

# Central Planning Authority

**Minutes** for a meeting of the Central Planning Authority held on December 8, 2010 at 1:00 p.m. in the Conference Room, 1<sup>st</sup> Floor, Regatta Office Park – Leeward One.

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

**CPA/28/10**

**Mr. A. L. Thompson (Chairman) (except 2.2, 2.4)**  
**Mr. Steve McLaughlin (Deputy Chairman) (Acting Chairman 2.2, 2.4)**  
**Mr. Peterkin Berry**  
**Mr. Peter Campbell (absent)**  
**Mr. Dave Christian**  
**Mr. Ernie Hurlstone (absent)**  
**Mr. Ray Hydes**  
**Mr. Gillard McLaughlin**  
**Mr. Rex Miller**  
**Mr. Allan Myles (apologies)**  
**Mr. Eldon Rankin**  
**Mr. Helbert Rodriguez**  
**Mr. Antonio Smith (apologies)**  
**Mr. Haroon Pandohie (Executive Secretary)**  
**Mr. Ron Sanderson (Assistant Director of Planning (CP))**

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

**List of Applications Presented at CPA/28/10**

1. 1	<b>Confirmation of Minutes</b> of CPA/27/10 held on November 24, 2010. ....	4
2. 1	<b>WHITEROCK INVESTMENTS</b> Block 38E Parcel 17 Rem 4 (F07-0124) (P10-0809) (\$1.5 million) (BES) .....	5
2. 2	<b>RHINO REBAR</b> Block 13D Parcel 349 (F10-0167) (P10-0710) (\$488) (DE) .	44
2. 3	<b>CLEVELAND N. HENRY</b> Block 13D Parcel 385 (F10-0309) (P10-1010) (\$50,000) (CS) .....	46
2. 4	<b>A.L. THOMPSON</b> Block 28D Parcel 319 (F06-0412) (P10-0941) (\$400,000) (BES) .....	48
2. 5	<b>MICHAEL &amp; SARAH HASSALL</b> Block 20B Parcel 26 (F10-0263) (P10-0930) (\$227,160) (KA) .....	53
2. 6	<b>DOUBLE T INV</b> Block 38B Parcel 172 (F99-0112) (P10-0931) (\$4,000) (KA) .....	58
2. 7	<b>DMS BUILDING</b> Block OPY Parcel 42 (FA86-0094) (P10-0937) (\$150,000) (KA) .....	60
2. 8	<b>SANDRA DE ZEN</b> Block 4C Parcel 424 (F96-0157) (P10-1000) (KA) .....	61
2. 9	<b>KURT SCOTT</b> Block 43A Parcel 346 (F10-0244) (P10-0893) (CS) .....	63
2. 10	<b>ROHAN SMALL</b> Block 17A Parcel 126 (F10-0304) (P10-0991) (\$3,250,000) (BES) .....	65
2. 11	<b>EDWINA WILLIAMS</b> Block 28C Parcel 409 (F05-0030) (P10-1014) (EJ) ....	67
2. 12	<b>MINISTRY OF ETEYS &amp; C</b> Block 28D Parcel 271 (FB81-0051) (P10-0908) (\$2,527,600) (BES) .....	69
2. 13	<b>LEONIE WILLIAMS-BROWN</b> Block 20B Parcel 370 (F06-0004) (P10-0899) (\$10,000) (KA) .....	73
2. 14	<b>ROLAND’S GARDEN</b> Block 12E Parcel 60 Rem 3 (F02-0199) (P10-1077) (KA) .....	76
2. 15	<b>IHC PROPERTIES LTD.</b> Block OPY Parcel 49 (FA81-0212) (P10-1006) (\$15,927.8) (CS) .....	77
3. 1	<b>REINALDO TOMAS GIRON &amp; IDA KARINA GIRON</b> Block 4C Parcel 456 (CE09-0149) (CE) .....	79
3. 2	<b>MARTIN &amp; BRENDA RILEY</b> Block 15C Parcel 73 (CE07-0281) (CE) .....	79
3. 3	<b>LETICIA HERNANDEZ</b> Block 32C Parcel 84 (CE07-0140) (CE) .....	80
3. 4	<b>KERMIT JAMES</b> Block 24E Parcel 565 (CE07-0026) (CE) .....	81
3. 5	<b>MAVIS ANN HYDES</b> Block 43E Parcel 81 (CE10-0025) (CM) .....	81
3. 6	<b>CGH PROPERTIES LIMITED</b> Block 22E Block 423 .....	82

3. 7	<b>TALMADGE &amp; LOUIS EBANKS</b> Block 14C Block 230 (CE10-0118) .....	82
3. 8	<b>SWEETBREAD LTD.</b> Block 14C Block 307 (CE10-0115) .....	83
3. 9	<b>ATLANTIC CENTRE HOLDINGS LIMITED</b> Block 14BG Block 108 (CE10-0124) (CE) .....	84
3. 10	<b>ATLANTIC CENTRE HOLDINGS LIMITED</b> Block 13EH Block 178 (CE10-0121) .....	84
3. 11	<b>SONGWOOD LTD.</b> Block 13EH Block 191 (CE10-0122) .....	85
3. 12	<b>CABLE &amp; WIRELESS (CAYMAN ISLANDS) LIMITED</b> Block 14CF Block 211 (CE10-0123) (CE) .....	85
6. 1	<b>MORRIS MCLAUGHLIN</b> Block 72C Parcel 137 (F96-0006) (P10-1021) (KA) .....	86
6. 2	<b>YACHT CLUB – MAINTENANCE OF LAND NOTICE</b> .....	86
6. 3	<b>NATIONAL YOUTH COMMISSION</b> .....	86
6. 4	<b>LP AND FUEL TANKS/GENERATORS</b> .....	87
6. 5	<b>NATIONAL RECOVERY FUND</b> Block 14CJ Parcel 79 (DE) .....	87
7. 1	<b>CPA MEETINGS</b> .....	87
7. 2	<b>ENFORCEMENT</b> ..... <b>Error! Bookmark not defined.</b>	

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

<b>APPLICANT NAME</b>	<b>TIME</b>	<b>ITEM</b>	<b>PAGE</b>
Rhino Rebar (DE)	1:30	2.2	44

**1.0 CONFIRMATION OF MINUTES**

**1.1 Confirmation of Minutes of CPA/27/10 held on November 24, 2010.**

Moved: Peterkin Berry

Seconded: Rex Miller

**Confirmed**

## 2.0 APPLICATIONS

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

#### 2. 1 WHITEROCK INVESTMENTS Block 38E Parcel 17 Rem 4 (F07-0124) (P10-0809) (\$1.5 million) (BES)

Application to modify planning permission to excavate 295,000 cubic yards to a depth of 10' below MSL, land works and removal of fill.

**An appearance was scheduled for 1:30, but the applicant requested that the application not be considered.**

#### FACTS

<i>Location</i>	Mahogany Estates Subdivision off Beach Bay Road
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	Objectors
<i>Advertisements</i>	Advertising Complete
<i>Parcel Size</i>	44 acres

#### BACKGROUND

**May 7, 1997 (CPA/15/97; Item 4.02)** - The CPA granted planning permission for fill removal, in strict accordance with the site plan.

**January 26, 2000 (CPA/04/00; Item 3.01)** - CPA refused an application for levelling, clearing and stock-piling fill on Block 38E Parcels 17 Rem 4 and 151, for the following reason:

1. The subject lands are zoned residential. As such, the Authority was of the opinion that the use would be a nuisance and annoyance to others, contrary to Regulation 8(5) of the Development and Planning Regulations.

**May 30, 2000** - The Planning Appeals Tribunal dismissed an appeal regarding an application for levelling, clearing and stock-piling fill on Block 38E Parcels 17 Rem 4 and 151.

**October 3, 2007 (CPA/28/07; Item 6.1)** - The CPA had withdrawn an enforcement notice and stop notice that were authorized to be issued on October 25, 2006 (CPA/33/06; Item 3.4) as they pertain to a breach of planning conditions.

October 3, 2007 (CPA/28/07; Item 6.1) - The Authority resolved to:

**Decision #1:** It was resolved to withdraw the enforcement and stop notices that were authorized to be issued on October 25, 2006 at CPA/33/06; item 3.4 as they pertain to a breach of planning conditions by Lorenzo Berry on Block 38E Parcel 17 Rem 4.

**Decision #2:** It was resolved to authorise the issuance of an Enforcement Notice and Stop Notice in accordance with Sections 8 and 23 of the Development and Planning Law (2005 Revisions) for the breach of a planning condition.

Enforcement Notice to take effect, subject to the provisions of Section 18(5) and (6) of the law, at the end of the period of 28 days from the date of service and compliance with the Enforcement Notice to be completed within the period of 14 days from the date when the Notice takes effect. The Stop Notice is to take effect immediately after the date of signature, subject to provisions of Section 23(1) (a) and (b).

**October 1, 2008 (CPA/32/08; Item 2.1)** - The Authority refused the application for the following reasons:

1. Regulation 9(4) of the Development and Planning Regulations (2006 Revision) states that any other variation from the primary use in a residential zone shall only be granted after an applicant has complied with specific procedural requirements. However, the Authority must also refer to Regulation 9(5) which states that no use of land in a residential zone shall be dangerous, obnoxious, toxic or cause offensive odours or conditions or otherwise create a nuisance or annoyance to others. In this instance, the applicant may have complied with the Regulation 9(4) requirements, but the proposed excavation will involve blasting or jack hammering as well as heavy equipment and trucks entering and leaving the site. These activities would cause noise and create a nuisance and annoyance to the residents of the area which is contrary to Regulation 9(5) and Section 3.01 of The Development Plan (1997) ('the Plan'). These activities will also negatively affect the quality of life of the residents in the surrounding area which is contrary to sections 1.2 and 1.3(a) of the Plan.
2. Notwithstanding that other uses may be permissible in a residential zone, planning permission has already been granted for a residential subdivision on the subject land and this approval remains valid and is consistent with the primary intent of a residential zone. Regulation 9(1) of the Development and Planning Regulations (2006 Revision) states that the primary uses in a residential zone are residential and horticultural. The proposed excavation and its associated activities are not suitable uses for this residentially zoned land and the remainder of the subdivision.
3. Planning permission has already been granted and remains valid for the levelling of the subdivision roads and the Authority is of the view that the proposed excavation is not necessary in order to effect the completion of the approved residential subdivision.

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

#### **AGENCY COMMENTS**

Comments from the Department of Environment are noted below.

## **Department of Environment**

### **Memo dated Oct. 14, 2010**

*"Further to review of the above-noted application (dated 22nd Sept. 2010, received by DoE 27th Sept 2010), the Department of Environment Technical Review Committee (DoE) provides the following comments for consideration. With reference to the previous iterations of this application, DoE regards that (with the exception of minor changes to the extent of quarrying), the current application bears no substantial difference to the previous proposal "Proposed excavation (250,000 cubic yards) on Block 38E Parcel 17 REM 4". To these ends, the previous comments of DoE (7th MAR 2007) stand (copy attached for your reference).*

*With reference to these original comments:*

- 1. DoE regards that this application constitutes an application for a "quarry" (as defined in the 2004 CPA Aggregate Policy). Previous iterations of this application have estimated excavated material to constitute some 250,000 cubic yards, however, it would appear that this estimate has not been recalculated / provided following the exclusion of some subdivisions in the latest iteration. DoE is of the understanding that the Aggregate Advisory Committee has commented (18th August 2010) that the current (April 2010) Aggregate Reserve Quantity is 12.5 million cubic yards, some 7.5 million cubic yards above the threshold for permitting new quarries. As such, a moratorium on new quarry applications is currently in place, with long-standing applications for future licenses pending prior to this new application.*
- 2. The proposal affects two areas of established environmental interest. These areas were previously recommended for inclusion in the Special Planning Area SPA overlay by the Environment & CZM SIC (see Report on Proposed Amendments to the Development Plan 1997, Environment and Coastal Zone Management, 18th April 2002). DoE does not regard quarrying as an environmentally sustainable development of the site, as this type of activity permanently removes the attributes of the site which contribute to its environmental sensitivity, including primary vegetation and natural physical relief. Comparative subdivisions in the immediate vicinity have maintained the natural grade of the land, enabling owners to undertake footprint developments and maintain a significant portion of the natural vegetation pre-existing on their lots.*
- 3. Cayman is a low-lying island with well-established vulnerability to storm water inundation in coastal areas. Given the predicted exacerbation of currently experienced impacts associated with Climate Change for low-lying islands, it would seem to be a bad long-term plan to deliberately lower some of the highest elevation coastal land which the country is fortunate enough to retain. Good planning would dictate that every effort be made to maintain this high ground feature, and its associated benefits. The fact that the proposed area for excavation appears to extend to, and breach, the Bluff is an*

*additional cause for concern. The loss of this natural protective feature will impact flood defenses of both proposed and pre-existing lots in the neighborhood. Assessment of elevation images indicate that excavations on site have, in places, already extended to within 3-4 feet of sea level, (see attached elevation image).*

- 4. Regarding the accompanying submission from Whiterock Investments LTD (16th Sept 2010), the DoE does not regard that the steps outlined by the developer of the site in any way mitigate for the environmental damage resulting from the proposal. The numerous offers from the developer to relocate native trees and also to provide trees to the Native Tree Nursery have been made without any discussion with the Native Tree Nursery. If this had been the case, the developer would have known that the uprooting and translocation of mature trees growing in rock is impractical at best. Additionally, the Native Tree Nursery does not have the capacity to receive, maintain or translocate large trees.*

*In summary, DoE does not regard that the proposal is viable on environmental grounds, and recommends that the CPA defer consideration of this application, at least until such time as the moratorium for new quarry applications has been lifted."*

**Memo dated March 7, 2007**

*"Further to review of the above-noted application, the Department of Environment provides the following comments for consideration.*

- 1) The proposed area falls within two areas of established environmental interest. These areas were previously recommended for inclusion in the Special Planning Area SPA overlay by the Environment & CZM SIC (see Report on Proposed Amendments to the Development Plan 1997, Environment and Coastal Zone Management, 18th April 2002). The western portion incorporates a large area of primary woodland. The southern extent includes an area highlighted as Tropicbird habitat.*

- The goal of the SPA was to achieve the necessary balance between development and the environment by encouraging environmentally sustainable development.*
- The SPA designation would allow landowners to utilize some of the alternative development tools that were proposed in the Wetlands Committee report. Some of the alternative development standards may include:*
  - decreased road width requirements*
  - use of porous road surfaces instead of hard surfaces*
  - use of alternative construction techniques (e.g. pilings, etc.)*
  - minimal site clearing and filling*
  - environmentally sensitive design, such as clustering*

- *DoE would not regard quarrying as an environmentally sustainable development of the site as this type of activity permanently removes all of the attributes of the site that contribute to its environmental sensitivity (the presence of primary vegetation and physical relief). However, if the CPA were to grant permission for such an application, the DoE would strongly recommend that various licensing conditions (as per the CPA Aggregate Policy) be imposed in order that environmental impacts of the activity might be reduced. These conditions would include:*
    - *operational plan, including phased implementation of the development*
    - *restriction of clearing of parcels until development is imminent*
    - *provision of a buffer of existing vegetation around the development*
    - *suitable closure plan*
    - *DoE's environmental review cannot be complete without additional information about the site's physical and biological characteristics, and the timely provision of a complete and finalized proposal for the site. Given the environmental sensitivity of the area, and the incomplete nature of the information provided to date, DoE would recommend that the existing enforcement issues on site be resolved, and that a site assessment be undertaken to determine extent of works to date and potential environmental impact of the finalized proposal.*
- 2) *DoE recommends that a stormwater management plan be prepared for approval. Given the unusual layout of the site, with the majority of the proposed plots and associated infrastructure apparently sloping downwards into a central bowl extending some 15 feet below the level of the surrounding landscape, this plan should address the potential for ingress of water into the site from the surrounding area, and the possibility of flooding and pooling of water in the newly created low-lying areas.*
- *The compatibility of this design concept with respect to immediately adjacent parcels, which exist at or near the natural grade of the land, should also be considered.*
  - *Excavation works appear to be proposed in the vicinity of pre-existing residences. DoE is minded that appropriate polling of residents within the prescribed radius of development, regarding the nature and scale of works, might be required before such activities are considered, in order that residents who might be affected by the proposed development be afforded reasonable and fully-informed opportunity to comment on the proposal.*
- 3) *If the excavated material (250,000 cubic yards) described in the proposal is intended to leave the site, DoE would regard that this application constitutes*

*an application for a “quarry” (as defined in the 2004 CPA Aggregate Policy).*

- *DoE is of the understanding that excavated material has already left the site. DoE would urge that immediate steps be taken to have further quarrying works completely stopped on the site until this application has been determined. The DoE is aware of the cumbersome enforcement procedures and inadequate penalty provisions of the Development and Planning Law and strongly recommends that immediate steps be taken to amend the relevant sections of the legislation.*
  - *DoE understands that, in accordance with the CPA’s Aggregate Policy, a moratorium on new quarry applications is currently in place, with long-standing applications for future licenses currently pending. With deference to this process, it might be regarded as only reasonable that proposals which constitute new quarry applications be considered in the context of other long-standing quarry applications, in order that those applicants who comply with existing policies and procedures are not penalized for following due process.*
- 4) *In summary, DoE recommends that the CPA defer consideration of this application pending comment from the Aggregate Advisory Committee, and until such time as the moratorium for new quarries has been lifted. DoE also recommends that the existing enforcement issues on site be resolved prior to a site assessment and further consideration of this application."*

