

**Mr. Ryan** *Presented the slide show – attached as Appendix I.*

**CPA** They were granted a canal depth of 20', do they have any thoughts on whether that could be reduced?

**Mr. Ryan** Their goal is to work cooperatively and it seems that the Board is expressing that perhaps less would be better. He would be happy to reduce the depth to 18' in an effort to listen to those concerns.

**CPA** DOE had a presentation with CPA which showed evidence that sea life would not grow below 14'. They are not trying to force this and change the previous decision, but they wonder if he would voluntarily reduce the depth?

**Mr. Ryan** The CPA presentation seems to have started as a discussion on phasing and then it gave them a second kick at the canal depth. DOE made public statements about how he misled them and he finds that very offensive. He has experts that can rebut their arguments. He is confident that the canal depth will have no impact on sea life in the Sound – he has a \$9 million investment in it. But he would voluntarily go to 18'.

**Mr. Murphy** DOE contends that anything greater than 12' is a problem, but on-going monitoring of canals, and DOE is aware of this, has shown it not to be a problem. If the canals are designed properly and managed well then canals up to 20' work well.

**CPA** If the canals have dead ends then they probably are a problem, but these are different.

**Mr. Herman** They stand behind the modelling work they did. They are very qualified and have worked with other Governments to protect eco-systems.

**Mr. Ryan** A big part of the modelling was related to water quality and this showed it would be okay.

**Mr. Jackson** And DOE is wrong, the Aggregate Policy does not apply.

**Mr. Ryan** They just want to be treated within the scope of the Regulations and be treated fairly.

**CPA** How much fill is needed? Instead of 18', could it be even less?

**Mr. Ryan** They will use all and more of the fill even at 20'. Some of the material won't be structural.

**CPA** Thanked everyone for attending the meeting.

The Authority considered the application further and determined that:

- a) The Authority does not agree with the applicant's position that the Authority has no role in the phasing of a development. The Authority may involve itself in phasing due to a variety of reasons, including but not limited to, environmental concerns such as water quality, installation of infrastructure and impacts on adjacent developments. The Authority does not involve itself in phasing in order to control aspects related to the applicant's business plan. In this instance, the Authority previously had some concerns with the potential impact of the 20' deep canal on the water quality of the North Sound and thought it prudent to have the development phased in a manner that the potential impact could be monitored. The Authority has now reconsidered that

earlier position and is satisfied that the impact will be minimal and that a phasing plan is not required.

## 2.0 APPLICATIONS

### CONSENT AGENDA (Item 2. 29 TO 2. 38)

#### 2. 31 KINDRED INVESTMENTS LTD. Block 14CJ Parcel 146 (FA89-0027) (P10-0010) (\$5,000) (CS)

Application for a 1,800 gallon fuel tank and generator.

#### FACTS

<i>Location</i>	In Central George Town, at One Capital Place, at the intersection of Dr. Roy's Drive and Shedden Road
<i>Zoning</i>	<b>G COM</b>
<i>Notice Requirements</i>	No Objectors
<i>Advertisements</i>	NA
<i>Parcel Size</i>	35,284 sq. ft.
<i>Current Use</i>	Commercial
<i>Proposed Use</i>	Generator

#### BACKGROUND

January 1998 (CPA/01/98; **Item 6.07**) - The Authority granted planning permission for a commercial addition.

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

- 1) The applicant is required to obtain a Building Permit from the Chief Building Control Officer. Construction shall not commence prior to the issuance of a Building Permit.
- 2) The applicant is required to obtain the necessary approvals from the Chief Petroleum Inspector.
- 3) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

#### PLANNING DEPARTMENT ANALYSIS

##### General

The applicant is requesting planning permission for a 1,800 gallon fuel tank and generator.

##### Zoning

The site is zoned General Commercial. The proposed use is allowed in the zone

and complies with the Development & Planning Regulations (2006 Revision) for setbacks. The proposed fuel tank location does not remove any parking spaces nor block any access drives.

**2. 32 JAMES LEVY Block 75A Parcel 221 (F10-0006) (P10-0015) (\$5000) (DE)**

Application for a two (2) lot subdivision.

**FACTS**

<i>Location</i>	Off John McLean Drive, East End
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Advertisements</i>	NA
<i>Parcel Size</i>	6.35 acres
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	Subdivision
<i>Number of Parcels</i>	2

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

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

**AGENCY COMMENTS**

Comments from the Water Authority and National Roads Authority are noted below.

