

# Central Planning Authority

**Minutes** for a meeting of the Central Planning Authority held on December 15, 2010 at 1:00 p.m. in the Conference Room, 1<sup>st</sup> Floor, Regatta Office Park – Leeward One.

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

**CPA/29/10**

**Mr. A. L. Thompson (Chairman) (apologies)**

**Mr. Steve McLaughlin (Acting Chairman) (apologies)**

**Mr. Peterkin Berry (apologies)**

**Mr. Peter Campbell (absent)**

**Mr. Dave Christian**

**Mr. Ernie Hurlstone (absent)**

**Mr. Ray Hydes (Acting Chairman)**

**Mr. Gillard McLaughlin**

**Mr. Rex Miller**

**Mr. Allan Myles**

**Mr. Eldon Rankin**

**Mr. Helbert Rodriguez**

**Mr. Antonio Smith**

**Mr. Haroon Pandohie (Executive Secretary) (except 2.17)**

**Mr. Ron Sanderson (Assistant Director of Planning (CP)) (Acting Executive Secretary for 2.17)**

- 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/29/10**

1. 1	<b>Confirmation of Minutes</b> of CPA/28/10 held on December 8, 2010. ....	4
2. 1	<b>LEWIS EBANKS</b> Block 24C Parcel 20 (F01-0001) (P10-0881) (P10-0882) (\$57,000) (KA) .....	5
2. 2	<b>DONNA REID</b> Block 14C Parcel 117 (F06-0480) (P10-0472) (\$110,865) (DE) 9	
2. 3	<b>BONNIE VIEW ESTATES LTD.</b> Block 24E Parcel 638 (F10-0288) (P10-0971) (\$5,000) (BES) .....	14
2. 4	<b>IHC PROPERTIES LTD.</b> Block OPY Parcel 49 (FA81-0212) (P10-1006) (\$15,927.8) (CS) .....	17
2. 5	<b>FRANK HALL HOLDINGS</b> Block 1D Parcel 180 (F10-0303) (P10-0990) (\$315,000) (CS) .....	20
2. 6	<b>ERVIN EBANKS</b> Block 24C Parcel 19 (F02-0007) (P10-0878) (P10-0879) (\$7,000) (KA) .....	27
2. 7	<b>GARFIELD ELLIS</b> Block 25B Parcel 100 (FA87-0027) (P10-1088)(BES) ....	28
2. 8	<b>COX LUMBER CO.</b> Block 13E Parcel 25 (FA84-0127) (P10-1104) (\$2,000) (CS) .....	30
2. 9	<b>MONKEY BAY LTD.</b> Block 33B Parcel 110 (F10-0347) (P10-1066) (\$4 million) (CS) .....	32
2. 10	<b>HOZMAN MCKENZIE</b> Block 9A Parcel 482 (F97-0006) (P07-1183) (\$201,020) (CS) .....	34
2. 11	<b>ANGELA MESSAM</b> Block 22D Parcel 216 (F94-0272) (P10-0799) (\$5,000) (DE) .....	38
2. 12	<b>STEVE &amp; ANNIE KAY MCLAUGHLIN</b> Block 25C Parcel 75 (F98-0035) (P10-1083) (\$20,000) (DE) .....	40
2. 13	<b>TORTUGA RUM COMPANY LTD.</b> Block 15B Parcel 366 (FA93-0325) (P10-1082) (\$1,500) (KA) .....	41
2. 14	<b>HARVEY STEPHENSON</b> Block 43A Parcel 38 (F01-0074) (P10-0839) (\$100,982) (BES) .....	42
2. 15	<b>WHITTAKER &amp; PRENDERGAST</b> Block 14CJ Parcel 79 (FA91-0029) (P10-1102) (\$5,000) (DE) .....	46
2. 16	<b>G.J.R. STEIN</b> Block 27B Parcel 71 (F09-0005) (P10-1096) (BES) .....	48
2. 17	<b>HERMAN &amp; SHIRLEY PANDOHIE</b> Block 38C Parcel 42 (F10-0363) (P10-1124) (\$3,000) (CS) .....	49
3. 1	<b>PROPRIETORS OF STRATA PLAN 104</b> Block 12E Parcel 63 (CE10-0062) (CE) .....	51
3. 2	<b>ANDREA CANTAVE</b> Block 14C Parcel 12 (CE10-0092) (CE) .....	52