#### **Water Authority**

*"Based on review of the information submitted, it appears that this plan is similar to the proposals reviewed by the Water Authority in February 2007 and August 2010. This development will produce excess fill material that will be used outside of the property on which the fill is generated. As such the Planning Department and the developer are advised that quarries of this nature are subject to review by the Aggregate Advisory Committee (AAC), of which the Water Authority is a member.*

#### **Regarding proposed excavation:**

*The Water Authority's comments are based on our interpretation that the entire area hatched on the site plan including Block 38E Parcels 152, 153, 154 and 155 will be excavated. This raises two concerns.1*

1. *The Water Authority has an existing water main in the road along the western boundary of Block 38E Parcel 157. The road in which this main is located should not be excavated, and excavation of areas close to the water main should be carried out in such a manner that the main will not be damaged. If damage to the water main as a result of excavation occurs, the developer will be held liable for this damage.*
2. *Based on cross section 3, it appears that the property will be excavated to its southern boundary with the sea from its existing natural gradient to +11 ft above sealevel. The proposed excavation may result in the entire excavated*

*area becoming vulnerable to storm surges during hurricanes, resulting in salt water intrusion into the property. In order to address this issue, the application needs to be supplemented by a stormwater management plan that satisfactory addresses potential impact from storm surges or an alternative design that avoids effects of storm surges.*

*Should the CPA grant permission for this proposal, the developer will be required to obtain a quarry permit from the Water Authority. This is in accordance with Section 34 (1) of Water Authority Law (1996 revision), which requires that anyone who undertakes the construction, replacement or alteration of a quarry is required to obtain a permit from the Authority, subject to such terms and conditions as the Authority deems fit. A quarry permit will be considered upon receipt of a completed quarry 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 quarry Permit fee as set out in Schedule 2 of Water Authority Regulations (\$0.02 per square metre).*
- 6. Proof of third party liability insurance, if blasting will be carried out for this excavation.*

***Regarding water supply infrastructure:***

*Although the proposal seeks Planning Permission for fill removal only and does not address a closure plan, Planning and the developer are reminded that, should the developer decide to use a subdivision as closure plan, he will be responsible to install water supply infrastructure for the proposed subdivision. Specific Water Authority conditions for water supply of the subdivision are:*

- 1. 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.*
- 2. The developer is required to provide the water-supply infrastructure, specified by the Authority, within the site.*
- 3. The developer shall submit plans for the installation of the specified infrastructure to the Authority for approval.*
- 4. 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.*

5. *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 September 22nd, 2010 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

*On Friday October 8th, 2010 an e-mail was sent to the applicant's agent asking for some clarification on the site plan, please see attached e-mail.*

*To this date we have not received a response."*

### **LETTER FROM APPLICANT**

#### **Applicant's Structural Survey Dated March 18, 2008**

In an effort to address some of the objectors' concern in respect of blasting in the area, the applicant has submitted a structural survey of properties at the above mentioned subdivision. A summary and conclusion of the report is noted below.

*"The report can be summarised and conclusion from the report and structural surveys:*

*7.1. The developers of Mahogany Estate have been conducting blasting activities in the Beach Bay area for the past few years, which has resulted in complaints from the residents regarding structural damages (i.e. cracking) to their properties. The government has requested that a series of structural surveys be undertaken.*

*7.2. The objective of a blasting operation is to shatter material so that it may be removed. Rules and regulations limit vibrations from blasting to protect neighbouring property to a blast site. Users of explosives are among the best self-regulated industries, often consulting with seismologists when they exceed 25% of their allowed vibration limit. Many states limit quarries to 2.0 in. per second (in./sec) peak particle velocity (PPV) at the nearest non-owned structure.*

*7.3. The majority of complaints from blasting operations are not due to ground vibrations but due to structural response. Frequency is the most important of the three factors of ground vibration. When a house is exposed to ground vibrations near its fundamental frequency, the house magnifies the vibrations. Ground vibrations at the fundamental frequency of a house all residential structures have a fundamental frequency between 4 and 16 hertz.*

*7.4. Damage is actually caused by strain, the stretching of building components. When the ground around a structure begins to vibrate, the structure also begins to vibrate, although not immediately. Inertia causes the top of the house to*

*lag behind the foundation somewhat. This lag causes the house to stretch, or strain. If the strain is too great, cracks form.*

*7.5. It is common practice in blasting to use not a single charge but a series of charges distributed through the batch of material to be removed. It is also useful to arrange that the charges are fired not simultaneously but at intervals of a few milli-seconds. This technique provides better results in terms of the blasting operation by improving the fragmentation of the material and leaving a better-defined rock face. It also results in greatly reduced vibration levels for a given total weight of explosive, because the individual delays spread the energy over a longer time.*

*7.6. There is rarely a clear distinction between damage from blasting and damage from other causes. Prior inspections are strongly recommended whenever there is a chance that blasting vibrations will approach the damage threshold.*

*7.7. It is recommended that for any future blasting operations monitoring of the blasting is undertaken by an experienced firm using seismograph or similar equipment;*

*7.8. A local blasting firm who undertook the initial blasting at the site were visited to evaluate if the blasting practices undertaken were to common rules and regulations of the blasting industry. The local firm were experienced blasters who took great pride in their work. An upper limit 2.0 in. per second (in. /sec) peak particle velocity (PPV) or less was always strictly adhered to. Multiple-Delay Blasting was a common practice used;*

*7.9. In order to assess if damage had been caused by the blasting operations, it was concluded that a structural survey should be undertaken of the properties in the vicinity of the blasting operations;*

*7.10. SEL Consulting contacted the 29 properties by means of a hand delivered letter with a questionnaire that was requested that this be filled in and returned in a prepaid stamped envelope. A follow up letter and the questionnaire was sent out 14 day later. Out of the 29 properties only 6 returned the questionnaire and requested that a survey was undertaken on there property.*

*7.11. The survey was undertaken both internally and externally and was of the walls and floors. The majority of structures surveyed were constructed from masonry with spread footing foundations. Only minor cracking to the walls and floors was noted.*

*7.12. All exterior structural masonry walls should be reinforced with reinforcement both horizontally and vertically and shall be solidly filled with concrete grout. It was not possible to verify if the above construction method has been undertaken with extensive investigations. If the construction has not been built to current building codes the structure will not perform as intended and will become overstressed. This does not mean that structural failure will occur but cracking will occur which will result in serviceability issues and hence future maintenance problems. Masonry walls are subject to cracking for many reasons such as settlement, temperature or shrinkage induced changes.*

7.13. *When blasting operations are undertaken in a settled area, the occupants of the surrounding buildings often become aware of the accompanying ground vibrations. They notice for the first time certain cracks in their walls and foundations, and inevitably infer that the cracks were caused by the blasting. Usually they are mistaken, misled by the fact that the threshold of human perception of vibration is far below the threshold of structural damage; the cracks produced perhaps by settlement or shrinkage of materials have been there unnoticed for years.*

7.14. *During blasting ground and air-blast vibrations cannot be confined to the site. They are invasive to local residence. They come mysteriously, without warning, and they trespass on your local residence' property and in their homes. It is recommended that the developer consults with the residence in future and undertakes a series of meetings to ease the fears of the local people.*

7.15. *In conclusion it is felt that any cracking to the buildings noted is due to settlement, temperature changes or shrinkage of materials. This is common in all structures of this age. The blast site is remote from the properties and the blasting operations were undertaken to common rules and regulations of the blasting industry. An upper limit 2.0 in. per second (in. /sec) peak particle velocity (PPV) or less was always strictly adhered to and Multiple-Delay Blasting was used."*

In addition, the applicant has submitted an independent review of the structural survey dated May 14, 2008 as follows:

*"As requested, please find herewith an independent review of the report "Structural Survey of Various Properties at Mahogany Estates, Lower Valley" prepared on 18 March 2008 by Mr. Rob Mouzas, M.Eng, CEng, MICE, of SEL Consulting. I found the report prepared by Mr. Mouzas to be informative, well researched and technically sound.*

*The evidence contained within the document suggests that blasting is not the main cause of the specified building damage. In agreement with Mr. Mouzas, it is also my professional opinion that the types of damages outlined in this report are typical to many houses in Cayman due to settlement of the soil, shrinkage of materials, and building to the minimum standards of the building code.*

*The primary damage is that of minor hairline cracks to the walls and floors. These cracks, although unpleasing to the eye, are of no threat to the structural integrity of the buildings. The highlighted buildings are considered safe, and from the report, there is no sign of potential structural failure.*

*It is highly recommended that should future blasting occur in this area, a comprehensive site survey similar to the one prepared by SEL Consulting be conducted before the blasting commences, followed by a survey immediately after the completion of the entire blasting operation. The purpose of the series of surveys is to provide a clear distinction between damage caused by the blasting and other sources of damage."*

## **OBJECTIONS**

### **Letter #1**

*"I am in receipt of a Notice of Application for Planning Approval purporting to be sent on 3rd September 2010, signed on 8th September (but postmarked as sent on the 27 September 2010) to me, the owner of Block 38E parcel 176, for planning permission for the purpose of "LAND WORKS AND REMOVAL OF FILL" on Block 38E Parcel 17REM4 within the Bodden Town section, and I am writing to object to the application from WhiteRock Investments Ltd of P.O. Box 420 BT Grand Cayman KY1-1602, Cayman Islands.*

*I am a young single Caymanian female parent and struggled to pay rent and make payments for over 10 years on my land in Mahogany Estate, a low density residential area. After paying off for the land, I built my house and it was my intention to make this my first and last home. However, it is very likely that my home will be damaged from the blasting if WhiteRock is allowed to "quarry" rock (fill) from the development.*

*I have taken my time to improve my house and yard to make it something I could be proud of and enjoy to the fullest. Now I stand to lose everything I have put into this effort. I have had to spend a lot of money repairing cracks in my walls and if this quarrying is allowed, I will probably have to spend more. The development handled hurricane Ivan well and is considered to be one of the safest areas from flooding because of the protective bluff. If this application is considered, will we have to suffer the flooding that other communities and developments have suffered?*

*The original developers of Mahogany Estate are believed to be one and the same as the principals of WhiteRock Investments Ltd and they have proven to abuse and blatantly disregard the scope of a previously approved application to make roads in Phase 2 of the development and remove up to 4 feet of fill. The developer has dug a crater, approximately some 18 feet deep and refused to stop even after being issued a stop order by The Planning Department. What makes one believe that they will not abuse and ignore the scope of this new planning application? The current application is applying to dig down some 6 feet and if the past behaviour is an indication of what will happen here, we can expect to have a crater approximately 27 feet deep.*

*I do not believe for one minute that it is the applicant's intention of enhancing the development. If this was the case, they would have ensured that the existing development was kept up to a high quality standard, when they were in charge. The roads are atrocious with the numerous potholes and dips and the bush has claimed parts of the road that in some places make it impossible for two cars to pass each other. They have indicated that they will need to blast in order to make their project cost effective.*

*There were occasions that my sister who lives with me and has Multiple Sclerosis and is permanently in a wheelchair has been frightened out of her bed with the shaking and explosions from the effects of the blasting. My elderly grandmother,*

*who is bedridden, has also been frightened out of her wits from the explosions and shaking associated from the past blasting.*

*This application, as were previous ones, is in direct conflict with the interests of the people who bought land and built homes in this development and its proximity and will prove to deter potential residents to an area that is designated "low density residential", peaceful, tranquil and offers a certain degree of safety from flooding. I believe that if this application is approved, a precedent will be set to allow others to create 'quarries" in residential areas and destroy the monetary value of our properties.*

*I am therefore asking that this application be refused."*

#### Letter #2

*"I am the owner of a lot on Berry Drive (Parcel 108) and have recently received notice of the above application, to remove fill. I also sometimes reside on Kingschase Dr (also within the development) and therefore have a day to day knowledge of the happenings of the development.*

*I am sure you are familiar with a similar application in 2008 to which I (along with many others) objected. The application was refused by the Central Planning Authority in October 2008.*

*I am surprised that two years later the Applicant has the tenacity to make the application again especially since it (or its owner/s) has made no effort to restore the area of the huge hole the developer previously made and has also made no effort to repair the current road system within the development which the Government has refused to take over because of its poor condition. It seems to me that the Applicant is making a mockery of the law and of your department.*

*It appears to me that the owner/s of the Applicant company discovered during the early development of the area that it was more profitable to sell fill rather than to responsibly develop the area. I am not opposed to the responsible development of the area but am opposed to being forced to live in a quarry zone which the Applicant appears to think it should become.*

*Just a few years ago there was a constant stream of trucks for months coming in empty and leaving filled with what was being quarried causing the place to be dusty and the roads to be torn up (which the NRA was eventually prevailed upon to patch up, in spite of their not belonging to Government). Truckers even spent nights in their trucks within the development. The noise of the blasting was disruptive and painful to me and the attitude of the developer to persons who complained was frightening and threatening and I personally was affected (though the threats were not made directly to me) as I was afraid to walk on the roads within the development as it had been madeit clear to several persons his view that they were his roads and anyone walking on them was trespassing.*

*Gentlemen, the Applicant company may insist that it is now attempting to develop responsibly. However it is my opinion that the Applicant (or its owner/s) is not in a position to even attempt to make that argument until the land previously quarried has been restored and made good. Then and only then might the*

*Applicant be (in my humble opinion) in a position to engage with the community and the environmental agencies about responsible development (assuming the Applicant has the legal authority to so do as I don't think it owns the land in question).*

*In case this letter is read to or copied to the Applicant, I would like to appeal to its owner/s that a premium price for the lots yet unsold in the development could be achieved (since money making is obviously important to the Applicant) by selling lots of the original high ground with the original trees on them. There are an increasingly number of Caymanians, non-Caymanians, residents and persons overseas who are becoming more and more sensitive to the environment around them and who would pay premium dollar to own property within an area not mined out and therefore filled with indigenous wildlife and not prone to flooding."*

### Letter #3

*First, I would like to copy to you parts of a letter I wrote to you, effectively on the same matter, in 1999, some eleven years ago.*

*I wrote then:*

*[It is apparent that work of this nature has long been going on on Parcel 17 REM 4, and from this it can be ascertained what the residents of Mahogany Estate would have to endure should the application be approved in its present form. Much of the original woodland was cleared by burning, a cause of discomfort and insecurity to several residents. Subsequently the hard limestone cap was dug out with a pneumatic chisel which makes a considerable sustained hammering noise. The area worked on has now in effect become a shallow quarry, parts of which have been dug in excess of five feet below surface. The worked area adjacent to Berry Drive [parts of which had already been sold and have been discovered did not belong with the property] is characterised by a sunken surface and piles of large rocks, and constitutes a serious scarring of the landscape of the estate. No attempt so far has been made to fill and landscape this section, and it is not easy to imagine how the economics of filling such an area might justify all the quarrying. It should be noted that 17 REM 4 is an area upon which a large portion of the house lots of the estate were to be created. If permission is given for the "levelling, clearing, filling and stockpiling" of the whole parcel, it cannot but hold up the development of the estate. It is apparent that this work is being done for a purpose that conflicts with the applicant's role as the developer of this part of Mahogany Estate and is inimical to the interests of those who have bought property or established residences in the vicinity.*

*Those lots that are immediately adjacent to the worked area now stand on land that is in places in excess of five feet above the worked area, which so far from being "levelled" has in fact been quarried. Certainly none of the adjacent properties to any part of Parcel 17 REM 4 were bought with the knowledge that one day they would be perched on the edge of a quarry. At least some were bought by owners who were told that the developer would*

*proceed to create the interconnection of house lots, roads and park spaces that the original design of the development advertised.*

*Mahogany Estate is situated in Grand Cayman's heritage of rocky woodland, a heritage that is under pressure from the need for housing, but one that needs and deserves a special effort to preserve as fully as possible. Within this rocky woodland are many of Cayman's indigenous plant species, and a rich environment for Cayman's birds and other species. In the view of this objector the established method of development by a wholesale clearing and filling of property is completely undesirable, both for individual lots and especially for large tracts of what should be treated as valuable parkland space. The parkland space in particular could be made scenically attractive with intelligent and selective clearing, and the creation of pathways. By this sort of means the environment would be reasonably preserved and the estate as a whole made very attractive and more valuable (and more saleable). A "development" that will leave huge scars and quarries dotted around the estate can only reduce the attractiveness and the value of the properties, as well as squandering the heritage of rocky woodland, covered in some areas with original forest, which we should be doing our best to preserve.*

*It should now be the task of the Planning Board to consider how best to ameliorate the effects of what has been allowed to happen in Parcel 17 REM 4 before giving any further permission for works there. In particular, there should be a requirement that the quarried section be landscaped to a fixed and stated standard, and that no more work be allowed to proceed over any property that is already designated for house lots or park space.*

*Stringent and closely monitored conditions should be set for any work in the future, which should be allowed only within boundaries that do not conflict with the interests of the present owners and residents or with the environmentally-sensitive development of Mahogany Estate; and for these activities in any such area, planning permission should be sought according to the Law. [I am given to understand that such Law in this context is not confined to the relevant Planning Law but includes the Law of the Land which may suspend and even override The Planning Law. See my later references to our Constitution and to the words of Lord Denning on the subject of Equitable Estoppel.]*

*As is well known, in spite of the continuing restrictions placed upon their operation by the CPA, the applicants proceeded to quarry in Parcel 17 REM 4 after hurricane Ivan, and have caused a quarry to be dug that is at least 18 feet deep, not only using the hammer but employing blasting, engaging in an operation to remove fill quite illegally, the contours of the quarry having nothing whatever to do with any projected estate roadways. This work was and is well-known by the CPA to be in breach of their directives, and a stop order was placed upon it, that was ignored for many months. What was done in 1999: what was done in the teeth of refusal in and around 2005-7: what was applied for in 2008 and denied: and what is now being applied for once more in 2010, all is in total and irreconcilable conflict with the interests of those who bought property and*