**Water Authority**

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

***Water Supply:***

*Please be advised that connection of the proposed development to the Water Authority's piped water supply system will require an extension. It is the policy of the Water Authority - Cayman to extend water distribution lines in public roads at no cost; extensions in non-public areas are done at the owner's expense. The timing of any pipeline extension is at the sole discretion of the Water Authority.*

- *The developer is required to notify the Water Authority's Engineering Department at 949-2387, without delay, to be advised of the timing of the extension and the site specific requirements for connection.*

- *The developer is required to provide the water-supply infrastructure, specified by the Authority, within the site.*
- *The developer shall submit plans for the installation of the specified infrastructure to the Authority for approval.*
- *The site's water-supply infrastructure shall be installed to the Authority's specifications, under the Authority's supervision. Copies of the Authority's specifications are available at the Water Authority's office on Red Gate Road.*
- *The developer's request to have the development connected to the Water Authority's public water system will be acted upon after the site's water-supply infrastructure has been installed in accordance with the WAC specifications, and passed specified tests.*
- *The Authority shall not be held responsible for delays and/or additional costs incurred by the developer due to the developer's failure to provide sufficient notice to the Authority.*

***Wastewater Treatment:***

- *Please be advised that wastewater treatment and disposal requirements for built development are subject to review by the Water Authority.”*

**National Roads Authority**

*”As per your memo dated January 11<sup>th</sup>, 2010 the NRA has reviewed the above mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

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

**PLANNING DEPARTMENT ANALYSIS**

**General**

The applicant is requesting permission to subdivide block 75A Parcel 221 into two (2) lots. The parcel is located off John McLean Drive, East End. The parcel will be divided into the followings sizes:

Lot 1 = 3.493 acres                      Lot 2 = 2.857 acres

**Zoning**

The property is zoned Low Density Residential and the proposed lots are generally permitted per Regulation 9 (8) of the Development and Planning Regulations (2006 R). The Department would like to point out that the subject parcel is vacant and does comply with the lot size, lot width and road access to and from the proposed lots. The application is proposing a 30’ R.O.W over Lot 1 in favor of Lot 2. The Department has no particular concern with the application.

**2. 33 C.I. GOVERNMENT Block 55A Parcel 17 (F07-0236) (P09-1221) (\$48,000) (BES)**

Application for a generator (12,000 gallon).

**FACTS**

*Location* Frank Sound Road

*Zoning* **LDR**

*Notice Requirements* No Objectors

*Parcel Size* 28 acres

**BACKGROUND**

**CPA/18/07; Item 2.1** - The Authority granted planning permission for high school with conditions.

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

- 1) The applicant is required to obtain a Building Permit from the Chief Building Control Officer. Construction shall not commence prior to the issuance of a Building Permit.
- 2) The applicant is required to obtain the necessary approvals from the Chief Petroleum Inspector.
- 3) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for a 12,000 gallon generator to be located at Clifton Hunter High School on Frank Sound Road. The generator is setback 35' from the side property line and located next to building #5. The Department has no specific concerns with the application.

**2. 34 CARL FARRELL & MONTRVELL FARRELL Block 32C Parcel 154 (FA86-0357) (P10-0004) (\$3,500) (CS)**

Application for a two (2) lot subdivision and lot combination.

**FACTS**

<i>Location</i>	In Lower Valley, on the south side of Shamrock Road, opposite of Will T Road
<i>Zoning</i>	<b>A/R</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	1.86 acres
<i>Current Use</i>	Shed
<i>Proposed Use</i>	Subdivision

**BACKGROUND**

A house was applied for in 1986.

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

- 1) Proposed lot L2 shall be combined with Block 32C Parcel 36.
- 2) The surveyor's final drawing **shall include the surveyed dimensions of all lots** and shall be submitted to the Planning Department for approval prior to the survey being registered.

**PLANNING DEPARTMENT ANALYSIS**

**General**

The applicant is requesting planning permission for a two (2) lot subdivision and lot combination.

**Zoning**

The site is zoned Agriculture/Residential.

The applicant wishes to subdivide a 0.5 acre piece from Parcel 154 and then combine the piece with Parcel 36. The proposed configuration will comply with minimum lot size standards for the Agriculture/Residential zone.

**2. 35 A.L. THOMPSON DEPOT Block 14C Parcel 332 (FA86-0188) (P09-1307) (\$85,000) (BES)**

Application for mezzanine sales area and offices (8,393 sq. ft.).

**Mr. A.L. Thompson declared a conflict and left the meeting room. Mr. Steve McLaughlin sat as Acting Chairman.**

**FACTS**

<i>Location</i>	AL Thompson's on North Sound Road and Sound Way, George Town
<i>Zoning</i>	<b>G COM</b>
<i>Parcel Size</i>	7.14 acres
<i>Building Size</i>	8,393 sq. ft.