6.1	<b>DOMINIC WILLIAMS &amp; LUCY WOOD</b> Block 61A Parcel 25 (CE10-0127) (CE) .....	53
6.2	<b>LISA &amp; VIDAL MUNDAY</b> Block 39E Parcel 37 (F10-0357) (P10-1105) (BS) .....	53
6.3	<b>CLAUDE &amp; SANDRA LANGLOIS</b> Block 32C Parcel 405 (F10-0320) (P10- 1030) (BS) .....	54
6.4	<b>CPA MEETINGS</b> .....	54
7.1	<b>ILLEGAL DEVELOPMENT</b> .....	54

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

<b>APPLICANT NAME</b>	<b>TIME</b>	<b>ITEM</b>	<b>PAGE</b>
Lewis Ebanks (KA)	1:30	2.1	5
Donna Reid (DE)	1:50	2.2	9
Bonnie View Estates (BES)	2:10	2.3	14
IHC Properties Ltd. (CS)	2:30	2.4	16

**1.0 CONFIRMATION OF MINUTES**

**1.1 Confirmation of Minutes of CPA/28/10 held on December 8, 2010.**

Moved: Rex Miller  
Seconded: Dave Christian  
**Confirmed**

## 2.0 APPLICATIONS

### APPEARANCES (Items 2. 1 TO 2. 4)

#### 2. 1 LEWIS EBANKS Block 24C Parcel 20 (F01-0001) (P10-0881) (P10-0882) (\$57,000) (KA)

Application for an after-the-fact gazebo and pool.

**Appearance at 1:30**

#### **FACTS**

*Location* Patrick's Avenue, Patricks Island

*Zoning* **LDR**

*Notification* Objection

*Parcel Size* 0.51 acres

*Building Size* 254 sq. ft.

#### **BACKGROUND**

**September 2010** - Enforcement Case opened for illegal gazebo and pool.

**Decision #1:** It was resolved to grant planning permission for the pool, **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.

**Decision #2:** It was resolved to refuse planning permission for the gazebo, **for the following reason:**

- 1) The gazebo does not comply with the minimum required side setback and the Authority is of the opinion that the applicant did not demonstrate that an exceptional circumstance exists to allow a lesser setback per Regulation 8(13)(b)(i) of the Development and Planning Regulations (2008 Revision, as amended). Additionally, per regulation 8(13)(b)(ii)(C), sufficient reason does

The gazebo must be removed from the property within 30 days of the date of this decision.

The Authority wishes to remind the applicant of the right to appeal pursuant to section 48(1) of the Development and Planning Law (2008 Revision). Such appeal shall be made by Notice in writing, and referred to as "Notice of Appeal". It shall be signed by yourself or your attorney-at-law and filed along with the prescribed CI\$50.00 filing fee, in the offices of the Permanent Secretary of Finance, Tourism and Development within the fourteen (14) day period as stipulated in Section 48(1).

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

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant has applied for an after-the-fact gazebo and pool. The site is located on Patrick's Avenue, Patrick's Island.

### **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 gazebo has been constructed 8' from the side boundary and 1' from the boundary adjacent to the waterfront. This application is as a result of an enforcement as the adjacent neighbour on 24C 21, complained to the Department about the gazebo being too close to the shared boundary.

From the site visit for the enforcement case, it was discovered that the pool was also being constructed without planning permission. The pool does comply with the setback requirements, but the pool deck does encroach into the waterfront setback.