*established residences in the vicinity, and those who might become residents in the future. It is apparent that this work is being done for a purpose that conflicts with the applicant's role as the developer of Mahogany Estate and is inimical to the interests of those who have bought property or established homes in the area. These interests include, as they did from the beginning, the enjoyment of the peace, tranquility and environment of the area, and a valuable degree of safety from flooding, not to mention preserving the monetary value of our properties, all of which are in danger should the quarrying be permitted.*

*Sadly, at this time WhiteRock Investments Ltd (a company understood to belong to Lorenzo and Stafford Berry and perhaps others) has given notice of an application for the purpose of "land works, and removal of fill" on the same said Block 38E Parcel 17REM4. On enquiry at the Planning Department it was ascertained that the application was for the same works as before, involving the removal of over 250,000 cubic yards of fill. It becomes incumbent on objecting residents, therefore to go through the same process all over again as if nothing had been decided, and as if the CPA letter of refusal to the applicant on October 27, 2008 (and indeed previous refusals) never existed.*

*I have to say that this type of constant bullying of residents anywhere in the Islands is outrageous and ought not to be tolerated by any Government or Government Department. I do consider that the Planning Department should be given directions that only applications that are new should ever reach the CPA and not ones that are effectively those that have already been refused.*

*The result of the ability of persons to use a Government Department to apply unending pressure upon the peaceful homeowners of Pedro is an unjustifiable diminution of our enjoyment of life and causes a devaluation of our properties. This pressure is made possible by the assumption that persons might be permitted to commit illegal and damaging acts, an assumption in which the Department concerned effectively colludes with the miscreant, by causing us the peace-seeking homeowners the trouble to justify our objections, rather than the applicant to justify his (already refused) application, and indeed causing the CPA unnecessary work to do.*

*Furthermore I would like to point out that Section 9 of the Constitution on the right to Private and Family Life as well as other sections are, in my personal view, being infringed by the Planning Department, for the reasons I have stated, showing that our private and family life and our homes are not being respected. Although it can be argued that Section 9 and other sections are not in force until November 2012, I will also point out that Section 9 is based upon Article 8 of the European Convention on Human Rights, which is of course in force in the Cayman Islands.*

*Again it needs to be said that the CPA should be mindful not only of the Development and Planning Law and International Law, but also of the Common Law from which it seems clear that the Applicant is Equitably Estopped from proceeding with the present application. About Estoppel, Lord Denning has been quoted thus: "Estoppel is ... a principle of justice and equity. It comes to this,*

*when a man by his words and conduct has led another to believe in a particular state of affairs, he will not be allowed to go back on it when it would be unjust or inequitable for him to do so."*

*The current application is a clear example of where a man is seeking again to go back on what he had led the Purchasers of his land to believe would be the conditions in which they would enjoy their respective purchases of his land.*

*Not only should the current application be denied in toto but in accordance with the principles of Estoppel it should be ordered that no such application either by or for the applicant with reference to the property in issue should be allowed to reach the point of being formally heard in the future.*

*I write therefore with the hope that not only will this particular application be refused, but that appropriate directions will be given that will prevent any more re-applications of a similar sort.*

*In addition to the foregoing objections, there follow some further points that have recently come to light.*

- 1) The application with its gradations of height conflicts with the survey of the residential subdivision that has already been approved. Work of this nature should not be allowed to proceed over any property that is already designated for house lots or park space. It was never intended that house lots should be formed an average of 17 feet lower than the natural surface of the land. Whoever would prefer their lots to be excavated?*
- 2) The application Notice includes within what purports to be Parcel 17 REM 4 seven parcels belonging to various other owners, two of whom have developed their properties, and one other of whom has for years been prevented from accessing his property.*
- 3) The application appears to ignore the fact that there is an Inhibition ordered by the Grand Court upon Parcel 17 REM 4."*

#### Letter #4

*"We refer to the Notice of Application for Planning Approval signed 27 July 2010 (collected by Registered Mail on 1 August 2010) in connection with the above Block and Parcel Number. I enclose a copy of the Notice for ease of reference.*

*We are the owners of Block 38E, Parcel 106 and OBJECT to WhiteRock Investments Ltd being granted planning permission for the purpose of LAND WORKS, AND REMOVAL OF FILL on Block 38E Parcel 17REM4 and we believe that the land is to be used for a commercial purposes such as quarrying and we object for the following reasons:*

- 1. Our family's safety is our number one priority. The blasting of rock caused by quarrying is considered by us and the rest of the community as a dangerous hazard. We have a 3-year-old son who enjoys playing in our garden and as I am sure you can understand, as God fearing parents we would not like him to come to any harm being so close to this location. The dangerous blasting of rocks, noise pollution such as drilling and the constant worry to us that our*

*son or another child may be hit by a large truck carrying heavy rock from the quarry down our road is of great concern. We consider Berry Drive to be a road where our children can play safely as this is a residential area not for commercial use.*

- 2. The harm the quarry would do to the existing wildlife and trees in the area, which include Parrots, rare birds, Agoutis, Bats, Silver Thatch trees, Banana Orchid trees, etc. and to the natural habit which is quiet and tranquil.*
- 3. The blasting could cause structural damage to our property and valuables especially to the foundation of the house causing cracks in the walls and other areas.*
- 4. We recently purchased our house in December 2009 and had we known that this residential area was going to be used for commercial use we would never have purchased the property. We were not advised by any Government agency that the land in our vicinity would be used for commercial use from our Land Registry search conducted by our attorneys. The area is zoned for residential use not commercial use.*
- 5. The value of our property and other surrounding properties in the Beach Bay area would decrease due to the commercial use of a working quarry along our road causing noise disruption to a peaceful area and the likelihood of selling our property in the future would be jeopardised.*
- 6. We would like to be allowed the ability to enjoy our home in peace, quiet and safety.*

*We believe the application was submitted to the CPA in 2008 and was subsequently denied and WhiteRock Investments Ltd chose not to Appeal but allegedly continued to quarry illegally without permission from the CPA. We don't quite understand how this said company can resubmit the same application to the CPA if the planning permission was denied in 2008 without first Appealing the decision.*

*This letter serves as our formal notice to object to WhiteRock Investments Ltd proposed application for Planning Permission.”*

Letter #5

*“NO THANK YOU*

*PLEASE CEASE SENDING US THE SAME NOTICE OVER AND OVER AGAIN AND LEAVE OUR COMMUNITY IN PEACE”*

Letter #6

*"We refer to the Notice of Application for Planning Approval dated 8 September 2010 (attached for ease of reference) which we only just picked up from our PO Box. The envelope is stamped 25 September 2010 (see attached) and was not sent at an appropriate time to allow us time to respond in a timely manner.*

*As we have been sent the same application previously in July 2010 I am resubmitting our same opposing letter and have amended the date to reflect our*

*objection to the proposed Planning Permission for the purpose of Land and Works and Removal of Fill.*

*I have looked at the map on the back of the Notice and cannot believe that the residents of certain parcels of land have provided permission to Whiterock Investments Ltd. for road access through their land and would be grateful to see evidence of this. This proposed road access also runs at the back of our property and I do not want large noisy trucks going back and forth using this road which as I am sure you can understand is a safety issue for our family and the rest of the residents of Mahogany Estates.*

*I do hope this is the LAST time the CPA/Planning Authority send us this Notice of Application for Planning Approval in this matter as this is causing us great distress."*

Letter #7

*"We refer to the Notice of Application for Planning Approval (the "Notice") under the Development & Planning Law (the "Law") s. 15(4) submitted by WhiteRock Investments Ltd (the "Developer") dated 8 September 2010 and a "Motivation Letter" dated 16 September 2010. Despite the certification on the Notice, both the Notice and Motivation Letter were only delivered to us on 4 October 2010.*

*By its Notice the Developer seeks planning permission for "LAND WORKS, AND REMOVAL OF FILL" on Bodden Town Block 38E, Parcel 17REM4 (the "Land"). As the registered proprietor of Bodden Town Block 32D, Parcels 120, 110, 118 and 96 we are "adjacent owners" for the purpose of the Law s. 15(4)(a).*

*Kindly note we object to the planning permission sought by the Developer on grounds including (but not limited to) the following:-*

- 1. The Notice seeks planning permission anew. The Notice is not expressed to be related to any previous planning permission. Therefore this application for planning permission falls to be considered on its merits for the first time by the CPA. The Notice is an application for new planning permission under s. 15 and not a modification under s. 17 (despite what may be said in the Motivation Letter).*
- 2. As such the application is to be considered anew by the CPA under s. 15 ) principles and not as a modification under s. 17 principles. The CPA has no jurisdiction to consider the application under s. 15 if the advertising requirements have not been strictly complied with. A quarry would be a heavy industrial application which would be required to be advertised under Regulations 12(6) and 24.*
- 3. The Land is zoned with its primary purpose (as defined in the Law s. 2(1)) being "Residential" as defined in the Development & Planning Regulations. The proposed works are not a use which is subsidiary to and compatible with the primary Residential purpose of the Land;*

4. *Further, it is not explained by the Developer from any point (engineering, design or otherwise) why it is reasonable or necessary to remove rock down to +10 feet MSL to create the planned sub-division; and*
5. *The Developer's Notice refers to planning permission for "LAND WORKS, AND REMOVAL OF FILL". The Developer's Motivation Letter refers to "modification" of a previous planning permission MM/051/97(RS) which allowed only the removal of approximately 29,000 cubic yards of fill material to a "top-down" depth of 6 feet and to stockpile the material on Parcels 132 and 133. Contrary to the Developer's Notice the Developer's Motivation Letter purports to seek permission to modify that previous planning permission to remove an additional 295,000 cubic yards of fill material off-site for commercial reward. That is an increase in fill to be extracted of over 1,000% from that approved in the previous planning permission. On any analysis this is transparently an attempt to cover the Developer's intent to conduct a commercial quarrying operation on land zoned as Residential.*

*We reserve the right to expand or modify our objections to the Developer's application for planning permission. Kindly contact us should you require further information or clarification to fully consider our objections."*

Letter #8

*"We, the undersigned owners of parcel 38E, 82, object to the proposed land use and removal of fill on the following grounds:*

1. *It is our understanding that Whiterock Investments Ltd. do not own parcel 38E, 82 but that this land is owned by the Estate of Thomas William Berry Deceased. Therefore according to the law, any activity on this property should be for the benefit of all of the beneficiaries of the Estate of Thomas William Berry Deceased.*
2. *It is our understanding that there is an ongoing case in the Grand Court of the Cayman Islands against one of the directors/shareholders of Whiterock in his personal capacity and in his capacity as Administrator of the Estate of Thomas William Berry Deceased. We further understand that the Grand Court ordered that an Inhibition be placed on Block 38E, Parcel 17 REM 4, Cause #0352 of 2008.*
3. *Mr. Berry was granted approval in 1997 to clear, level and remove under strict limitations, some of the material in the proposed road corridors. In 2000, the limits of the 1997 permission were reinforced and denied any "cutting, filling and/or leveling of proposed lots without permission for subsequent development of the lots because CPA was already concerned that the "developer" had carried out work contrary to the terms of the 1997 approval.*
4. *The work carried out before the 2000 reinforcement left some of the lots sold inaccessible by road to the owners because the level of the land was excavated below the level of the roadway. These lots are still inaccessible. This means that the property owners cannot access their property without*

*climbing down into the quarried area, walking across the bottom and climbing up the other side of the quarried area (which is approximately 18 feet deep) to the lots in question, Also, the area which was supposed to become a roadway, running south from Berry Drive into Parcel 17 REM 4 was excavated and to date there is no road.*

- 5. Parcel 17 REM 4 has been already been quarried by the developer in contravention of existing planning permission. Over the years, there have been numerous explosions from blasting which have caused extensive damage to some properties closer to the development Residents close to the blasting area were not warned or notified, Over the past several years, at various times, there has been very heavy traffic in and out of the roads all day and night In 2007, trucks were parking in property owners' drive ways overnight on King's Chase Road with the drivers sleeping in the trucks, in order to be first into the area in the morning, This was in spite of a stop order. There is currently a huge crater, approx 18 feet deep which was created for no other purpose than to sell the fill and for which no planning permission has been granted, There are still no roads in this area.*
- 6. The land in Beach Bay and surrounding areas has become prime property since Hurricane Ivan as people have seen that the area was not flooded and the residents of Mahogany Estates (and other neighbouring areas) were protected from high storm surge by the bluff There was minimal damage to property during the hurricane because of the dense tree coverage and protection from the sea by the bluff The value of land has increased by approx, \$50,000 per lot since Hurricane Ivan, The developer could make a lot of money by completing his subdivision and selling the lots without destroying the land.*
- 7. This is an area of natural beauty with many indigenous plants, trees and animals including Silver Thatch, Banana Orchids, Bromeliads, Ironwood trees, Agoutis, Cayman parrots, Woodpeckers, bats, etc, As people are becoming more aware of the impact humans have on the environment, many property owners are choosing to preserve as much of the natural fauna as possible, Levelling and totally clearing this huge area of land can only be detrimental to homeowners and property owners in the area and will reduce the value of the property, meaning that the developer will actually receive less per lot than if the property were left as is.*
- 8. Based on previous experience with the developer in the 15 years we have lived in Mahogany Estate, we do not believe that this plan is in our best interests, nor that of the other residents and property owners of Mahogany Estates and surrounding areas. Nor is this plan consistent with the current zoning which is "low density residential", We believe that any more blasting will just cause more damage to those homes already damaged and new damage to homes in the surrounding area.*
- 9. At the moment, the height of the land is 25 to 30 feet above sea level. This is one of the highest areas in Grand Cayman, If approved, this plan could be*

*disastrous to the whole Island, not just our area, It is unbelievable to us that such a proposal will be allowed to succeed, especially in light of the Department of Planning's Mission Statement, which says among other things that Planning will ensure that the physical development of the islands is aesthetically pleasing, is **environmentally friendly** and that plans and associated legislation will promote an unprecedented quality of life for existing and future generations. If this plan succeeds, there won't be anything left in that 44 acres for this or future generations except bare rock and this area may well be under water if the seas continue to rise due to global warming. The quality of life for residents will certainly be "unprecedented" in a bad way due to noise, dust, allergens and other pollutants.*

- 10. We had no objection to Whiterock putting in the roads for the subdivision. However, as you can see from the aforementioned, it was never their intention to just put roads in. They have carried out quarrying activities on and off during the 15 years we have lived in this development. To date, nothing has been done to help the property owners in Mahogany Estates, whose homes have been damaged as a result of extensive blasting.*
- 11. The scale of the developer's plan would be appropriate if the land was zoned "commercial". However, the current zoning is "low density residential".*
- 12. A similar application was denied by the CPA on 27th October, 2008. Copy of the decision attached.*
- 13. The proposed new road access from Beach Bay Road will mean that there will be trucks driving up and down Beach Bay Road 24 hours per day. This is a road where many children ride their bicycles, people walk and jog. The heavy traffic will cause a danger to people as there are no side walks on Beach Bay Road.*
- 14. The proposed new road access from Beach Bay Road is through an area of natural beauty which has woodpeckers, Cayman parrots, agoutis, bats, banana orchids, silver thatch and many other indigenous species of plants, trees and animals.*
- 15. The proposed new road access from the far side of the development is very close to an existing home which will mean heavy traffic in and out of the development through narrow roads. We believe that entrance is through North Palms which is a very heavily populated area with small, winding roads which would be dangerous to residents in that area.*
- 16. The area to be quarried is extremely close to existing homes, some of which have already been damaged by previous blasting. In fact the blasting will take place within yards of some of the existing homes and could be a danger, especially in light of the fact that previous blasting took place with no notice to the residents of Mahogany Estates.*
- 17. When we purchased our property, it was because it was in a low density residential area. Block 38E, Parcel 17 REM 4 had (and still has) planning permission for a residential subdivision. If Block 38E, Parcel 17 REM 4 had*

*been given planning permission for this current quarrying application, we would not have purchased the property, let alone built a home as we had and have no desire to live in, or in very close proximity to a commercial quarry. We feel that we were misled by the developer who made no mention of plans to quarry in our area at the time we were purchasing our land.*

- 18. The parcel of land directly behind our own parcel, 38E, 82 is Crown land which is designated as a nature reserve. It is hard to believe that a commercial quarrying venture would be approved directly behind a nature reserve.*
- 19. The Beach Bay area has become more highly populated since Hurricane Ivan and there are several new residential developments in the area which are all zoned as "low density residential" not commercial.*
- 20. It is my understanding that Whiterock Investments Ltd. submitted a letter to CPA dated 16th September, 2010, in which they claim that the depth of the sea is about 3 feet at the base of the cliff (which is to be blasted from its current height of around 30' down to 10' above mean sea level) and that the 3 foot sea depth extends to 100 feet, making it impossible for storm surge to have any adverse effect on the property.*

*Obviously, no one from Whiterock Investments Ltd. was at Beach Bay before, during or after Hurricane Ivan. On Monday 13th September, we drove along Seaspray Drive and saw waves crashing over the two storey homes at the far end of the road. The cliffs are around 30' above sea level, the homes are around 20 feet high and waves were crashing about 10 15 feet above the homes. The same thing happened when Hurricane Wilma passed a couple of hundred miles to the south of Grand Cayman.*

*We are not experts on storm surge but common sense leads us to believe that what is likely to happen when you blast 20 feet of the protective cliff away (as well as some 44 acres behind the cliff) down to the same level. This will create a channel in the cliff. Where do you think the sea water will go? Since the cliff is no longer there, it is pretty obvious that the sea will have direct access through the channel to the land behind.*