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

- 1) The applicant is required to obtain a Building Permit from the Chief Building Control Officer. Construction shall not commence prior to the issuance of a Building 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.

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for mezzanine sales area and offices (8,393 sq. ft.) at the AL Thompson's Depot on North Sound Road and Sound Way, George Town

**Zoning**

The property is zoned General Commercial and the proposed use is a permitted use per Regulation 13, and the Department has no specific concerns with the application.

**2. 36 SIDNEY ROBINSON Block 31A Parcel 40 (F01-0316) (P10-0049) (\$925,000) (DE)**

Application for modification of planning permission (CPA/05/04; Item 2.5), to place back the loft areas that had previously been removed.

**FACTS**

<i>Location</i>	Will T Drive, Lower Valley
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	NA
<i>Parcel Size</i>	1.055 acres
<i>Current Use</i>	Apartments
<i>Proposed Use</i>	Apartment
<i>Building Size</i>	2,885 sq. ft.
<i>Proposed Handicapped Spaces</i>	2
<i>Proposed Parking</i>	1
<i>Required Handicapped Spaces</i>	1
<i>Number of Units</i>	5

**BACKGROUND**

November 21, 2001 (**CPA/35/01; Item 5.03 (B)**) - It was resolved to grant planning permission for a two (2) lot subdivision.

April 10, 2002 (**CPA/08/02; Item 5.17 (C)**) - It was resolved to grant planning permission for seven (7) apartments.

October 1, 2003 (**CPA/28/03; Item 3.02**) - It was resolved to grant planning permission for Boundary wall in association with approved apartments.

March 10, 2004 (**CPA/05/04; Item 2.5**) - It was resolved to modify planning permission (CPA/08/02; Item 5.17(C)), to allow the loft areas to be removed, the building footprints to be reduced in size and a trellis terrace to be added to each unit with a 12' rear setback.

**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 (2008 Revision) hereby orders that planning permission CPA/08/02; item 5.17 (C) be modified to place back the loft areas that had previously been removed.

All other conditions of CPA/08/02; item 5.17 (C) remain applicable.

**LETTER FROM APPLICANT**

*“Further to our meeting, we hereby apply for reinstatement of the previous approval for lofts on the above. Attached are the following:*

*3 copies of the site plan and floor plans.*

*The applicant said it was not his intent for the lofts to be removed and wish to have them re-instated.*

*Please contact us with any questions. We look forward to your favorable review and consideration of this matter.”*

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for modification of planning permission (CPA/05/04; Item 2.5), modification of planning permission (CPA/08/02; Item 5.17(C)), to allow the loft areas to be removed, the building footprints to be reduced in size and a trellis terrace to be added to each unit with a 12' rear setback

**Zoning**

The property is zoned Low Density Residential and while the proposed use is a permitted use per Regulation 9 (1), (2), (3) and (8), the Department would offer comments on certain specific issues addressed below.

The applicant is now seeking to modify planning permission as follows:

- To add back in the loft areas (577 sq. ft. each) in Unit 1 to Unit 5.
- Unit 6 and unit 7, will have a small roof attic storage area ( 224 sq. ft. each).

**2. 37 JAMES POWELL Block 4D Parcel 449 (F02-0073) (P09-1292) (\$6,000) (BES)**

Application for a two (2) lot subdivision.

**FACTS**

<i>Location</i>	Willie Farrington Drive, West Bay
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	8.78 acres

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

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

## **AGENCY COMMENTS**

Comments from the Water Authority are noted below.

### **Water Authority**

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

#### ***Water Supply:***

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

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

#### ***Wastewater Treatment:***

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

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for a two (2) lot subdivision to be located on Willie Farrington Drive, West Bay. The resultant acreage of the parcel after the subdivision would be lot "A" = 6.6 acres and lot "B" = 2.0 acres. The application complies with the minimum requirements of the Development and Planning Regulations in respect of lot sizes.

### **Zoning**

The property is zoned Low Density Residential and the proposed use is a permitted use per Regulation 9(8), the Department has no specific concerns with the application.

**2. 38 WESLEY LALOR Block 24E Parcel 339 (F05-0515) (P09-1351) (\$1.324 million) (BES)**

Application to modify planning permission to reduce the floor area of buildings 3 and 4.