**At 1:30pm, Lewis Ebanks appeared as the applicant and Scott Gossen appeared as his agent. Rebekah Brooks, Greg Brooks and Andre Robottom appeared as objectors.**

**CPA** This is an after-the-fact application. The gazebo is setback 1' and the pool deck is 12'-9". The applicant can present the application and then the objectors can speak to the matter.

**Mr. Ebanks** He can explain why the gazebo is too close to the boundary (*he had photographs which he referred to*). Various storms including Ivan destroyed his seawall. His markers on the western side were taken out with the seawall so his guys mis-marked when setting out for the gazebo. The seawall damage is still there, but he plans to repair it. After, when he got the right measurements he realized it was 2' short, but it had already been poured. The second thing is the objectors concern that it will block their view. The cabana doesn't have solid walls, it is just 4 posts. It hardly poses an obstruction of their view. The photos show him with a pipe standing on the marker and at 2' away so this shows what you would see relative to the boundary. This won't take away from the neighbours. The other photo shows another cabana very close to the water, so there may be precedence. Finally, another photo shows a different view as his shoreline turns out and around so his neighbour sits further back and has to look through his backyard.

**CPA** Objectors?

**Mr. Brooks** *He provided copies of his presentation to the members and the applicant. He proceeded to read the presentation, which is attached as Appendix A.* They were not consulted before it was constructed. It may be hollow, but the roof is 10' high. People refer to it as a band stand, not a gazebo. It is not 8' from the property boundary. The drawing states it is 8', but it is not. If you look at the photos you can see it is much closer.

**APPENDIX A**

**Presentation Handout from Gregory & Rebekah Brooks**

**Re: CPA/29/10; item 2.1**



## **Block 24C Parcel 20**

**Objection by Gregory & Rebekah  
Brooks to a retrospective application  
by Mr Lewis M Ebanks for permission  
to construct a Gazebo**

# Objection by Gregory & Rebekah Brooks to a retrospective application by Mr Lewis M Ebanks for permission to construct a Gazebo

As owners of the adjacent site we wish the Planning Authority to consider our objection to the partially constructed gazebo on Block 24C Parcel 20. Our grounds for objecting are that in its current location the structure does not comply with the Development and Planning Regulations (2006 Revision) and in failing to comply with the requirements of the act it seriously affects the amenity of and view from our land.

The relevant clauses from the Act are:-

- **Regulation 8 (10)** *The following provisions apply to waterfront property –*
- **(d)** *in areas where the shoreline is a canal or inland waterway, all structures and buildings, including ancillary buildings, walls and structures, shall be setback a minimum of twenty feet from the high water mark.*
- **Regulation 9 (8)** *In low density areas, detached and semi-detached houses and, in suitable locations, guest houses and apartments are permissible provided-*
- **(i)** *the minimum front and rear setbacks are 20 feet;*
- **(j)** *the minimum side set back is 10 feet for a building of one storey and 15 feet or fifty per cent of the height of the building, whichever is the greater, for a building of more than one storey*

The matter before you is a retrospective application because the gazebo's construction was commenced without the appropriate permission being sought from yourselves and as a result it has been located without complying at all with the above and in what is the most obtrusive and inappropriate position relative to our adjoining site. In locating it on the junction between the sea wall and our plot boundary the Applicant has clearly only positioned it to suit his personal requirements and taken little account of its impact on the water side vista and absolutely no account of its impact on us his neighbours.

**Objection by Gregory & Rebekah Brooks to a  
retrospective application by Mr Lewis M Ebanks for  
permission to construct a Gazebo**

We appreciate that the Act does permit exceptions to the above Regulation as set out in:-

**Regulation 8 (11)** *Notwithstanding paragraphs (b) to (h) of subregulation (10), the Authority may grant permission for a setback to be located at a lesser distance than that prescribed in those paragraphs, having regard to-*

- (a) *the elevation of the property and its environs;*
- (b) *the geology of the property;*
- (c) *the storm/beach ridge;*
- (d) *the existence of a protective reef adjacent to the proposed development;*
- (e) *the location of adjacent development;*
- (f) *any other material consideration which the Authority considers will affect the proposal.*

However we are at a loss to imagine which of these reasons, or indeed any planning reason, that would justify granting approval of this application.