*We believe that before this application is considered a study on the likely storm surge effects should be undertaken by an expert in this field.*

- 21. The developer claims that they have tried everything they can to put the roads into the area. If you were able to get behind the quarry gates which were erected in 2008, you would see no sign of any roads being put in. All you will see is an 8 ft deep crater which Whiterock blasted away up until 2008 when they were ordered to stop by the then Leader of Government Business. This blasting was done without planning permission.*
- 22. At the CPA hearing for the same or a similar application in 2008, members of the Berry family promised to make good the damage they had done to two landowners whose land is behind those quarry gates. One is actually in the quarry, ie. 17 feet lower than when the property was purchased. The other*

*landowner, has to go down the quarry, along the bottom and up the sides to access his property. To date, these landowners still cannot access their property, nor have they been compensated.*

- 23. It is our understanding that the Planning Department has received input from their Legal Department that suggests that it is arguable that the CPA should have regard to the opinion of a superior tribunal and not consider the application until the land ownership dispute has been resolved.*
- 24. Whiterock advise that the licenced blaster has liability insurance in case any damage is done to existing homes. They may well have liability insurance but as per 23 above, two landowners who bought their property from the developer have been unable to access their property for at least 3 years. If the blasting destroys our home, we will not be able to wait 2 to 3 years for this matter to be sorted out. What type of liability insurance does the blaster have? Will this insurance provide shelter whilst our home is being repaired/rebuilt? Based on previous experience with the developer, it seems unlikely that they will compensate home owners for damage cause to their property.*
- 25. Whiterock advise that they intend to seek planning permission to erect 6 foot gates at the perimeters of the site to protect the neighbours. Whiterock already have gates erected, which are around 8 - 10 feet high - without planning permission. Should these not be taken down until this matter is resolved?*
- 26. Effects to wildlife will not be minimal. They will be blasted to smithereens.*
- 27. The developer claims that once the property has been leveled, lots will be sold. I cannot imagine anyone wanting to buy lots some 20 feet (or more) lower than the surrounding areas with direct access to the sea. This area (please refer to the drawing submitted by the developer) will act as a funnel. Seas which would normally crash on and over the bluff will have direct access into the subdivision.*
- 28. In their letter, Whiterock state that they propose to erect Height Guards/Height Limiting bars at the entrance of Mahogany Estate sub-division in order to eliminate large trucks from using the sub-division roads. Surely this would mean that any person owning land in Mahogany Estates wishing to build a home or have fill delivered into Mahogany Estates will not be able to do so because no trucks will be able to enter the Estate.*
- 29. Whiterock state that a structural survey on the adjacent properties was undertaken in order to dispel claims by property owners that their houses were being damaged due to the blasting.*

*This offer was made after several years of blasting. As the damage had already been done, it would have been relatively easy for the Surveyors to state that none of the damage was caused by blasting as they did not visit the homes prior to blasting. We wonder what their terms of reference were since they had not examined the properties before the blasting? Several*

*homeowners were in their homes during the last lot of blasting and saw tiles on the floor crack, ornaments fall off shelves and cracks appear in walls and were subjected to severe emotional distress because there was no warning and they did not know what was happening.*

*The reason we did not choose to take Whiterock up on this offer was because of previous experience with the developer and his family, we simply did not trust them to come to a fair and honest conclusion and it seemed pointless to carry out the surveys **following** years of blasting.*

*Indeed, Whiterock state that the damages were the result of settlement cracks and weak or bad concrete, temperature changes, etc., etc.*

*However, some of the homes damaged were brand new - less than one year old. The fact remains that these homes were in excellent condition, having been surveyed and inspected while being built and following completion. These homes are now damaged. As Whiterock and their Surveyors have seen fit to deny that this damage was caused by their blasting, the homeowners have no way of receiving compensation for the damage. This is a scenario which will be repeated many times, if this application is approved and future damage is caused to homes in and around the sub-development.*

*30. As stated previously, the developer sold the property to us under false pretenses since the land was and is zoned low density residential and since the developer failed to mention his plan to quarry the land behind our land down to a few feet above sea level. We believed that we would enjoy a peaceful, serene neighbourhood with a barrier of woodland protecting us from storm surge from the sea. In accordance with the principles of Estoppel, we believe that the CPA should not only deny this current application (which was refused in 2008) but should prohibit the developer from submitting the same application over and over because this is a contravention of the circumstances under which the developer sold the land to us. These applications are causing more stress to ourselves and the residents of Mahogany Estates and the surrounding areas and is clearly a waste of the CPA's time and resources.*

*31. Since the developer has already contravened current planning permission, we have no reason to trust that they will abide by the terms of any future planning permission granted.*

*Also enclosed is a copy of the envelope which contained the letter from Whiterock. As you can see, the date the letter was posted was 25th September, 2010."*

#### Letter #9

*"I, Marcia Jervis, the legal registered property owner of Block 38E Parcel 115 within Mahogany Estates am writing to formally object to the proposal that Mr. Lorenzo Berry, of WRI Ltd, has submitted for land works and removal of fill which I equate to be the same submission to level, excavate and remove fill from Block 38E Parcel 17 REM 4 back in 2008.*

*My objection remains the same as previously stated in my letter of April 24, 2008. I firmly believed that you should be able to live in peace and tranquillity and not having years of blasting in your neighbourhood, to which would lead to damages to homes if not, already so. I purchased my property in the hopes that I can enjoy my little rock that I worked hard to achieve and not to have this type of issue looming all the time which technically equates to harassment on one's way of life - wondering if your property will be damaged or suffer more damaged by the blasting not to mentioned, the possibility of land property values being threaten and the integrity the surround grounds."*

Letter #10

*We are writing to object to the application from WRI Ltd of P.O. Box 420 BT Grand Cayman KY1-1602 sent on the 27th September 2010 to us, the owners of Block 38E parcel 152, for planning permission for the purpose of "LAND WORKS AND REMOVAL OF FILL" on Block 38E Parcel 17REM4 within the Bodden Town section. (Please see attached photocopies of the envelope and Post Office notification to provide proof of the date of posting).*

*Once again we were quite shocked to receive the Notice of Application for Planning Approval. We were shocked because we were under the impression that this matter had been brought to the Planning Department before and rejected by the Central Planning Authority on two separate occasions. We would like you to note the four letters of objection that we have sent in the past (13th August 2010, 23rd and 28th April 2008 and 12th December 1999. Please review relevant files.) We would also like you to note that our objections remain the same.*

*Our principal problem remains the same - our land is not accessible! Further it is within the boundaries of the proposed works! For over 10 years we have been unable to access our land!*

*Please read all the previous correspondence for full details."*

Letter #11

*"I, as others have, received the Notice of Application for Planning Approval purporting to be sent on 3rd September 2010, signed on 27th September (but postmarked as sent on the 27 September 2010) to me, the owner of Block 38E parcel 81, for planning permission for the purpose of "LAND WORKS AND REMOVAL OF FILL" on Block 38E Parcel 17REM4 within the Bodden Town section. I am writing to object to the application from WhiteRock Investments Ltd of P.O. Box 420 BT Grand Cayman KY1-1602, Cayman Islands.*

*I currently own a small guesthouse dwelling on my property and plan in the next few months to begin construction of my main house. The main reason I purchased the land back in 2006 was because of the strong, solid ground that had little to no possibility of flooding. I have saved for many years to attain this goal, as have others, and if planning approval is given to WhiteRock Inv, it will only completely undermine the very reason why people purchased in this area in the first place. Blasting anywhere near to residential homes will obviously cause damage. Removal of any more of the fill in that area will only add to the large crater-like*

*hole that is there now, which in turn will diminish the protection of our homes. I'm not even sure why this proposal is being entertained.*

*In these hard times we all have to work extra hard at maintaining and up-keeping our properties. It should not even be acceptable for a project which WhiteRock proposes to ensue. I appreciate the opportunity for my voice to be heard, along with all my supporting neighbours but I must ask that you please take strong consideration when deciding on Planning approval for this project. Please keep in mind these are people's homes White Rock Inv will be endangering.*

*I am therefore asking that this application be refused"*

#### Letter #12

*"We find ourselves in the position to write a third letter in four years in regards to the abovementioned property. Please note that our previous objection letters (letter dated 12 August 2010 attached for ease of reference) make points that remain relevant to WhiteRock's current application.*

*In terms of the current application, it appears that the substantive change in WhiteRock's position is the repositioning of the quarrying operations as an extension of the original primary land use, which was residential development. WhiteRock states that further quarrying will enhance the subdivision as a residential development. We would appreciate having independent evidence to support this position.*

*Based on the existing, longstanding condition of the subdivision, it is difficult if not impossible to say that previous operations improved the properties. Objections to previous applications have detailed craters in property owners' backyards, road potholes, etc., as a result of quarrying operations.*

*In short, residents' disbelief that this project is an attempt to improve the subdivision is based on evidence.*

*Moreover, as one Mahogany Estates homeowner put it: Why is it necessary to clear land and level it for a subdivision development, when other developers simply survey their land into house lots; put in the roads and infrastructure; and then sell the lots, leaving it to the purchasers to decide how to use their plots?*

*Two examples are off Beach Bay Road, namely Beach Bay Heights Phases 1 & 2. Both subdivisions are sold out because, according to the developer, the land in both phases is 15 to 26 feet above sea level.*

*After Ivan, high land is in demand and sold at a premium. Why go to the expense of "levelling" and clearing before selling lots? This will only decrease the price by taking away from the natural height of the land.*

*We again ask that these points be considered, and again put our trust in you to correctly assess the application's merits and demerits."*

#### Letter #13

*"We are writing to object to the above-referenced application.*

*When we purchased our house at 215 Berry Drive, we were excited because it would be the first purchased (as opposed to rented) home of our 11-year marriage. We'd waited and saved a long time for the moment.*

*Being cautious, however, we knew we shouldn't rush into such a large expense. We therefore paid for inspections by a structural engineer and plumber; and requested the National Trust of the Cayman Islands, to inspect the property for any underground caves (because of a large hole we saw on the property). We also found out that the area, being high, had fared well during Hurricane Ivan.*

*It was only after we learned these things that we agreed to signed the loan papers. Although the house needed some repairs, we wanted to ensure that it was sound enough to repair, before we invested our savings into it.*

*Little did we know, however, that there was a quarrying operation in what we thought was a peaceful neighbourhood. If we had known, we NEVER would have bought into what we believed was a residential subdivision.*

*Our intention was to improve the property and to make it a home. Now we are concerned that we have a property that is devaluing, despite the savings that we have invested into it. If the quarrying is allowed to continue, we will be placed in a dilemma. Should we continue throwing good money after bad, because it is our home and we want it to be kept properly; or should we throw up our hands and just let the property erode around us?*

*If the quarrying is allowed to continue, will the cracks in the wall that we patched a few years ago reappear? Will the potholes in the road, caused partly by trucks carrying the quarry's fill (and caused partly because the road, years after the subdivision commenced, is still private) get bigger? Will our hope that the house could withstand another storm be unfounded, because the natural, protective barriers are no more?*

*There are some who say that the developers should be allowed to do whatever they want with their land. This shows a lack of common sense and critical thinking. If this is so, then we should be able to do what we want with OUR property. Could we, then, put in an application to quarry? Can we do this for our bluff land in Cayman Brac and in other locations in Grand Cayman? How about a landfill, or a collection place for junked cars? A shooting range? What if beachfront property owners decided - despite laws, cultural norms and tourism needs - to block all public access to Seven Mile Beach? Allowing this quarry would set a very dangerous precedent; it would condone lawlessness.*

*When we bought our house, we looked forward to having a place of peace and quiet at the end of the workday. We looked forward to being here for years. We didn't want or need a big, fancy showplace; we just wanted something comfortable and reasonable. But with the resubmission of this application, we stand to lose the little we have.*

*Why is this resubmission being allowed? It was already turned down a few years ago. What has changed? Certainly not the application, and certainly not the*

*concerns of the neighbours, who may end up with worthless, unsalable and virtually unredeemable properties if this quarry is legitimised.*

*Please consider these points as you make your determination about this application. We put our trust in you to correctly assess its merits and demerits."*

Letter #14

*"I have recently received notice of this application, and have learned that the intention of the applicant is to remove 295,000 cubic yards of fill.*

*Sir, it was only a few years ago that my household and all others in Kingschase Drive experienced a constant stream of trucks for months coming in empty and leaving filled -with what was being quarried a few yards behind my house. This whole operation was extremely irritating, causing the place to become dirty and dusty and the roads to be torn up, and involving truckers even spending nights in their trucks outside my property. It also from time to time included blasting, which very frightening and unpleasant.*

*An application was made in 2008 for more of the same work to be done which had been stopped in 2007. The applicant was rightly refused by the Central Planning Authority in October 2008,*

*I do not understand why the decision of 2008 is not applied directly to this application, because it is for the same purpose - to remove fill and sell it, with absolutely no regard for the interests of the householders here.*

*I am therefore registering my objection to the current application. I would also point out that the "proposed road access" would cause trucks to be going in and out near my property, just as they did before.*

*I have also heard that the applicant does not own the land, as he is said to be the "administrator" of it on behalf of other family members. However, they have taken him to court for using the proceeds of what he does for himself only, and for not being a fit person to administer the property. How, then, is he being allowed to make this application, if he has no authority to do any work on land that is not his?*

*I am relying on you to hear these concerns and have this nuisance stopped once and for all."*

Letter #15

*"I am responding to the request of the owners of 38E 17REM4 to engage in a Quarry operation next to 38E 22 which will seriously detract from the natural beauty and negatively affect eco systems indigenous to this location. My wife and I strenuously object to a commercial strip mining endeavour in a residential area for the above reasons not to mention the loss of value of our land. Please advise what we must do to prevent this most recent attempt to destroy our dream."*

Letter #16

*"I currently own a small guesthouse dwelling on my property and plan in the next few months to begin construction of my main house. The main reason I*

*purchased the land back in 2006 was because of the strong, solid ground that had little to no possibility of flooding. I have saved for many years to attain this goal, as have others, and if planning approval is given to WhiteRock Inv, it will only completely undermine the very reason why people purchased in this area in the first place. Blasting anywhere near to residential homes will obviously cause damage. Removal of any more of the fill in that area will only add to the large crater-like hole that is there now, which in turn will diminish the protection of our homes. I'm not even sure why this proposal is being entertained.*

*In these hard times we all have to work extra hard at maintaining and up-keeping our properties. It should not even be acceptable for a project which WhiteRock proposes to ensue. I appreciate the opportunity for my voice to be heard, along with all my supporting neighbours but I must ask that you please take strong consideration when deciding on planning approval for this project. Please keep in mind these are people's homes White Rock Inv will be endangering.*

*I am therefore asking that this application be refused."*

#### Letter #17

*"I again renew my protest regarding the proposed amended WhiteRock Investments Ltd. Development, which represents an INDUSTRIAL development in land which has/is being developed for residential purposes.*

*Again, my protests noted in my previous two letters of 30 April 2008 and 13 August 2010 remain valid. The new development proposal persists in ignoring the rights of residents who strenuously object to the notion of reducing average (for the area) land heights above sea level, and who likewise are concerned at the notion of applying to conduct industrial activity in an area which is otherwise quiet, peaceful and residential.*

*As previously stated, most of the content below relates/reflects my two previous letters of objection. To date, little has changed-other than Mr. Berry's continued arrogance in seeking to renew his quarrying application in the stated block and parcel land-and your office's willingness to consider it in spite of the rights and legitimate concerns of area residents and the fact that the original application was rightfully denied!*

*Since the issues remain, I see no point in restating them, other than to update as applicable. Accordingly, please see below, most of the content of my previous letters, content which I am resubmitting today:*

*"I write to object most strenuously to the temporary land-use variation referred to above Block 38E Parcel 17 REM 4) As the legal registered owner of Block 38E, Parcel 192, I adamantly protest Mr. Lorenzo Berry's (WRI Ltd.) proposed plan for developing his land.*

*According to details provided by your own department, he proposes to create some sort of 44-acre development, but not before turning the acreage into another quarry!*

*The existing land height for this area ranges between approximately 20-30 feet*

*above mean sea level. His intention is to excavate and remove fill to within 6-10 feet above mean sea level ("with no clear understanding" of what that entails as stated in paragraph 2 of the amended letter of application)!*

*I repeat that this industrial activity will entail years of blasting, dust and air pollution, in addition to untold probable damage to surrounding residences. Even worse, occupants will be exposed to hurricane sea surges I even understand that this person plans to construct a canal to provide direct access to the sea-butwhether or not. I can only hope that as Director of Planning, you will put an immediate stop to what I can only hope must be an illogical pipe dream!*

*I am one of many who invested in this residential area precisely because of its PRESENT elevation and peace and quiet. At the time I paid a hard-saved, top-dollar price--\$68,000 for less than one-third of an acre. I have built on it and have lived in this house for over four years.*

*I am about to retire and I seek peace, quiet and relative safety from the sea-and I am prepared to do battle for it. I have already had the misfortune, on a Monday morning in 2007, to have been home when blasting took place at Mr. Berry's present quarry. My house could not have shaken more had it been experiencing a six-plus earthquake on the Richter Scale! I cannot believe that plans for personal gain can make one man so resolutely oblivious to the plight of others.*

*Further, there are already questions being asked about the legality of existing quarrying activity in such close proximity to residences... Sir, since you are Director of Planning, I trust you do recognize the seriousness of this situation and will [again] deny this proposed development as well as veto continued quarrying activity."*

*Other people own land and seek to prepare it for residential subdivision development. They do not reduce the height of the land to do any "leveling." Indeed on a flat and relatively flood-prone island such as Grand Cayman, where land of say 15 feet above sea level is a relative rarity, such a move would be widely regarded as improvident. People normally purchase lots "as is," filling or leveling as they see fit.*