**FACTS**

<i>Location</i>	Bamboo Street and Omega Drive/Whirlwind Drive off Marina Drive
<i>Zoning</i>	<b>LDR</b>
<i>Parcel Size</i>	2.111 acres
<i>Current Use</i>	Apartments under Construction
<i>Proposed Use</i>	Reduced Floor Area for Apartments
<i>Building Size</i>	10,592 sq. ft.
<i>Building Coverage</i>	18.3%
<i>Proposed Parking</i>	74
<i>Required Parking</i>	48

**BACKGROUND**

**CPA/17/09; Item 2.1** - The Authority granted planning permission for apartments with conditions.

**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 (2008 Revision) hereby orders that planning permission CPA/17/09; item 2.1 be modified to reduce the floor area of buildings 3 and 4.

All other conditions of CPA/17/09; item 2.1 remain applicable.

**The applicant is reminded that the columns adjacent to the driveways must be relocated behind the sidewalks, as shown on the approved plans, prior to a Certificate of Occupancy being issued for any buildings.**

**PLANNING DEPARTMENT ANALYSIS**

**General**

The applicant is requesting to modify planning permission to reduce the floor area of buildings 3 and 4 , 2-storey apartments from 11,752 sq. ft. to 10,592 sq. ft. The site is located on Bamboo Street and Omega Drive/Whirlwind Drive off Marina Drive. The two buildings are proposed to be reduced by 580 sq. ft. each. Other

than the fence, the application complies with the requirements of the Development and Planning Regulations.

**Development Plan**

The application is in general conformity with the provisions of The Development Plan 1997.

**Zoning**

The property is zoned Low Density Residential and while the proposed use is a permitted use per Regulation 13 (1) (iv), the Department would offer the following comments regarding specific issue noted below.

**Specific Issue**

**a) Fence/Columns**

At a routine site visit in the area on January 29, 2010, it was observed that the applicant had not constructed the fence columns in accordance with the approved plans. The columns are constructed inside the sidewalk obstructing pedestrian traffic using the sidewalk. The Department would suggest that the columns should be removed and constructed in accordance with the approved plans.

**3.0 ENFORCEMENTS**

**3.1 STANLEY & JENNIFER CLARKE Block 27B Parcel 277 (CE06-0029) (CM)**

Illegal construction of a concrete structure.

**FACTS**

<i>Location</i>	Democracy Drive, off Hirst Road, Newlands
<i>Zoning</i>	<b>LDR</b>
<i>Parcel Size</i>	0.2854 acres
<i>Current Use</i>	As noted

**BACKGROUND**

The Authority granted planning permission for an ATF apartment on the property. It was required of Stanley and Jenifer Clarke by the CPA that a Building Permit was to have been obtained from the Chief Building Control Officer within (1) one year of obtaining planning permission; and a Final Certificate (of Fitness for Occupancy) prior to occupying the building. These conditions have not been complied with.

**Decision:** It was resolved to authorize the issuance of an Enforcement Notice in accordance with Section 18 of the Development and Planning Law (2008 Revisions).

**PLANNING DEPARTMENT ANALYSIS**

Subsequent to CPA approval, numerous contacts have been made with Mr. Stanley Clarke concerning obtaining his Building Permit. However, he has failed to comply, which is in breach of the Development and Planning Law (2008 Revision).

**Photo Evidence**

See attached photos in the file

**Draft Enforcement Notice**

**THE CENTRAL PLANNING AUTHORITY**

**ENFORCEMENT NOTICE**

**DEVELOPMENT & PLANNING LAW (2008 REVISION) S.18 (1)**

**TO: Stanley & Jennifer Clarke**  
**OF: P.O. Box 909**  
**Grand Cayman KY1-1103**  
**Cayman Islands**

**WHEREAS**

- (1) You are the occupier(s) of the land ("the land") known as Block 28B Parcel 277, Savannah Registration Section.**
- (2) It appears to the Central Planning Authority of the Cayman Islands ("the Authority") that, within the period of three years before the date of service of this notice, development of the land has been carried out without the grant of permission required in that behalf under Part III of the Development and Planning Law (2008 Revision) ("the Law"), namely:  
**Illegal construction of a concrete structure.**
- (3) The Authority considers it expedient, having regard to the provisions of the Development Plan and to all other material considerations, to serve this notice.