*Once and for all, Mr. Berry and his associates/companies need to be stopped! They seem to feel that he/they are above the law. One man surely cannot be allowed to dictate/determine the economic stability of so many others, particularly when-as I am given to understand-the very ownership of this property seems to be in dispute and remainsunresolved!*

*I, for one, do not wish to spend my retirement surrounded by or in the vicinity of industrial mining, blasting and trucking. I paid a premium price for my "high and dry" land in a quiet area and I resent any man who hides behind a facade of "addressing the potential concerns of adjacent landowners," while seeking all the while to maximize personal profit and gain. I refuse to be intimidated, even by one rash enough to choose in his amended application, phrasing that describes his property as being, "pock-marked by deep holes and fissures enough to lose a man."*

*Yes indeed: The government and the Planning Committee membership have both changed but the dishonesty and immorality of Mr. Berry's application-as well as the predicament of community residents-has not!"*

Letter #18

*"I refer to the Notice for Planning Approval with respect to the above matter. I confirm that I am the owner of Block 38E, Parcel 156.*

*I have had an opportunity to inspect the plans at the Planning Department and I write to formally object to the application for planning approval for the following reasons:*

- 1. During my inspection of the Plans, I was made aware that the applicant plans to remove 10 feet of rock. It is clear from inspecting the land itself that the only way this amount of rock can be removed is by blasting.*
- 2. I strongly object to any blasting being done in the area as previous blasting has already caused structural damage to some of the homes in the area.*
- 3. I will hold the applicant and the Planning Department (should the applicant be granted permission to proceed with the works) solely responsible for ANY cracks in the walls of my home or any structural damage which is caused as a result of any blasting that is permitted to take place.*

*I trust that the above points will be taken into consideration and that there will be a favourable outcome to the current homeowners in the area."*

Letter #19

*"I am an owner of Beach Bay Strata #39 on 32D 122 unit H2 and H3 and object to the application based on the following:*

- 1. The developer has performed illegal work in the past such as starting a quarry, and removing and selling till. This work has nothing to do with developing the site as a residential property and appears to just be a subterfuge for quarrying stone and other fill.*
- 2. His work already caused environmental damage and we need to stop this action, particularly work on the cliff's must not be allowed.*
- 3. Road safety would be Jeopardized (especially for children] as large trucks make their way through our quiet neighbourhoods.*
- 4. Damage to the Foundations of our buildings as a result of quarry operations.*
- 5. The cliffs protect the area to the last and West of the proposed clearing and most certainly would affect Beach Bay Condos and other properties during severe storms and hurricanes."*

Letter #20

*"On behalf of my Private Company Masric Ltd., (Masric) of which I am the Sole Beneficial Owner, the President and a Director, I hereby submit Masric's Objections to the above application. I do so by virtue of Masric's ownership of Condominium Unit No 10 in Beach Bay Strata Corporation No. 39.*

***Masric's Objections are as follows:***

1. (a) *The possibility of Irreparable damage to persons and property was almost certainly the principal reason for the enactment of Regulation 9 ( 5 ) of the Development and Planning Regulations (2006 Revision). Similarly this was very likely the main reason firstly why this Regulation was not amended along with the other 2008 Planning Regulation amendments and secondly why the CPA rejected the Lorenzo Berry Application of the 27th October 2008 which applied to the same area as this Application..*

*(b) The CPA will know that it is not possible to make an unquestionably safe decision with respect to approving an extensive blasting operation for quarrying purposes in what may fairly be described as close proximity to a Residential Area. Furthermore it is fair to say that such an Operation may well have numerous consequences which can not possibly be foreseen.*

*(c) Such unforeseen consequences may well include irreparable damage to persons and property and without doubt this fact formed a significant part of the reasoning behind the CPA decision of the 27th October 2008 to reject a previous application by Lorenzo Berry which related to Block 38 E Parcel 17 REM 4 in the District of Bodden Town the subject of the present application.*

*Thus it is that Masric objects to the current application as being one of a kind to which Regulation 9 (5) of the 2006 Regulations would apply to provide a predominant reason for its rejection, in just the same way and for the same reasons that the CPA applied the Regulation in it's rejection of the Lorenzo Berry Application of 2008. In fact on any comparison of the circumstances pertaining to the 08 Application and the current Application it is not unfair to say that they are very similar in all the matters of principal concern in the decision making process with respect to whether the Application should be approved or Rejected.*

2. *As per the CPA's own "Development Plan Matters "including the "comments" and relative material to be found in several of the CPA's own Agenda Minutes of it's 32nd Meeting of the year 2008 it is clear that the Authority recognises the need for taking special care in Planning Matters involving Blasting and other dangerous operations for which Planning Approval is required.*
3. *The Grand Court Inhibition Order dated the 15th April 2009 relating inter alia to Block 38E Parcel 17 REM 4 - albeit entered against Lorenzo Berry operates to prevent the Application from proceeding to the Grant of any Approval for a Blasting Operation with respect to the said land..*
4. *That in the light of the Relevant Evidence which is readily forthcoming from many of the Mahogany Estates Objectors the Applicant is Estopped by Law ( by reason of the application of the principle of Equitable Estoppel ) from undertaking any blasting operations in any area of land in close proximity to the House Owners ( or their successors in title ) to whom the said Lorenzo Berry ( a Principal behind Whierock Investments Ltd., ) sold the Lots of Land as part of a Housing Development Estate-The said Estoppel comes about by*

*reason of the fact that the said Lorenzo Berry sold such Lots without any Notice of an intention later to undertake Quarrying and Blasting Operations in close proximity to such lots which would obviously disturb if not destroy the customary peace and quiet that the Home Owners were entitled to expect in the enjoyment of their homes, built on the land which was purchased from the said Lorenzo Berry..*

*With respect to the said claim of Equitable Estoppel the same was not previously raised in the earlier Planning Application of 2008 for the reason that at that time the Mahogany Estates Residents entitled to make the claim were unaware of their Legal Entitlement under the applicable Law of Equitable Estoppel. This entitlement is best expressed in the words of Lord Denning in the case of Moorgate Mercantile Co Ltd v Twitchings @ 1976 QB 225 at page 247; namely " Estoppel " is not a rule of evidence It is not a cause of action It is a principle of justice and of equity . It comes to this, when a man by his words or conduct has led another to believe in a particular state of affairs he will not be allowed to go back on it when it would be unjust or inequitable for him to do so.*

*By reason of the application of this principle of Estoppel the granting of any such Quarrying and Blasting Licence by the CPA would seemingly amount to the Authority facilitating a breach of the Law and thereby subjecting itself to such consequences as may flow from any subsequent Grand Court Ruling on the subject.*

5. *Since the July 2010 Application of Whiterock Investments Ltd., was withdrawn and/ or never heard by the CPA, without the giving of any notice of such to the objectors Masric asan Objector to such previous 2010 Application repeats it's Objections as the same were submitted and comprised in Masric's Faxed Letter to the CPA of August 2010, a copy of which is attached."*

Letter #21

*"On behalf of my Private Company Masric Ltd, of which I am the sole Beneficial Owner, the President and a Director I hereby submit Mastic's objection to the above application. I do so by virtue of Mastic's ownership of Condominium Unit No. 10 in Beach Bay's Strata Corporation No. 39.*

***Mastic's objections are as follows***

*The CPA stated in it's Ruling of the 27th October 2008 with respect to a similar Application by Lorenzo Berry that according to the relevant Planning Regulations the primary uses in a Residential Zone are for Residential and Horticultural purposes and for this and other reasons the Application was rejected.*

*Just as the Application was in 2008 so it is in 2010 and the intended work is in no way compatible with the peace and quiet that Home Owners are reasonably entitled to expect in the context of the enjoyment of their Homes. Such intended work is very specifically outlined in Rev. Sykes objection in this same matter both for himself and on behalf of his fellow Owners in Mahogany Estates. Thus it is that I wish to confirm for Mastic that I endorse all of those of his various*

*Objections which apply with equal force and effect to the problems which will confront Beach Bay Proprietors as a direct result of the current Whiterock Application ,if the same is approved by the CPA.*

*That said Mastic objects on the grounds that since the CPA Decision of the 27th October 2008 was not appealed and was a Decision on facts and circumstances which were the same as those which apply today the CPA should not have permitted the current Application to be filed. Further that in doing so the CPA has brought about a " Double Jeopardy " situation. This has occurred by reason of the fact that the Parties so affected ( namely those served with the Notice of the current Application ) have been wrongfully burdened with the obligation of having to object AGAIN to similar claims to those which the CPA has already rejected in its decision of the 27th October 2008.Thus in effect the CPA is causing a matter which it has already decided to be revived for what amounts to a second hearing when there was no appeal with respect to the matters in question which were decided by the CPA in it's earlier Decision..*

*Turning to other matters arising from the Application I as a resident of Beach Bay Condominiums am most concerned with the damage that might be done to the Cliff Wall to the East of our Property.. This Cliff has served over the years as a significant protection against the high seas that result from storms and it seems very likely that the intended quarrying and related blasting operations would damage the Cliff. If this were to happen the people in residence at Beach Bay would be likely to suffer water damage in general and in particular to our Parking Areas which were not damaged by Hurricane Ivan”*

Letter #22

*“I have recently received notice of this application, and have learned that the intention of the applicant is to remove 295,000 cubic yards of fill.*

*Sir, it was only a few years ago that my household and all others in Kingschase Drive experienced a constant stream of trucks for months coming in empty and leaving filled with what was being quarried a few yards behind my house. This whole operation was extremely irritating, causing the place to become dirty and dusty and the roads to be torn up, and involving truckers even spending nights in their trucks outside my property. It also from time to time included blasting, which was very frightening and unpleasant.*

*An application was made in 2008 for more of the same work to be done which had been stopped in 2007. The applicant was rightly refused by the Central Planning Authority in October 2008.*

*I do not understand why the decision of 2008 is not applied directly to this application, because it is for the same purpose - to remove fill and sell it, with absolutely no regard for the interests of the householders here. I am therefore registering my objection to the current application. I would also point out that the "proposed road access" would cause trucks to be going in and out near my property, just as they did before. I have also heard that the applicant does not own the land, as he is said to be the "administrator" of it on behalf of other family*

*members. However, they have taken him to court for using the proceeds of what he does for himself only, and for not being a fit person to administer the property. How, then, is he being allowed to make this application, if he has no authority to do any work on land that is not his?*

*I am relying on you to hear these concerns and have this nuisance stopped once and for all.”*

Letter #23

*“Please accept this letter, presented to you by the Executive Committee of Beach Bay Strata Corporation #39, as an official objection to the Notice of MODIFIED APPLICATION FOR LAND WORKS, AND REMOVAL OF FILL on Block 38E Parcel 17REM4. (Your ref: 1;078-0124/P10-0809)*

*We are very surprised and disappointed to find that the Applicant (and/or other persons closely associated with the Original Applicant in 2008) has been permitted to proceed with what appears to be to all intents and purposes an identical application to that which was the subject of a C1?z~ Ruling as per its Letter of Decision dated October 27'x', 2008. We were also very surprised to receive notice of the Modified Application without any formal notice of cancellation of the earlier July application. We are rather concerned that the Modified Application was allowed to be submitted by the applicant before an outcome has been decided upon based on the July Application. In addition, all of the reasons originally listed as the basis of refusal are as applicable today as they were in October 2008.*

*At present, many more homes are in the immediate neighbourhood of the proposed quarry site than existed in 2008 therefore, any quarry activity would be disruptive to an even larger number of local residents.*

*The quarry will also serve to deter any plans for future residential developments in the area and sabotage plans which are already in progress. In addition, there is no doubt that a quarry in "our backyard" will lower the property values of our existing homes.*

**To summarize:**

*The Executives and owners of Beach Bay Strata #39 on Block 32D Parcel 122 are objecting to the application based on the following:*

- *The Grand Court Inhibition Order dated the 15`" of April, 2009 in respect of Block 38E Parcel 17 REM 4 - albeit entered against Lorenzo Berry (a principal behind the Applicant) from proceeding to the Grant of any Approval for a Blasting Operation with respect to the said land.*
- *A drastic increase in air and noise pollution*
- *Road safety (especially for the children), as large trucks make their way through our quiet neighbourhoods.*
- *Numerous consequences, some of which cannot possibly be foreseen, with respect to approving an extensive blasting operation for quarrying purposes*

*in close proximity to a Residential Area, including irreparable damage to land and property.*

- *Damage to the foundations of our buildings as a result of quarry operations*
- *Storm Damage to our Buildings: The cliffs (bluff) adjacent to Beach Bay have served to protect our buildings from severe storms. Altering and/or removing them would leave our condos completely vulnerable. It is unimaginable to even consider blasting away this natural geographical feature for ANY reason.*
- *Negative impact on local wildlife species*
- *Negative impact on our property values*
- *Overall decline in the quality of life we have always enjoyed such as Natural Beauty, Peace and Tranquility'.*
- *This is a Residential Community not an Industrial Zone.*

*It is our understanding that by reason of the application of the principle of Equitable Estoppel the Applicant would be Estopped by Law from undertaking any blasting operations in any area of land in close proximity to the Home Owners of Mahogany Estates (or their successors in title) to whom Lorenzo Berry sold the Lots of Land as part of a Housing Development Estate.*

*In conclusion, we are extremely concerned about the overall negative impact this project would have on so many different levels. The results could affect our homes, our health, our safety and the surrounding environment. The project is so extensive that it has the potential to cause irreparable damage to the entire area and therefore the application by White Rock Investments should once again be rejected.*

*"Thank you for considering this letter of objection."*

#### Letter #24

*"I refer to the Notice for Planning Approval with respect to the above matter. I confirm that I am the owner of the Block 38E Parcels 130 and 131.*

*I have had an opportunity to inspect the plans at the Planning Department and I write to formally object to the application for planning approval for the following reasons:*

1. *During my inspection of the Plan, I was made aware that the applicant plans to cut down 10 feet. It is clear from inspecting the land itself that the only way amount of rock can be removed is by blasting.*
2. *I strongly object to any blasting being done in the area as previous blasting has already caused structural damage to some of the homes in the area.*
3. *I will hold the applicant and the Planning Department (should the applicant be granted permission to proceed with the works) solely responsible for ANY cracks in the walls of my home or any structural damage which is caused as a result any blasting that is permitted to take place.*

4. *There are cracks on my tiles all over the house and walls and damage to my china cabinets and I have to live with it. Plus I talk about it and I was cursed out, and it is very hard for me to replace the tiles now.*

*I trust that the above points will be taken into consideration and that there will be a favorable outcome to the current homeowners in the area.”*

## **PLANNING DEPARTMENT ANALYSIS**

### **General Proposal**

The application is to modify planning permission to excavate 295,000 cubic yards to a depth of 10 feet below Mean Sea Level (MSL), land works and removal of fill at Mahogany Estates Subdivision.

### **Development Plan 1997**

From a planning perspective, the Department would like to point out the following paragraphs of the Development Plan, 1997 for the Central Planning Authority’s (“the Authority”) consideration to ascertain whether or not the proposed excavation is appropriate in this residential area.

- Paragraph 1.2 of the Development Plan 1997 states that...

*“The general aim of the plan is to maintain and enhance the quality of life in the Cayman Islands by effectively directing development so as to safeguard the economic, cultural, social and general welfare of the people, and subject thereto the environment.*

*The primary objective of the Development Plan is to maintain and enhance the Cayman Islands and the well-being and prosperity of its people subject thereto its environmental character. It is intended to define and develop a planning strategy for the Islands which is flexible enough in concept and implication to accommodate individual requirements, special circumstances and changing conditions.*

*A secondary objective of the Planning Statement is to provide for and encourage better coordination and co-operation among all interested entities, be they private or public.”*

- Paragraph 1.3 of the Development Plan 1997 states that...

*“The policies which collectively are intended to achieve the objectives may be summarized by the following guiding strategies:*

*(a) To accommodate the present and future population of the Cayman Islands to the best advantage having regard to the quality of life and the economic well-being of the people and to their individual requirements;*

*(d) To preserve the natural assets of the Island for their value in protection from the elements and their natural beauty;*

*(h) To protect areas of environmental significance”*

- Paragraph 3.01 of the Development Plan 1997 stipulates that...

*“Notwithstanding all other provisions of this statement, no use of land in a residential zone shall be dangerous, obnoxious, toxic or cause offensive odours or noise, or otherwise create a nuisance or annoyance to others.”*

### **Zoning**

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

### **Specific Issues:**

#### **a) Suitability**

The surrounding land uses in the immediate area are single-family, duplexes, apartments, and vacant properties. The Department would like to point out the following regulations and sections of The Development Plan and the Development and Planning Law and Regulations the Authority’s deliberation to determine whether the proposed excavation is appropriate in a residential zone and in this particular location:

i) Regulation 9(1) states that...“ In a residential zone, the primary uses are residential and horticultural.” The Authority needs to ascertain whether or not the proposed modification application will constitute a quarry and whether its associated activities are suitable land uses in this Low Density Residential area.

ii) Section 13(6)(b) of the Development and Planning Law (2008 Revision) states that permission to develop land, the primary purpose of which is residential, for commercial, agricultural, social or educational purposes(including recreational facilities and public civic building), may be granted by the Authority if it is satisfied that no objection which the Authority regards as raising grounds for the refusal of such permission. The Authority needs to determine whether or not that the objectors have raised grounds for refusing the application.

iii) Regulation 9(5) of the Development and Planning Regulations states that...“Notwithstanding the foregoing regulations, no use of land in a residential zone shall be dangerous, obnoxious, toxic or cause offensive odours or noise, or otherwise create a nuisance or annoyance to others.”