The Authority accordingly gives you notice pursuant to Section 18 of the Law requiring you to take the following step:

**Submit an application seeking planning approval for the illegally constructed concrete structure or remove the illegal development and return the property to its original condition.**

**The above step must be completed within the period of 30 days from the date when this Notice takes effect.**

**This Notice shall take effect, subject to the provisions of section 18(5) and (6) of the Law, at the end of the period of 30 days from the date of service hereof.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Director of Planning (Acting)

**NOTES:**

1. If you are aggrieved by this Notice and wish to appeal against it, you must do so to the Summary Court in accordance with the provisions of section 19 of the Law before the Notice takes effect. The operation of the Notice will be suspended pending the final determination of any such appeal.
2. If, before this Notice takes effect, an application is made for planning permission for the unauthorized development in accordance with the provision of section 18(6) of the Law, the operation of the Notice will be suspended pending the final determination of the application, and will take effect immediately if the permission applied for is not granted.
3. Failure to comply with this Notice is a criminal offence pursuant to Section 21 of the Law with liability on summary conviction to a fine of \$5000, and in the case of a continuing offence, by a further fine of \$1000 for every day after the first day during which the requirements of this Notice remain unfulfilled.

**3. 2 ROBERT A. BODDEN & DONALD I. THOMPSON Block 44B Parcel 120 (CE10-0001) (CM)**

Illegal quarrying and removal of hammered rock.

**FACTS**

<i>Location</i>	Bodden Town Road
<i>Zoning</i>	<b>MDR</b>
<i>Parcel Size</i>	0.45 acres
<i>Current Use</i>	As noted

**BACKGROUND**

As a result of information received a site visit was conducted at a site in Bodden Town next to Mostyn Bodden's residence. Two excavators was on site, one jack hammering rock and the other loading one of two dump trucks that was on site. Telephone contact was made with Donald Thompson who informed Officer

McField that the land owner did indeed have permission to jack hammer the rock and remove it off site.

**Decision:** It was resolved to authorize the issuance of an Enforcement Notice in accordance with Section 18 of the Development and Planning Law (2008 Revisions).

### **PLANNING DEPARTMENT ANALYSIS**

As a result of checking the system it was discovered that no planning permission had been sought for the said operation of quarrying and removal of rock from the said location, which is in breach of the Development and Planning Law (2008 Revision).

### **Photo Evidence**

See attached photos in the file

### **Draft Enforcement Notice**

## **THE CENTRAL PLANNING AUTHORITY**

### **ENFORCEMENT NOTICE**

### **DEVELOPMENT & PLANNING LAW (2008 REVISION) S.18 (1)**

**TO: Robert A. Bodden & Donald I. Thompson**  
**OF: P.O. Box 642**  
**Grand Cayman KY1-1107**  
**Cayman Islands**

### **WHEREAS**

- (1) **You are the registered landowner of the land ("the land") and the occupier(s) of the land ("the land") known as Block 44B Parcel 120, in Bodden Town Registration Section.**
- (2) It appears to the Central Planning Authority of the Cayman Islands ("the Authority") that, within the period of three years before the date of service of this notice, development of the land has been carried out without the grant of permission required in that behalf under Part III of the Development and Planning Law (2008 Revision) ("the Law"), namely:  
**Illegal quarrying and removal of hammered rock.**
- (3) The Authority considers it expedient, having regard to the provisions of the Development Plan and to all other material considerations, to serve this notice.

The Authority accordingly gives you notice pursuant to Section 18 of the Law requiring you to take the following step:

**Submit an application seeking Planning approval for the illegal quarrying and removal of hammered rock or return the property to its original condition.**

**The above step must be completed within the period of 30 days from the date when this Notice takes effect.**

**This Notice shall take effect, subject to the provisions of section 18(5) and (6) of the Law, at the end of the period of 30 days from the date of service hereof.**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

\_\_\_\_\_  
Director of Planning (Acting)

**NOTES:**

1. If you are aggrieved by this Notice and wish to appeal against it, you must do so to the Summary Court in accordance with the provisions of section 19 of the Law before the Notice takes effect. The operation of the Notice will be suspended pending the final determination of any such appeal.
2. If, before this Notice takes effect, an application is made for planning permission for the unauthorized development in accordance with the provision of section 18(6) of the Law, the operation of the Notice will be suspended pending the final determination of the application, and will take effect immediately if the permission applied for is not granted.
3. Failure to comply with this Notice is a criminal offence pursuant to Section 21 of the Law with liability on summary conviction to a fine of \$5000, and in the case of a continuing offence, by a further fine of \$1000 for every day after the first day during which the requirements of this Notice remain unfulfilled.

**3.3 WATERFRONT CENTRE LTD. Block OPY Parcel 13 (CE09-0187) (CM)**

Illegal construction and operation of a food stand.

**FACTS**

<i>Location</i>	Harbour Drive, opposite to the Waterfront Centre
<i>Zoning</i>	<b>General Commercial</b>

**Decision:** It was resolved to adhere to the decision to issue an enforcement notice at CPA/30/09; item 3.3. The land owner and occupier are encouraged to submit an application for planning permission.

**SUPPLEMENTAL REPORT**

**At 1:20pm, Randy Smith and Gene Thompson appeared before the**

**Authority.**

**CPA** There had been complaints about the structure that had been built and an enforcement notice had been issued because there was no planning approval. They called the Chairman and asked for an audience with the Board.

**Mr. Thompson** That's correct. Six to eight months ago, Randy came to see him. He had been trying to get approval to put up a stand on the Government dock but he couldn't get it or it was going to cost too much. They talked and things were very bad for Randy. He said he would see what he could do. They decided that if he could get the necessary approvals then they would let him use the land. He is happy to help a Caymanian earn an honest living. The lease says that if there are legal breaches that Randy needs to correct them. The fishermen tents have been there for 5 or 6 years and there's no problem with that. This is a similar thing. It's not long term as they do have plans for the site. The tourists like it. They need to consider that he is a young Caymanian with personal challenges and he's trying to pay the bills, he needs a break. They are getting zero out of it. They got him the water and electricity and this will give him an opportunity. The fishermen do the same thing.

**CPA** There is a difference. They aren't cooking and have been there for years and years. This looks permanent.

**Mr. Smith** It can be removed in 3 pieces. It's just temporary because the site will be developed. He has arranged to have it removed at any time.

**CPA** If there is a northwester?

**Mr. Smith** It will be moved.

**CPA** Will he be cooking there?

**Mr. Smith** He will cook elsewhere and just heat it there. Except for the jerk chicken, it will be cooked there in drums.

**CPA** What about DEH?

**Mr. Smith** He has called them and they told him not to even bother to think about it. This will allow him to make money and pay his bills honestly. There are bad things going on now and he doesn't want to get involved. He asks that they help him and he can then work with them. He is showing 4 other young Caymanians to do this – it is keeping the culture going. The tourists like it.

**CPA** Are there tables and chairs?

**Mr. Smith** There are fold up chairs, but in the evening, it's just the tent. This lets the tourists sit in the shade.

**CPA** So this is a temporary?

**Mr. Smith** Yes, he will have to move, but by then hopefully he can afford something different.

**CPA** So, they are asking the Board to withdraw the enforcement notice and turn a blind eye? Or are they making an application?

**Mr. Thompson** It is hard to make an application when DEH says don't apply.

**Mr. Smith** He went over their list and he has hot water, CUC and a place to wash hands and utensils. He doesn't feel anyone should try and stop anyone from trying.

**CPA** Yes, but there are still Laws and Regulations that have to be followed.

**Mr. Thompson** They've turned a blind eye to the fishermen and this adds to the Island.

**Mr. Smith** Tourism is important.

**CPA** Is most of the clientele from cruise ships?

**Mr. Smith** Most, but he does have locals that support it.

**CPA** So it's just takeout?

**Mr. Smith** Yes. He has garbage containers and a portable toilet.

**CPA** Thanked them for attending the meeting.

The Authority considered the matter further and while empathizing with Mr. Smith's situation, determined that an application for planning permission needs to be submitted and then the Authority can formally consider the matter. Until such time as the application is submitted, the Department must continue with the enforcement process.

#### **4.0 DEVELOPMENT PLAN MATTERS**

#### **5.0 PLANNING APPEAL MATTERS**

#### **6.0 MATTERS FROM THE DIRECTOR OF PLANNING**

##### **6.1 CARIBBEAN UTILITIES COMPANY LTD. - EIA CONSULTANT**

The members were reminded that when considering the application for the used oil incinerator, it was adjourned in order for CUC to have an EIA prepared, based on the set Terms of Reference. The Authority also directed CUC to provide the names of at least two consultants that are competent to prepare the EIA and then CPA would choose the most suitable candidate.

On January 22, 2010, C.U.C. provided a Statement of Qualifications from two consulting firms that they feel are competent to prepare the EIA. The two firms are R.W. Beck and ECT Inc. The Department has reviewed the documentation provided and feel that while both firms appear amply qualified to prepare the EIA, the firm of ECT Inc. provided more specific information regarding the type of air dispersion modelling that would be used and that this set them apart from the

other firm. As such, the Department would recommend that ECT Inc. be chosen as the consulting firm to prepare the required EIA.

The members discussed the matter and chose to accept the Department's recommendation.

**Decision:** It was resolved to advise Caribbean Utilities Company, Ltd. that the Authority has chosen ECT Inc. as the consulting firm to prepare the EIA based on the Terms of Reference detailed in the minutes of CPA/30/09; item 2.4.