The proposed excavation will involve blasting or jack hammering as well as heavy equipment and trucks entering and leaving the site. These activities would cause noise and create a nuisance and annoyance to the residents of the area which is contrary to Regulation 9(5) of the Development and Planning Regulations and paragraph 3.01 of The Development Plan, 1997. These activities will also negatively affect the quality of life of the residents in the surrounding area which is contrary to paragraphs 1.2 and 1.3(a) of the Development Plan 1997.

#### **b) Grand Court Order**

For the Authority’s information, on April 15, 2009 the Grand Court of the Cayman Islands ordered the Registrar of Lands to register an inhibition on the

Proprietorship Section of the above captioned property until further Order of the Court. This Order is a result of a Writ of Summons between Gary Berry, George Berry, Robert Berry and Wilburt Myles as Plaintiffs and Lorenzo Berry as the Defendant submitted to the Clerk of Court office on July 23, 2008.

The Department has had legal advice on this issue of land ownership, both in the past and presently, which recommends that the Authority should not consider an application until the dispute of land ownership is resolved by the Court.

**c) Polling**

Typically, an applicant for a commercial excavation would have to poll and receive the written consent from the majority of the land owners within a specified radius from the subject lands. The pertinent section of the Law regarding the need for polling was recently amended to include the following clause:

*“...but where a development involves any operation which by itself would not conform to the primary use of residential land, that operation shall be deemed to not change the primary use of that land if the development to which such operation relates conforms to such primary use.”*

While the wording of this clause is somewhat convoluted, the applicant contends that it means that polling is not necessary in this instance because the excavation is merely an operation associated with an approved development (residential subdivision) that does conform as a primary use in the residential zone. An alternative argument can be put forward that the operation (excavation) by itself does not conform to the primary use in the residential zoned and that the excavation is not needed to complete the underlying approved subdivision. If the latter argument is accepted, then the applicant must poll and receive written consent from the majority of land owners within a 750' radius.

**d) Excavation of the Coastline**

As indicated on cross section profile #3 of the plans, the applicant is proposing to excavate the coastline to 10-ft below MSL. The proposed excavation would create a deep hole/channel inland from the coastline which would create a path for storm surge and flooding during hurricanes and/or storms. Based on the Cayman Land Info maps, the existing natural grade of the property ranges from 9' to 27' above MSL.

**An appearance had been scheduled for 1:30pm, but the applicant's attorney requested that the matter not be considered by the Authority at this time. The applicant's attorney advised that they are of the view that an article in the newspaper has prejudiced them from receiving an un-biased review of the application and they wish an opportunity to address that issue prior to the application being re-scheduled for hearing by the Authority.**

**2. 2 RHINO REBAR Block 13D Parcel 349 (F10-0167) (P10-0710) (\$488) (DE)**

Application for two (2) banner signs

**Appearance at 2:50**

**Mr. A.L. Thompson declared a conflict and left the meeting room. Mr. Steve McLaughlin sat as Acting Chairman.**

**FACTS**

<i>Location</i>	Off Esterley Tibbetts Highway
<i>Zoning</i>	<b>LI</b>
<i>Notice Requirements</i>	No Objectors
<i>Advertisements</i>	NA
<i>Parcel Size</i>	5.2 acres
<i>Current Use</i>	Industrial Buildings
<i>Proposed Use</i>	Signs

**BACKGROUND**

November 24, 2010 (**CPA/27/10; Item 2.3**) - It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss concerns regarding the application.

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

- 1) The “Rhino Bar” sign that is currently affixed to the container on the other side of the fence is what has been granted approval.
- 2) The “Grand Opening” banner must be relocated and affixed to the above noted container and removed not later than 21 days after the date of this decision.

**PLANNING DEPARTMENT ANALYSIS**

The applicant is requesting planning permission to erect and place a banner sign on the fence on Ready Mix Concrete Clement Plant located off Esterley Tibbetts Highway.

**At 1:30pm, Mr. Tommy Sofield appeared on behalf of the applicant.**

**CPA** Why do they need these two signs?

**Mr. Sofield** (*Provided photographs for the members*) They will let people know where they are. They need the Grand Opening sign for a couple of weeks. The other will just let people know what type of business it is. They wanted to do it the right way.

**CPA** Is there any other place more suited for the signs than here?

**Mr. Sofield** They have looked, but thought this would not distract drivers as they are setback off the by-pass.

**CPA** Does he know whose fence that is?

**Mr. Sofield** No.

**CPA** We believe it is Government's. The Department has been in the process of removing signs along Esterley Tibbetts Highway. They will debate the possibility of having the signs. Does he have anything else to add?

**Mr. Sofield** Just that it's a new business and they would only need the Grand Opening sign for a couple of weeks, maybe into January, after the holidays.

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

The proposed banner sign in size is: 44" (3'-6") in width and 96" (8'); a total of 28.8 sq. ft. Banner signs are discouraged by the Department the proposed signs would not comply with Section 7 of the Authority's Sign Guidelines.

## 2.0 APPLICATIONS

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

#### 2. 3 CLEVELAND N. HENRY Block 13D Parcel 385 (F10-0309) (P10-1010) (\$50,000) (CS)

Application for a single-storey house.

#### FACTS

<i>Location</i>	On Brushy Avenue in George Town Central
<i>Zoning</i>	<b>HDR</b>
<i>Notice Requirements</i>	NA
<i>Parcel Size</i>	6,534 sq. ft.
<i>Current Use</i>	Illegal Auto Repair
<i>Proposed Use</i>	House
<i>Building Size</i>	418.5 sq. ft.
<i>Building Coverage</i>	6%
<i>Proposed Parking</i>	1
<i>Required Parking</i>	1

#### BACKGROUND

**CE07-0034** and **CE08-0390** - Enforcement cases are active for an illegal wooden structure and using the site for auto repair. On September 29, 2010 the CPA authorized the Department to issue an Enforcement Notice on these breaches, however the Enforcement Notice has not been served to date.

There is no other planning history for this site.

**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 existing house and all non-personal vehicles and equipment shall be removed from the site no later than 90 days from the date of this decision or prior to the issuance of a Building Permit, whichever occurs first.
- 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].

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is requesting planning permission for a single-storey house.

### **Zoning**

The site is zoned High Density Residential. The proposed house is allowed in the zone, however the Department wishes to discuss the following concerns.

### **Specific Issues**

#### **a) Setbacks**

The applicant is requesting a variance to the front setback for a proposed septic tank. The tank will be setback 18' from the front property line, while the required front setback is 20'. The front setback is usually a reserve for future road widenings, sidewalk placement or utilities. Given there is ample space to the sides and rear of the proposed house to allow the septic tank to be relocated and comply with setback requirements, Planning does not support the front setback variance request.

#### **b) Enforcement History**

The Department has an open enforcement case for an illegal wooden structure and utilizing the site for auto repair. The site plan indicates that the applicant proposes to demolish the existing structure, but does not address what will occur with the vehicles located on the site.

The Department advises the Authority to discuss how to address the active enforcement concerns along with the proposal for a new house.

**2. 4 A.L. THOMPSON Block 28D Parcel 319 (F06-0412) (P10-0941) (\$400,000) (BES)**

Application for 3,408 sq. ft., one storey addition to hardware store.

**Mr. A.L. Thompson declared a conflict and left the meeting room. Mr. Steve McLaughlin sat as Acting Chairman.**

**FACTS**

<i>Location</i>	Countryside Shopping Village, Savannah
<i>Zoning</i>	<b>N COM</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	6.23 acres
<i>Current Use</i>	Hardware Store
<i>Proposed Use</i>	Addition
<i>Building Size</i>	3,408 sq. ft.
<i>Building Coverage</i>	25.1%
<i>Proposed Parking</i>	242
<i>Required Parking</i>	238

**BACKGROUND**

December 8, 2004 (**CPA/28/04; Item 2.3**) - It was resolved to grant planning permission for a commercial complex.

March 8, 2006 (**CPA/07/06; Item 2.36**) - It was resolved to grant planning permission for commercial development (Phase 2).

October 25, 2006 (**CPA33/06; Item 2.50**) – CPA granted planning permission for a change-of-use from retail to restaurant.

June 13, 2007 (**CPA/17/07; Item 2.2**) – CPA granted planning permission for a change-of-use from retail to restaurant.

**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.

## **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 2,000\* US gallons per day (gpd).  
\*The developer currently has installed a 1,000gpd Clearstream to serve the buildings; an additional 1,000gpd aerobic treatment unit is required for the proposed addition.*
- *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 install the water-supply infrastructure within the site, per the Water Authority’s guidelines and standards. The developer shall contact the Water Authority’s Engineering Services at 949-2837, without delay, to be advised of the site-specific requirements for connection.*
- *In addition to guidelines for constructing potable water mains, there are specific requirements for water meter installation at developments requiring five or more meters per parcel or lot. Determination of the required layout for multiple-meter installations is at the sole discretion of the Water Authority.*
- *Copies of the Authority’s Guidelines for Constructing Potable Water Mains (Revised July 2007) and Standard Detail Drawings of Multiple Meter Installations (April 2010) are available at: [www.waterauthority.ky](http://www.waterauthority.ky) and at the Water Authority’s office on Red Gate Road.*
- *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.*
- *The developer’s request for connection to the 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 November 5th, 2010 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

**General Issue**

*Where will the new loading/unloading area of the building be located? Please indicate on plan. Also the applicant should highlight the impact onto parking area of addition.*

**Road Capacity Issues**

*The traffic demand to be generated by the proposed development of 11,008 sq. ft. has been assessed in accordance with ITE Code 862. The anticipated traffic to be added onto Hirst Road is as follows:*

<i>Expected Daily Trip</i>	<i>AM Peak Hour Total Traffic</i>	<i>AM Peak In</i>	<i>AM Peak Out</i>	<i>PM Peak Hour Total Traffic</i>	<i>PM Peak In</i>	<i>PM Peak Out</i>

328	14	8	6	26	13	13
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*Based on these estimates, the impact of the proposed development onto Hirst Road 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:*

- *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 a 3,408 sq. ft., one storey addition to hardware store located at the Countryside Shopping Village, Savannah

#### **Zoning**

The property is zoned Neighbourhood Commercial and while the proposed use is a permitted use. The Department would offer the following comments regarding specific issue noted below.

#### **Specific Issue:**

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

As indicated on the site plan, the proposed service building infringes 6' into the adjoining strata lot. The Department would suggest that the structure could be relocated at the rear of the hardware building.

**2. 5 MICHAEL & SARAH HASSALL Block 20B Parcel 26 (F10-0263) (P10-0930) (\$227,160) (KA)**

Application for an addition to the existing apartment building, to create four (4) additional units.

**FACTS**

<i>Location</i>	Bernard Drive, George Town
<i>Zoning</i>	<b>LI</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	0.3 acres
<i>Current Use</i>	Apartments
<i>Proposed Use</i>	Apartments
<i>Building Size</i>	1,893.9 sq. ft.
<i>Density</i>	23
<i>Allowable Density</i>	25
<i>Building Coverage</i>	40%
<i>Existing Parking</i>	4
<i>Proposed Parking</i>	4
<i>Required Handicapped Spaces</i>	1
<i>Required Parking</i>	11
<i>Number of Units</i>	4

**BACKGROUND**

No history of planning permission or building permit for existing 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.*
- 5) 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.
- 6) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

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, Water Authority and National Roads Authority are noted below.

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

*“An additional 2 bins need to be added to the garbage enclosure.”*

## **Water Authority**

### ***“Wastewater Treatment:***

- *The developer shall provide a septic tank with a capacity of at least 1,250 US gallons for the proposed apartments. 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 install the water-supply infrastructure within the site, per the Water Authority’s guidelines and standards. The developer shall contact the Water Authority’s Engineering Services at 949-2837, without delay, to be advised of the site-specific requirements for connection.*
- *In addition to guidelines for constructing potable water mains, there are specific requirements for water meter installation at developments requiring five or more meters per parcel or lot. Determination of the required layout for multiple-meter installations is at the sole discretion of the Water Authority.*
- *Copies of the Authority’s Guidelines for Constructing Potable Water Mains (Revised July 2007) and Standard Detail Drawings of Multiple Meter Installations (April 2010) are available at: [www.waterauthority.ky](http://www.waterauthority.ky) and at the Water Authority’s office on Red Gate Road.*
- *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.*
- *The developer’s request for connection to the 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**

***“Road Capacity Issues***

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

<b><i>Expected Daily Trip</i></b>	<b><i>AM Peak Hour Total Traffic</i></b>	<b><i>AM Peak 16% In</i></b>	<b><i>AM Peak 84% Out</i></b>	<b><i>PM Peak Hour Total Traffic</i></b>	<b><i>PM Peak 67% In</i></b>	<b><i>PM Peak 33% Out</i></b>
<b><i>53</i></b>	<b><i>4</i></b>	<b><i>1</i></b>	<b><i>3</i></b>	<b><i>5</i></b>	<b><i>3</i></b>	<b><i>2</i></b>

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

***Access and Traffic Management Issues***

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

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

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

***Stormwater Management Issues***

*The applicant is encouraged to implement state-of-the-art techniques that manage stormwater runoff within the subject parcel and retain existing drainage characteristics of the site as much as is feasible through innovative design and use of alternative construction techniques. However, it is critical that the development be designed so that post-development stormwater runoff is no worst 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 Bernard Drive. Suggested dimensions of the ‘hump’ would be a width of 6 feet and a height of 2-4 inches. Trench drains often are not desirable.*

- *Curbing is required for the parking areas to control stormwater runoff.*
- *Roof water runoff should not drain freely over the parking area or onto surrounding property. Note that unconnected downspouts are not acceptable. We recommend piped connection to catch basins or alternative stormwater detention devices. If catch basins are to be networked, please have applicant to provide locations of such wells along with details of depth and diameter prior to the issuance of any Building Permits.*

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

#### **LETTER FROM APPLICANT**

*"I write on the behalf of my clients Mr. & Mrs. Hassall They are the owners of Block 20B Parcel 26 they are the owners since 2007 there is presently a one bedroom apartment and an 2 bedroom apartment on site the it is zone light industries there are mostly apartments and homes in this area they are requesting the board to allow them to build the additional to build four one bedroom apartments on this site they are also requesting a Parking Variance as it is required by law 1,5 parking per unit for a total of 11 parking spaces the site can only hold 8 parking spaces if the board would consider it since five out of the seven apartments are 1 bedroom apartments. Thank you for your kind consideration in this matter."*

#### **PLANNING DEPARTMENT ANALYSIS**

##### **General**

The application is for an addition to the existing apartment building, to create 4 additional units. The site is located in the Industrial Park area on Bernard Drive.

##### **Zoning**

The property is zoned Light Industrial and while the proposed use may be permitted per Regulation 12 the Department would offer comments on certain specific issues addressed below.

**Specific Issues**

**a) Suitability**

Bernard Road consists of a mix of residential properties and industrial businesses. The application site currently has a single storey apartment building with three units (1 x 1 bedroom and 2 x 2 bedroom units). The applicant would like to construct four (4) additional 1-bedroom units. In a High Density Residential Zone, 25 units per acre are permitted. The proposed addition would result in a density of 23 units per acre. The lot is only 13,068 sq. ft. however there is no minimum lot size requirement for apartments in a High Density Residential Zone. The maximum site coverage permitted in the HDR zone is 40 percent. The proposed addition would result in a site coverage of forty percent.

**b) Parking**

Four car parking spaces are proposed for the four (4) new one bedroom units. There are currently 4 spaces for the existing three (3) units. The Regulations require 1.5 spaces per unit which would result in 11 spaces being required for the entire development, existing and proposed.

**c) Existing Building**

There is no history of the existing building receiving planning permission. However aerial photos show that the building has been there since 1994.

**2. 6 DOUBLE T INV Block 38B Parcel 172 (F99-0112) (P10-0931) (\$4,000) (KA)**

Application for a four (4) lot subdivision.

**FACTS**

<i>Location</i>	Locust Lane, Northward
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Advertisements</i>	NA
<i>Parcel Size</i>	0.86 acres
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	Subdivision

**BACKGROUND**

June 9, 1999 (CPA/15/99; **Item 6.01**) - The Authority granted planning permission for twelve (12) apartments.

June 24, 2009 (CPA/17/09; **Item 2.12**) - The Authority granted planning permission for seven (7) 3-bedroom houses.

**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.

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant has applied to subdivide the parcel into four (4) lots. The site is located on Locust Lane, Northward.

### **Zoning**

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

### **Specific Issues**

The proposed lots would be 9,370 square feet. The minimum required lot size is 10,000 square feet. In addition, given the smaller lot size, the proposed density would be 4.65 houses per acre. The regulations permit a maximum of four (4) houses per acre. The access road for the site is only 20' wide however there is a 30' wide vehicle right of way to the north of the site. Given that the parcel is large enough for apartments, it is considered that four (4) house lots would be a better development for this site. The CPA has previously granted permission for seven (7) houses in 2009 and for four (4) 1-bedroom apartments in 1999. Additionally, in 2006, planning permission was granted for a two lot subdivision of 38B 103, located directly across the road from the subject lands. In that instance, the two lots were the same size as these proposed lots.

**2. 7 DMS BUILDING Block OPY Parcel 42 (FA86-0094) (P10-0937) (\$150,000) (KA)**

Application for the renovation of the facade of the building.