## **6.2 EMERALD SOUND**

The members were advised that the applicants for the proposed Emerald Sound development had been in contact with the Department to determine if it is possible to undertake limited land clearing to allow soil core testing. The Authority determined that it was reasonable to allow very limited clearing for soil testing without requiring an application for permission. The applicant must provide a plan to the Department showing the areas that would be cleared and tested and the Department must monitor the operations to ensure they don't deviate significantly from the plan.

## **6.3 BEACH CLUB ENTERPRISES Block 11B Parcel 61 (FA92-0015) (P08-1319) (CS)**

The members were advised that the applicant had contacted the Department with a concern regarding the eroding beach and the need to relocate the parking spaces to the other side of West Bay Road. The applicant is in the process of submitting the modification application for the revised parking scenario, but is also trying to obtain occupancy for the building prior to that application being considered by the Authority.

**Decision:** It was resolved that Special Permission to Occupy (SPO) be granted for 60 days, subject to compliance with the requirements of the Chief Building Control Officer.

## **7.0 CPA MEMBERS INFORMATION/DISCUSSIONS**

### **7.1 ILLEGAL DEVELOPMENT**

The Department was asked to investigate possible illegal development at 27D 166 and the outside patio at the restaurant by the 4-way stop in West Bay.

The meeting adjourned at 4:40 p.m. The next regular meeting of the Central Planning Authority is scheduled for *Tuesday 16<sup>th</sup> February 2010 at 10:30 a.m.* in the Conference Room, 1<sup>st</sup> floor, Regatta Office Park, Leeward One.

A. L. Thompson  
Chairman

Haroon Pandohie  
Executive Secretary (Acting)

cc: All members of the Central Planning Authority

**Attachment 1 – DOE Comments for Fujigmo (P09-1237) (P09-1240)**

## MEMORANDUM

<b>TO:</b>	Director of Planning	F03-0384 P09-1240 P09-1264 (CS)
<b>ATTN:</b>	Colleen Stoetzel	
<b>FROM:</b>	Director of Equipment	December 9
<b>SUBJECT:</b>	<b>Cesar Gitekci (Cayman Ltd.)</b> <b>Clearing of land &amp; sea wall</b> <b>Block: 12C Parcels: 394, 3, H8, 362</b>	

The Department's Technical Review Committee has reviewed the above noted application and **does not support the application** for the following reasons:

1. The applicant has stated that the need to clear the land and build a seawall is because "the mangrove buffer did not protect the property" during Hurricane Ivan. In order to provide maximum storm protection mangrove vegetation is most effective when the area between the water and the land is substantial and undisturbed. During the passing of Hurricane Ivan in 2004 the developer had already encroached on the mangrove buffer and in doing so they themselves reduced the effectiveness of the buffer for storm protection (see Figure 1). Therefore, the argument that they should remove it entirely is faulty. It should also be noted that the vegetation is meant to buffer the effects of the storm on the land, not eliminate it. This does not mean that developments sited on the coast should rely exclusively on vegetation to protect property. Sound building practices and appropriate setbacks should also be administer. The 2008 aerials show that this encroachment reduces the Mangrove Buffer by approximately 5 acres (see Figure 2). The encroachment of development through the vegetation towards the North Sound will ultimately result in adverse affects from storms.
  
2. The applicant has already encroached within the designated Mangrove Buffer Zone and now applies to remove it altogether and replace it with a 25ft peripheral edge. The applicant has noted that the 25ft edge will provide biological function associated with the existing Mangrove Buffer Zone. Currently the area of mangrove vegetation between the development and the North Sound is approximately 10acres. By reducing this to a 25ft edge will result in less than 1 area total of mangrove vegetation along the boundary of the entire development. It should also be noted that all biological functions that the buffer currently holds will be destroyed through the clearing of the land and the construction of the seawall, and then will be gravely depleted by only reestablishing a 25ft edge. The majority of mangrove trees within this area now are old growth red mangrove. It would take several years for the ecosystem to be reestablished and provide the ecological functions that it does now, if indeed they are able to grow at the site when replanted. The applicant should be aware that mangroves can grow only in a limited depth of water. The width of mangroves established will therefore be restricted by existing water depths and there is no guarantee that what is replanted will grow to maturity to fully replace what is being removed. Due to these uncertainties, the DoE recommends that a CPA decision regarding the proposed development is not based on the assumption that mangroves will be established beyond the existing property line as replanting is not considered adequate compensation for loss of habitat and ecological functions provided by the existing buffer. This parcel is currently owned by the Crown and is only leased to the applicant. Therefore and decisions regarding this parcel should be made with the



interests of the Cayman population in mind rather than the intentions of a single private developer.

3. While Hurricane Ivan impacts are evident within the Mangrove Buffer so is mangrove recovery (see Figure 3, and Figure 4). Some of the mangrove vegetation on the site was relatively undisturbed by the storm and consequently represents continued environmental value as refuges and habitat for local flora and fauna. Existing mangrove trees at the site that are dead still serve an important biological and physical function. The in situ 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 and branches provide areas for roosting birds. Dead but in situ coastal mangroves are still important for dissipating wave action and can nevertheless serve as storm protection for coastal infrastructure. Given time, storm damaged mangrove forests have been shown to recover.
4. The applicant has noted that they wish to revet the boundary between the land and the North Sound with boulders. All illustrations of this shown, however, are of canal developments. Rock revetments are commonly used in canal developments to stabilize canal edges, not offer storm protection. The replacement of the mangrove vegetation with a reveted seawall would not provide protection from flooding from storm surge or wind damage associated with storms.

The applicant has noted that the clearing of the mangroves will result in removal of "potentially harmful pollutants". A site visit conducted by the DoE on December 11, 2009 identified "potentially harmful pollutants" within the mangrove vegetation, but which had come from the encroaching development. Construction debris and empty drums were seen scattered amongst the vegetation (see Figure 5). It was noted, however, that this debris could easily be removed by hand and would not require clearing the land.

6. The Department notes that site drawings from previous applications for works at the site have depicted the site absent of the Mangrove Buffer and development up to the North Sound with only a thin area of vegetation between buildings and the water. Therefore, one could conclude that it has been the intention all along of the developer to remove the Buffer and expand the development. It would be unfortunate if, by using the reasoning of "exceptional circumstances" that they should destroy the value of property they are currently only leasing from the country in order to gain in the short term.

In addition

1. The applicant has noted that they wish to replant mangrove within the North Sound. The DoE commends this effort by the applicant; however if these planting works would be occurring on crown-owned seabed, a Coastal Works Licence must be granted by Cabinet.
2. The Department would support the removal of debris within the Mangrove Buffer, but not by mechanical means.
3. The Department would support any replanting of mangroves to the existing Buffer, mainly in the north east section of the property (see Figure 3).

Please do not hesitate to contact the Department should you have questions.

**Joni L. Kirkconnell**  
**Senior Sustainable**  
**Development Officer For**  
**Director of Environment**



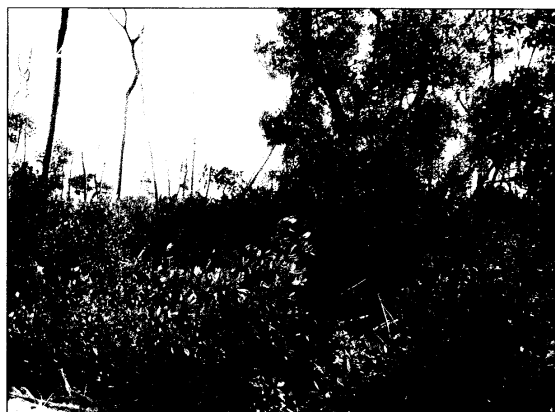
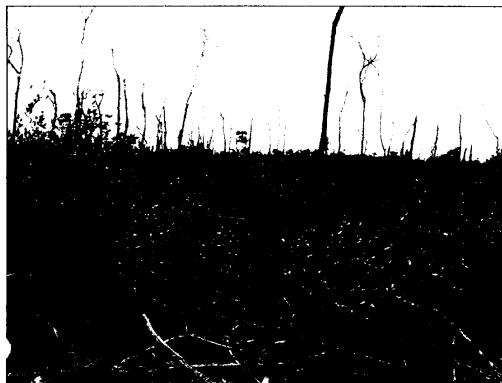
**Figure 1.** 2004 aeriels show the Mangrove Buffer already encroached by the development. This invasion into the Buffer reduces the effectiveness for storm protection.



**Figure 2.** 2008 aerial photographs showing Mangrove Buffer (light green) and area of encroachment by the development (yellow). The development has encroached nearly 5 acres of the Mangrove Buffer.



**Figure 3.** 2008 aerial photographs showing the recovery of the mangrove vegetation. The small area to the north east of the property would benefit from mangrove replanting, but not removal of dead structures.



**Figure 4 (A, B, C).** Although some vegetation was damaged by Hurricane Ivan, an apparent recover of the site is taking place.