**FACTS**

<i>Location</i>	Fort Street, George Town
<i>Zoning</i>	<b>G COM</b>
<i>Notice Requirements</i>	No Objectors
<i>Current Use</i>	Commercial
<i>Proposed Use</i>	Commercial

**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 Water Authority are noted below.

**Water Authority**

***“Wastewater Treatment:***

*Please be advised that the proposed modification of the façade warrants no requirements by the Water Authority. However, the results from a sample collected on 3rd June 2010 from the aerobic treatment unit indicated the BOD level of 485mg/L and TSS level of 390mg/L, which exceed the 30mg/L effluent limits set out by the Water Authority.*

*Before any Certificate of Occupancy can be issued by the Water Authority for the proposed modification, the system must be serviced and a service report submitted to the Water Authority as soon as possible. Once the system has been serviced, it will be re-sampled to ensure compliance with the effluent limits set out by the Water Authority.*

*The existing aerobic treatment units and grease traps are located under the sidewalk of the building, therefore, all access covers (2’x2’ square or 2’ diameter*

round over each compartment) shall be at grade level and be such that they can be opened using standard tools.”

### **LETTER FROM APPLICANT**

*“Our clients have requested that we renovate and update the front facade of the building, these alterations to have no effect upon its existing area. We propose to remove the existing roll up doors, shop fronts, columns and railings and replace with new, the proposed decorative columns to extend from the sidewalk to the under side of the roof over the second floor balcony.*

*The sidewalk is to be raised over the frontage of the building to within one half inch of the internal floor level. We intend to remove the replace with new the roofing to the second floor balcony this to be concealed behind a curved parapet wall. The intention is to install a new curved roofing canopy over a portion of the rear of the existing roof this to widen at the front to cover the existing second floor balcony facing fort street.”*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The application is for the renovation of the facade of the building. The site is on Fort Street and was previously operated by Senior Frogs Restaurant/Bar.

#### **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) Suitability**

The proposed renovations would be an improvement on the existing facade and would be similar in design to the adjacent building, the West Wind Building. The sidewalk would be extended to the property line which would be an improvement for pedestrians and it would be covered by a new second storey balcony. The Authority will recall approval being granted for a similar design for the adjacent building. Building Control comments that the handicap space in front of the building which would be replaced by the sidewalk should be relocated. No revised site plan has been submitted to show the relocation of the handicap parking.

Application to modify planning permission.

**FACTS**

<i>Location</i>	Corner of Crystal Valley Drive and Jade Drive, West Bay
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	NA
<i>Advertisements</i>	NA

**BACKGROUND**

**CPA/23/10; Item 2.2** - Planning permission granted for addition to house, garage with attic and wall with the following condition:

- 1) The applicant shall submit revised plans showing the following:
  - a) the garage with detached bedroom with a minimum 15’ setback;
  - b) the covered patio with a minimum 15’ setback; and
  - c) the privacy/fountain wall with a maximum height of 4’ with the arch portion with a maximum height of 6’.

**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/23/10; item 2.1 be modified to allow the site layout as shown on the plans date stamped November 10, 2010.

All other conditions of CPA/23/10; item 2.1 remain applicable.

**PLANNING DEPARTMENT ANALYSIS**

**General**

An application for an extension to this property was previously approved at CPA/23/10; item 2.2 with the condition that the extension and garage be 15’ from the rear and side boundary. The applicant has revised the plan to meet the rear and side boundary setback requirements, however the extension does would not meet the 20 foot front setback requirement. The site is located on the corner of Jade Drive and Crystal Valley Crescent in West Bay.

**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) Suitability**

**Addition to Duplex**

The proposed addition would be shifted forward to meet the 15 foot rear setback requirement by CPA. However it would result in the addition be within the front setback and therefore only 16.1 feet from the front boundary line. The Authority already granted a front setback variance for the addition which was initially approved with a 19' 1" setback.

**Garage**

The proposed 2 storey garage would be 15 feet from the side boundary and would therefore comply with regulation 9 (8) (j). However, the garage would not comply with Regulation 9 (8) (i) which requires a front setback of 20'. The proposed garage would be 15' from the front boundary.

**Decorative Privacy/Division Wall**

The division wall has been revised to 4' in height with the arch at 6' and would therefore comply with the CPA's condition from CPA/23/10; item 2.2.

**Propane Tank**

The propane tank has been relocated and would now be within the 15' setback required by the CPA.

**2. 9 KURT SCOTT Block 43A Parcel 346 (F10-0244) (P10-0893) (CS)**

Application to operate a heavy equipment rental business.

**FACTS**

<i>Location</i>	Justin Woods Quarry in Bodden Town
<i>Zoning</i>	<b>LDR</b>
<i>Parcel Size</i>	113 acres
<i>Current Use</i>	Commercial Quarry
<i>Proposed Use</i>	Heavy Equipment Rental
<i>Building Size</i>	90 sq. ft.
<i>Parking Coverage</i>	1%

**BACKGROUND**

A commercial quarry has been approved for this site.

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

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

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is requesting planning permission to operate a heavy equipment rental business.

### **Zoning**

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

### **Specific Issues**

#### **a) Suitability**

The applicant applied for a Trade & Business License to operate a Heavy Equipment Rental business on a residentially-zoned parcel in West Bay. The Department advised that the applicant's business would require planning permission and was also advised to seek a more suitable parcel to operate the business due to its industrial nature.

The applicant has obtained permission from the owner of Block 43A Parcel 346 to operate the heavy equipment rental business on his land, which is currently approved as a commercial quarry. As heavy trucks are frequently accessing this site for the quarry, the Department has no concerns with permitting the applicant to operate his business on the same parcel, subject to all operations complying with the Low Density Residential setbacks.

**2. 10 ROHAN SMALL Block 17A Parcel 126 (F10-0304) (P10-0991) (\$3,250,000) (BES)**

Application for a house, pool, dock, gazebo and fence.

**FACTS**

<i>Location</i>	Sardinia Close, Crystal Harbour Subdivision
<i>Zoning</i>	<b>LDR</b>
<i>Parcel Size</i>	1.2848 Acres
<i>Building Size</i>	21,571 sq. ft.
<i>Density</i>	0.78
<i>Building Coverage</i>	26.4%
<i>Proposed Parking</i>	5
<i>Required Parking</i>	1

**BACKGROUND**

No previous CPA action

**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.

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 respectfully requesting a variance for the following:*

- 1. Permission to build a decorative tower at 43 ft. 2. Permission to allow a site coverage of 26.43*

*The house roof line is well within the permissible height. The tower is a decorative element of the design which adds character to the house. It is a very small structure of only 15 ft x 15 ft. or 225 sq.ft. and represents a very minute area of the building footprint of only 1.88 %.*

*My client does extensive entertainment as a partner at a leading international accounting firm. At times he will host groups in excess of 200 at his home. He requested extensive porches to provide open covered entertainment areas. The enclosed area of the house is well within the site coverage. We are requesting a coverage that only exceeds the permissible area by 1.43 %.*

*We look forward to your favourable review and consideration of our apple a variance. "*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for a house (21,571 sq. ft.), pool, dock, gazebo and fence to be located at Crystal Harbour Subdivision.

### **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) Setbacks**

The proposed decks/planters are encroaching into the canal building setbacks.

#### **b) Building Height**

The proposed building height is 43' from the average finished grade, whereas the maximum allow building height is 40' in LDR zone. This excessive height is only pertinent to the observation tower and this has typically been deemed acceptable by the Authority in the past with other similar applications.

#### **c) Site Coverage**

As indicated on the site plan, the proposed site coverage is 26.4%. In accordance with Regulation 9(8)(h), the maximum allowable site coverage is 25%.

**2. 11 EDWINA WILLIAMS Block 28C Parcel 409 (F05-0030) (P10-1014) (EJ)**

Application to modify planning permission to allow the as-built location of the approved duplex addition.

**FACTS**

<i>Location</i>	Millet Close in Savannah Meadows II
<i>Zoning</i>	<b>LDR</b>
<i>Parcel Size</i>	13,068 sq. ft.

**BACKGROUND**

**February 15, 2005** - Administrative approval was granted for a three-bedroom house.

May 12, 2010 (**CPA/12/10; Item 2.9**) - The Authority granted permission for an addition to create a duplex.

**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/12/10; item 2.9 be modified to allow the as-built location of the duplex addition.

All other conditions of CPA/12/10; item 2.9 remain applicable.

**LETTER FROM APPLICANT**

*“We the abovementioned lot owners have been granted permission from the Department of Planning to construct a house addition to create a duplex. However, the setback of the building of our lot (28C 409) to the boundary of your lot (28C 170 Rem1) should be twenty feet (20). The distance is measured at 13.50 feet (13.50) allowing us to fall short by 6.50 feet (6.50).*

*We have completed the addition and upon our application to obtain the certificate of occupancy (CO), we were advised to seek consent from you the lot owner of (28C 170REM1) to remain as is.*

*Enclosed is the signed consent letter from the lot owner of (28C 170REM1). With this consent, we hereby request variance on the setback on lot (28C 409) which is measured at 13.50 feet (13.50).*

*We appreciate your kind attention to our request in this urgent matter, and look forward for an approval from the Department of Planning soon. Please do not hesitate to contact me should you have any questions.”*

## **LETTER TO ADJACENT LANDOWNER**

*We the abovementioned lot owners have been granted permission from the Department of Planning to construct a house addition to create a duplex. However, the setback of the building of our lot (28C 409) to the boundary of your lot (28C 170 Rem1) should be twenty feet (20). The distance is measured at 13.50 feet (13.50) allowing us to fall short by 6.50 feet (6.50).*

*We have completed the addition and upon our application to obtain the certificate of occupancy (CO), we were advised to seek consent from you the lot owner of (28C 170REM1) to remain as is.*

*We thank you in advance for your consent, and appreciate your kind assistance in this urgent matter.*

*Signed: Edwina Williams and D. Kurt Tibbetts.”*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

Application to modify planning permission to allow the as-built location of the approved duplex addition.

### **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 Variance**

The applicant is seeking the Authority permission for a setback variance, proposed at about 13' from the rear boundary instead of the required 20' (a difference of 7') permitted under Regulation 9(8)(i). On May 12, 2010 (CPA/12/10; Item 2.9), the Authority granted permission for an addition to create a duplex with a setback variance from the road. The approved addition was constructed further away from the road, but closer to the rear boundary. The applicant has obtained a letter of consent from the affected parcel owner.

**2. 12 MINISTRY OF ETEYS & C Block 28D Parcel 271 (FB81-0051) (P10-0908) (\$2,527,600) (BES)**

Application for two-storey class rooms and library at Savannah Primary School.

**FACTS**

<i>Location</i>	Savannah Primary School
<i>Zoning</i>	<b>INST</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	73 acres
<i>Current Use</i>	School
<i>Building Size</i>	12,638 sq. ft.
<i>Building Coverage</i>	1.1%
<i>Existing Parking</i>	23
<i>Proposed Handicapped Spaces</i>	4
<i>Proposed Parking</i>	33
<i>Required Parking</i>	40

**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, condition (5) listed below shall be met before a Building Permit can be issued.

- 5) Construction drawings for the proposed wastewater treatment system and disposal system shall be submitted to the Water Authority for review and approval. The Central Planning Authority must receive confirmation of the Water Authority's approval.
- 6) The applicant 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.
- 7) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

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

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, 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 proposed addition meets the requirements of the department."*

#### **Water Authority**

*"Please be advised that the proposed classrooms and library addition to Savannah Primary School can be accommodated by the existing Klargester*

*Aerobic Treatment Unit installed. The wastewater plant currently has a treatment capacity of 10,500 gallons per day.”*

### **National Roads Authority**

*“As per your memo dated October 29th, 2010 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

### **Stormwater Management Issues**

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

- *The applicant shall demonstrate, prior to the issuance of any Building Permits, that the Stormwater Management system is designed to embrace storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and ensure that surrounding properties and/or nearby roads are not subject to stormwater runoff from the subject site.*
- *The stormwater management plan shall include spot levels (existing and finished levels) with details of the overall runoff scheme. Please have applicant provide this information prior to the issuance of a building permit.*
- *Roof water runoff should not drain freely over the parking area or onto surrounding property. Note that unconnected downspouts are not acceptable. We recommend piped connection to catch basins or alternative stormwater detention devices. If catch basins are to be networked, please have applicant to provide locations of such wells along with details of depth and diameter prior to the issuance of any Building Permits.*

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

*"BCU has performed a Pre-CPA review and have recommended the following be considered when making a formal application to BCU.*

- 1) The elevator lift is required to be rated in accordance with Table 705.1.2 CIBC.*
- 2) Exist doors leading to stairs shall be rated as well. Stair shaft shall be equipped with rated assemblies in accordance with Table 705.1.2 CIBC.*
- 3) Exist access corridor between library and class block shall be equipped with rated assemblies as per section 704.2.4 CIBC. Rated assemblies are required for both buildings.*
- 4) No other function is allowed in enclosed stairways as per section 1006.1 CIBC. See electrical room.*
- 5) Exit access corridors for the second floor shall be equipped with rated assemblies in accordance with Table 704.2.4 CIBC.*
- 6) Access exit corridor between library and class block is required to be protected to the underside of the roof as per section 704 CIBC.*
- 7) Exterior wall of enclosed stairways shall comply with Table 600 for exterior walls. Openings within exterior walls shall be equipped with 3/4hr assemblies. Protection shall extend 10ft horizontally and vertically in accordance with section 1006.1 CIBC."*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for two-storey class rooms and library (12,638 sq. ft.) at Savannah Primary School. As indicated on the site plan, the proposed class rooms and library would be located next to the basketball court.

### **Zoning**

The property is zoned Institutional and the application complies with the minimum requirements in respect of setbacks, site coverage and parking. The Department has no specific concerns with the application.

**2. 13 LEONIE WILLIAMS-BROWN Block 20B Parcel 370 (F06-0004) (P10-0899) (\$10,000) (KA)**

Application for the partial change-of-use of an existing retail unit from retail to restaurant.

**FACTS**

<i>Location</i>	Whitford Place, Dorcy Drive, GT
<i>Zoning</i>	<b>LI</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	0.85 acres
<i>Current Use</i>	Retail
<i>Proposed Use</i>	Retail and Restaurant
<i>Building Size</i>	511.37 sq. ft.
<i>Existing Parking</i>	29
<i>Required Parking</i>	6
<i>Number of Units</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.**

**AGENCY COMMENTS**

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

**Chief Environmental Health Officer**

*“The plans meet the departments requirements.”*

**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 2,000 US gallons for the proposed change of use. The septic tank shall be constructed in strict accordance with the Authority's standards.*
- *The developer shall also provide two under-the-sink grease interceptors with a liquid volume of at least 20 gallons per minute each to treat the wastewater from kitchen plumbing fixtures utilized in the preparation or clean up of food. The outlet of the grease interceptors shall be plumbed to the sewage line leading to the septic tank required above. The grease interceptors shall meet the requirements in accordance with the Water Authority 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.*
- *If the developer proposes to utilize an existing septic tank and/or disposal well, the system shall be serviced to determine whether it can accommodate the change of use. A copy of the service report, which includes the following information, shall be provided to the Water Authority.*
  - *record of pump out,*
  - *inspection of inlet and outlet structures, repair or replace if damaged,*
  - *dimensions of tank: length, width, and depth (floor to outlet)*
  - *record of disposal well clearing, if necessary.*

**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 install the water-supply infrastructure within the site, per the Water Authority's guidelines and standards. The developer shall contact the Water Authority's Engineering Services at 949-2837, without delay, to be advised of the site-specific requirements for connection.*
- *In addition to guidelines for constructing potable water mains, there are specific requirements for water meter installation at developments requiring five or more meters per parcel or lot. Determination of the required layout for multiple-meter installations is at the sole discretion of the Water Authority.*
- *Copies of the Authority's Guidelines for Constructing Potable Water Mains (Revised July 2007) and Standard Detail Drawings of Multiple Meter Installations (April 2010) are available at: [www.waterauthority.ky](http://www.waterauthority.ky) and at the Water Authority's office on Red Gate Road.*

- *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.*
- *The developer's request for connection to the 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."*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for the partial change-of-use of an existing retail unit from retail to restaurant. The unit is currently being used as a sewing shop. The applicant proposes to divide the room in two and maintain the sewing shop and add a cafe. The same front door will be used for both businesses therefore no external changes are proposed. The site is the Whitford Plaza on Dorcy Drive.

### **Zoning**

The property is zoned Light Industrial and while the proposed use is a permitted use per Regulation 12 the Department would offer comments on certain specific issues addressed below.

### **Specific Issues**

The proposed change-of-use is considered to be acceptable in this area given the mix of retail, restaurant and industrial uses that currently exist. There is sufficient parking in the front and the rear of the building.

**2. 14 ROLAND'S GARDEN Block 12E Parcel 60 Rem 3 (F02-0199) (P10-1077) (KA)**

Application for two (2) fuel tanks.

**FACTS**

<i>Location</i>	Lawrence Boulevard, off West Bay Road
<i>Zoning</i>	<b>N COM</b>
<i>Advertisements</i>	NA

**BACKGROUND**

**CPA/27/10; Item 2.6** - Planning permission granted for change-of-use from retail to restaurant.

**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 two (2) fuel tanks. The site is the old Butterfly Farm which recently received planning permission to change to a restaurant for Roland's Garden.

**Zoning**

The property is zoned Neighbourhood 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**

The proposed tanks are for an approved restaurant use and complies with the Planning & Development Regulations for setbacks. The gas tanks would be far from the parcel boundary and would therefore not have an adverse impact on any neighbouring properties.

**2. 15 IHC PROPERTIES LTD. Block OPY Parcel 49 (FA81-0212) (P10-1006) (\$15,927.8) (CS)**

Application for eight (8) signs for the West Wind Building.

**FACTS**

<i>Location</i>	Near the northeast corner of Harbour Drive and Fort Street
<i>Zoning</i>	<b>G COM</b>
<i>Parcel Size</i>	28,740 sq. ft.
<i>Current Use</i>	Commercial
<i>Proposed Use</i>	Signs

**BACKGROUND**

October 3, 2007 (**CPA/28/07; Item 2.8**) - The Authority resolved to refuse a change-of-use application from retail/office to restaurant on the second floor.

March 26, 2009 (**CPA/07/09; Item 3.1**) - The Authority resolved to issue an enforcement notice for the illegal tenant signs and banners.

April 29, 2009 (**CPA/12/09; Item 2.10**) - The Authority resolved to adjourn an application for a Take-Out Restaurant and 6 signs, for the following reason:

1. The applicant shall submit revised plans for the proposed signs that comply with the Planning Department's Sign Guidelines.

June 24, 2009 (**CPA/17/09; Item 2.18**) - The Authority resolved to adjourn an application for eight (8) after-the-fact signs for the following reason:

1. The applicant shall submit revised drawings that depict the signage in compliance with the Authority's sign guidelines.

July 22, 2009 (**CPA/19/09; Item 2.9**) - The Authority granted planning permission for a take-out restaurant and (1) sign (Dunkin Donuts).

October 28, 2009 (**CPA/27/09; Item 2.2**) - The Authority granted planning permission for three (3) after-the-fact signs.

March 3, 2010 (**CPA/05/10; Item 2.6**) - The Authority resolved to modify planning permission to allow the relocation of a sign and to add one sign (Dunkin Donuts).

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

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for eight (8) signs for the West Wind Building.

### **Zoning**

The site is zoned General Commercial. The signs are seven (7) tenant signs for the second floor retail tenants and one (1) building directory sign. Signs are allowed for the existing use, however the Department wishes to discuss the following concerns.

### **Specific Issues**

#### **a) Compliance to Sign Guidelines**

The proposed signs for Black Beards and Hot Tropics do not comply with the Sign Guidelines, recently supported by the Authority. Specifically, the application does not meet the following:

##### Section 6.2: Commercial Zones, Fascia Sign

"One fascia sign is permitted per tenant building frontage.

The applicant is proposing three fascia signs each for Black Beards and Hot Tropics. Each store only fronts Harbour Drive, therefore only one fascia sign would be permitted under Section 6.2.

"In the case of establishments having additional exterior walls that face a main thoroughfare, each wall may have additional fascia sign at ¼ sq.ft. for each linear foot of frontage.

The retail stores only face one main thoroughfare, therefore additional signs are not recommended per the sign guidelines.

Planning notes that the sign's aesthetics do not necessarily comply with the Guidelines, however the CPA did conclude in a previous meeting, that business logos can be retained versus forcing them to stray from the characteristic design.

The directory sign does comply with Section 6.2 of the Sign Guidelines. The Department is of the view the directory sign adequately provides additional exposure to the second floor tenants versus installing three fascia signs per tenant.

#### **b) Previous Planning Decisions**

The Department notes that the Authority decided on a previous application for eight (8) after-the-fact signs, which included three signs for Blackbeards and three signs for Hot Tropics. On June 24, 2009 (CPA/17/09; Item 2.18) the Authority adjourned the application, requiring the applicant to comply with the Sign Guidelines. As a result, the applicant removed two signs for each business. The current application is the same as the previous after-the-fact application. Therefore the Department does not recommend approval for the four (4) fascia signs.

### **3.0 ENFORCEMENTS**

#### **3.1 REINALDO TOMAS GIRON & IDA KARINA GIRON Block 4C Parcel 456 (CE09-0149) (CE)**

Illegal apartments, shed and storage of derelict vehicles.

##### **FACTS**

*Location* Aurora Drive in West Bay

*Zoning* MDR

##### **BACKGROUND**

**1998** – A house was approved.

**Decision:** It was resolved to authorise the issuance of an Enforcement Notice in accordance with Section 18 of the Development and Planning Law (2008 Revision, as amended). Enforcement Notice to take effect at the end of the period of 28 days from the date of service and compliance with the Enforcement Notice to be completed within the period of 28 days from the date when the Notice takes effect, subject to the provisions of Section 18(5) and (6) of the law.

##### **PLANNING DEPARTMENT ANALYSIS**

Subsequent to an inspection on the site carried out November 19, 2010, it was observed that a wooden shed with apartments is located on the property without planning permission along with derelict vehicles being stored on the property.

#### **3.2 MARTIN & BRENDA RILEY Block 15C Parcel 73 (CE07-0281) (CE)**

Illegal concrete addition and construction of a wooden shed.

##### **FACTS**

*Location* Fairlawn Road in South Sound

*Zoning* MDR

##### **BACKGROUND**

**2000** – Apartments were approved.

**Decision:** It was resolved to authorise the issuance of an Enforcement Notice in accordance with Section 18 of the Development and Planning Law (2008 Revision, as amended). Enforcement Notice to take effect at the end of the period of 28 days from the date of service and compliance with the Enforcement Notice

to be completed within the period of 28 days from the date when the Notice takes effect, subject to the provisions of Section 18(5) and (6) of the law.

### **PLANNING DEPARTMENT ANALYSIS**

Subsequent to an inspection on the site carried out November 16, 2010, it was observed that a concrete addition was made to the apartments and a wooden shed constructed without planning permission.

### **3.3 LETICIA HERNANDEZ Block 32C Parcel 84 (CE07-0140) (CE)**

Illegal apartment addition.

#### **FACTS**

*Location*

Macaw Drive in Lower Valley

*Zoning*

**LDR**

#### **BACKGROUND**

There is no planning history for this site.

**Decision:** It was resolved to authorise the issuance of an Enforcement Notice in accordance with Section 18 of the Development and Planning Law (2008 Revision, as amended). Enforcement Notice to take effect at the end of the period of 28 days from the date of service and compliance with the Enforcement Notice to be completed within the period of 28 days from the date when the Notice takes effect, subject to the provisions of Section 18(5) and (6) of the law.

### **PLANNING DEPARTMENT ANALYSIS**

Subsequent to an inspection on the site carried out November 17, 2010, it was observed that a wooden apartment addition consisting of two units was constructed without planning permission.

### 3. 4 KERMIT JAMES Block 24E Parcel 565 (CE07-0026) (CE)

Illegal dog kennels and two car tents.

#### **FACTS**

*Location* Prospect Drive in Prospect.

*Zoning* LDR

#### **BACKGROUND**

**2001** – A house was approved.

March 16, 2005 (CPA/06/05; **Item 2.6**) - The Authority granted planning permission for a house addition.

October 17, 2007 (CPA/30/07; **Item 2.11**) - The Authority resolved to adjourn an application for after-the-fact dog kennels and two car tents. The application was not presented before the CPA at a later date.

**Decision:** It was resolved to authorise the issuance of an Enforcement Notice in accordance with Section 18 of the Development and Planning Law (2008 Revision, as amended). Enforcement Notice to take effect at the end of the period of 28 days from the date of service and compliance with the Enforcement Notice to be completed within the period of 28 days from the date when the Notice takes effect, subject to the provisions of Section 18(5) and (6) of the law.

#### **PLANNING DEPARTMENT ANALYSIS**

Subsequent to an inspection on the site carried out November 16, 2010, it was observed that the dog kennels and car tents still remain on the property.

### 3. 5 MAVIS ANN HYDES Block 43E Parcel 81 (CE10-0025 (CM)

Conversion of attic space to living accommodations.

#### **FACTS**

*Location* Prospect Drive in Prospect.

*Zoning* LDR

#### **BACKGROUND**

**1989** – A house was approved.

June 13, 2006 (CPA/17/06; **Item 2.9**) - The Authority granted planning permission for a house.

**Decision:** It was resolved to authorise the issuance of an Enforcement Notice in

accordance with Section 18 of the Development and Planning Law (2008 Revision, as amended). Enforcement Notice to take effect at the end of the period of 28 days from the date of service and compliance with the Enforcement Notice to be completed within the period of 28 days from the date when the Notice takes effect, subject to the provisions of Section 18(5) and (6) of the law.

**PLANNING DEPARTMENT ANALYSIS**

Subsequent to an inspection on the site carried out October 19, 2010, it was observed that construction was underway in the house attic space to create additional living space.

**3. 6 CGH PROPERTIES LIMITED Block 22E Block 423**

Illegal signs.

**FACTS**

<i>Location</i>	Near the Grand Harbour roundabout in Red Bay
<i>Zoning</i>	NC

**Decision:** It was resolved to authorise the issuance of an Enforcement Notice in accordance with Section 18 of the Development and Planning Law (2008 Revision, as amended). Signs to be removed within 5 days of the notice being served and the Authority authorize the Code Enforcement Officer to remove the signs and dispose of them pursuant to the provisions of Section 18(8) of the Law.

**PLANNING DEPARTMENT ANALYSIS**

Subsequent to an inspection of the site it was observed that several signs had been placed on the site. Planning permission has not been applied for or granted for these signs.

**3. 7 TALMADGE & LOUIS EBANKS Block 14C Block 230 (CE10-0118)**

Illegal signs.

**FACTS**

<i>Location</i>	On the existing fence next to the tire shop by the Jacques Scott traffic lights
<i>Zoning</i>	GC

**Decision:** It was resolved to authorise the issuance of an Enforcement Notice in

accordance with Section 18 of the Development and Planning Law (2008 Revision, as amended). Signs to be removed within 5 days of the notice being served and the Authority authorize the Code Enforcement Officer to remove the signs and dispose of them pursuant to the provisions of Section 18(8) of the Law.

**PLANNING DEPARTMENT ANALYSIS**

Subsequent to an inspection of the site it was observed that several signs had been placed on an existing chain link fence. Planning permission has not been applied for or granted for these signs.

**3. 8 SWEETBREAD LTD. Block 14C Block 307 (CE10-0115)**

Illegal signs.

**FACTS**

<i>Location</i>	At the north-west corner of the North Sound Road roundabout on the existing chain link fence
<i>Zoning</i>	<b>GC</b>

**Decision:** It was resolved to authorise the issuance of an Enforcement Notice in accordance with Section 18 of the Development and Planning Law (2008 Revision, as amended). Signs to be removed within 5 days of the notice being served and the Authority authorize the Code Enforcement Officer to remove the signs and dispose of them pursuant to the provisions of Section 18(8) of the Law.

**PLANNING DEPARTMENT ANALYSIS**

Subsequent to an inspection of the site it was observed that several signs had been placed on an existing chain link fence. Planning permission has not been applied for or granted for these signs.

**3. 9 ATLANTIC CENTRE HOLDINGS LIMITED Block 14BG Block 108 (CE10-0124) (CE)**

Illegal signs.

**FACTS**

*Location* North Church Street, across from Lobster Pot

*Zoning* GC

**Decision:** It was resolved to authorise the issuance of an Enforcement Notice in accordance with Section 18 of the Development and Planning Law (2008 Revision, as amended). Enforcement Notice to take effect at the end of the period of 28 days from the date of service and compliance with the Enforcement Notice to be completed within the period of 28 days from the date when the Notice takes effect, subject to the provisions of Section 18(5) and (6) of the law.

**PLANNING DEPARTMENT ANALYSIS**

Subsequent to an inspection of the site it was observed that several signs had been placed on the site advertising a business, Cash for Gold. Planning permission has not been applied for or granted for these signs.

**3. 10 ATLANTIC CENTRE HOLDINGS LIMITED Block 13EH Block 178 (CE10-0121)**

Illegal signs.

**FACTS**

*Location* Corner of North Church Street and Bodden Road, George Town

*Zoning* GC

**Decision:** It was resolved to authorise the issuance of an Enforcement Notice in accordance with Section 18 of the Development and Planning Law (2008 Revision, as amended). Signs to be removed within 5 days of the notice being served and the Authority authorize the Code Enforcement Officer to remove the signs and dispose of them pursuant to the provisions of Section 18(8) of the Law.

**PLANNING DEPARTMENT ANALYSIS**

Subsequent to an inspection of the site it was observed that several signs had been placed on an existing chain link fence. Planning permission has not been applied

for or granted for these signs.

**3. 11 SONGWOOD LTD. Block 13EH Block 191 (CE10-0122)**

Illegal signs.

**FACTS**

<i>Location</i>	North Church Street, across from Lobster Pot, George Town
<i>Zoning</i>	<b>GC</b>

**Decision:** It was resolved to authorise the issuance of an Enforcement Notice in accordance with Section 18 of the Development and Planning Law (2008 Revision, as amended). Signs to be removed within 5 days of the notice being served and the Authority authorize the Code Enforcement Officer to remove the signs and dispose of them pursuant to the provisions of Section 18(8) of the Law.

**PLANNING DEPARTMENT ANALYSIS**

Subsequent to an inspection of the site it was observed that several signs had been placed on an existing chain link fence. Planning permission has not been applied for or granted for these signs.

**3. 12 CABLE & WIRELESS (CAYMAN ISLANDS) LIMITED Block 14CF Block 211 (CE10-0123) (CE)**

Illegal banner sign on side of building.

**FACTS**

<i>Location</i>	Corner of Eastern Ave and Shedden Rd.
<i>Zoning</i>	<b>GC</b>

**Decision:** It was resolved to authorise the issuance of an Enforcement Notice in accordance with Section 18 of the Development and Planning Law (2008 Revision, as amended). Enforcement Notice to take effect at the end of the period of 28 days from the date of service and compliance with the Enforcement Notice to be completed within the period of 28 days from the date when the Notice takes effect, subject to the provisions of Section 18(5) and (6) of the law.

**PLANNING DEPARTMENT ANALYSIS**

Subsequent to an inspection it was observed that a larger banner sign promoting the company LIME had been erected on the side of the building. Planning

permission has not been applied for or granted for these signs.

#### **4.0 DEVELOPMENT PLAN MATTERS**

#### **5.0 PLANNING APPEAL MATTERS**

#### **6.0 MATTERS FROM THE DIRECTOR OF PLANNING**

##### **6.1 MORRIS MCLAUGHLIN Block 72C Parcel 137 (F96-0006) (P10-1021) (KA)**

Application for a gazebo to be used as an outdoor rest area and entertainment area.

**Decision:** It was resolved to advise the applicant that notification of adjacent land owners is required per section 15(4) of the Development and Planning law (2008 Revision, as amended).

#### **LETTER FROM APPLICANT**

*“Please consider this letter at the next CPA meeting as an application for approval to construct a square framed gazebo/picnic pavilion, presently I have a single garage tent that is temporary erected on the property, at times I allow church services and political meetings under the tent. I’m requesting permission to construct a similar size structure that is raised off the ground to avoid water when it rains.”*

#### **PLANNING DEPARTMENT ANALYSIS**

Applicant refuses to notify/get consent from neighbouring properties. The gazebo would be 5’ from the side and 10’ from the front.

##### **6.2 YACHT CLUB – MAINTENANCE OF LAND NOTICE**

The members viewed photographs of the Yacht Club area taken by the Department and considered the concerns raised by members of the public regarding the condition of the area roads, lighting and docking facilities.

**Decision:** It was resolved not to issue a Maintenance of Land Notice as the provisions of Section 29A of the Development and Planning law (2008 revision, as amended) do not apply in this instance.

**6.3** - This item of the Minutes are exempt per section 20(b) and (d) of the Freedom of Information Law, 2007, which reads: “(b) its disclosure would, or

would likely to, inhibit the free and frank exchange of views for the purposes of deliberation;" or "(d) its disclosure would otherwise prejudice, or would be likely to prejudice, the effective conduct of public affairs.

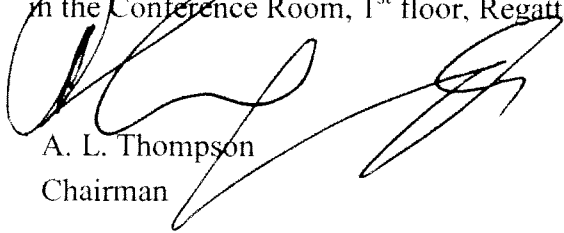
**6.4** - This item of the Minutes are exempt per section 20(b) and (d) of the Freedom of Information Law, 2007, which reads: "(b) its disclosure would, or would likely to, inhibit the free and frank exchange of views for the purposes of deliberation;" or "(d) its disclosure would otherwise prejudice, or would be likely to prejudice, the effective conduct of public affairs.

**6.5** - This item of the Minutes are exempt per section 20(b) and (d) of the Freedom of Information Law, 2007, which reads: "(b) its disclosure would, or would likely to, inhibit the free and frank exchange of views for the purposes of deliberation;" or "(d) its disclosure would otherwise prejudice, or would be likely to prejudice, the effective conduct of public affairs.

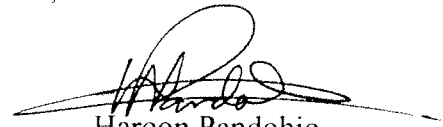
## **7.0 CPA MEMBERS INFORMATION/DISCUSSIONS**

This section of the Minutes are exempt per section 20(b) and (d) of the Freedom of Information Law, 2007, which reads: "(b) its disclosure would, or would likely to, inhibit the free and frank exchange of views for the purposes of deliberation;" or "(d) its disclosure would otherwise prejudice, or would be likely to prejudice, the effective conduct of public affairs.

The meeting adjourned at 3:00 p.m. The next regular meeting of the Central Planning Authority is scheduled for **Wednesday 15<sup>th</sup> December 2010 at 1:00 p.m.** in the Conference Room, 1<sup>st</sup> floor, Regatta Office Park, Leeward One.



A. L. Thompson  
Chairman



Haroon Pandohie  
Executive Secretary

cc: All members of the Central Planning Authority