As you will see from the scale of the structure in the appended pictures it is large, obtrusive and dominates the view from the waterside of our plot. It makes no attempt to blend into the local environment of the coastline and when in use its occupants would unquestionably overlook the rear of our garden destroying any privacy. Screening or landscaping to restore privacy would, of necessity, totally block our view along the coastline and out across the North Sound. With the roof overhanging our plot any attempt at screening or landscaping would end up un-necessarily intruding onto our plot area and obliterate the beautiful and uninterrupted shoreline views which we previously enjoyed.

**SET BACK FROM THE REAR BOUNDARY OR HIGH  
WATER MARK WHICH SHOULD BE 20 FEET**  
**Regulation 9 (8) (i)**

As you will note from the photograph the Gazebo's foundation slab is approx. 2 feet from the north sound sea wall. The roof is clearly less than 2 feet from the sea wall.

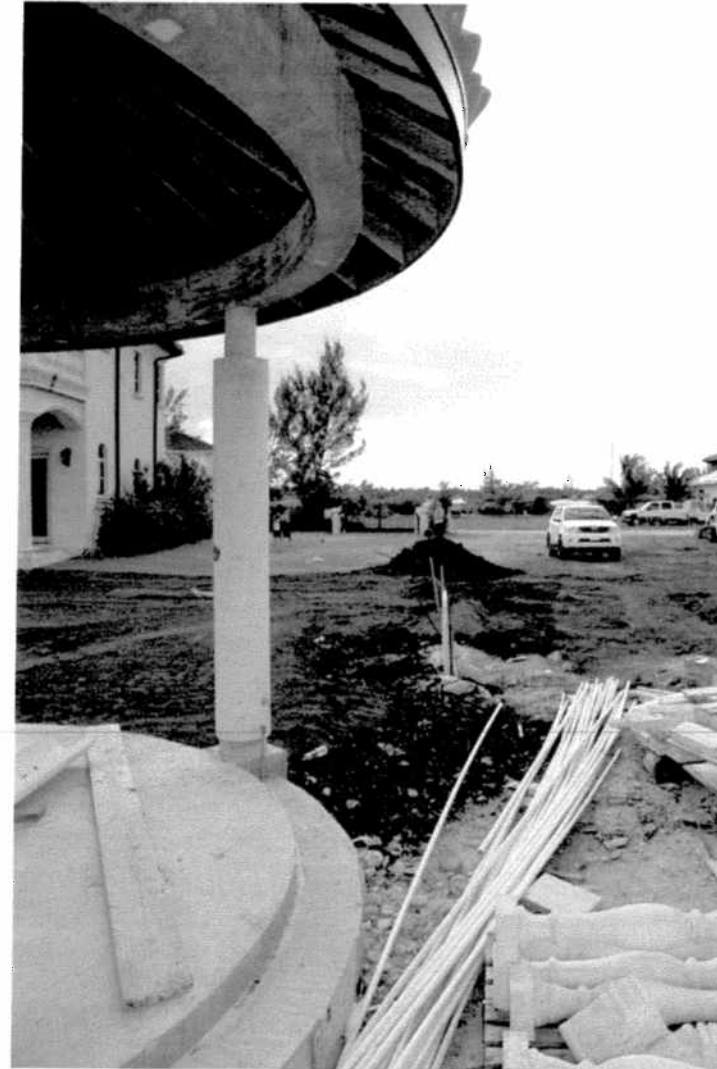
Also note that this is a recent photograph showing that the fascia has been completed since the Stop Work Notice was issued.



# **SET BACK FROM THE SIDE BOUNDARY WHICH SHOULD BE 10 FEET** **Regulation 9 (8) (j)**

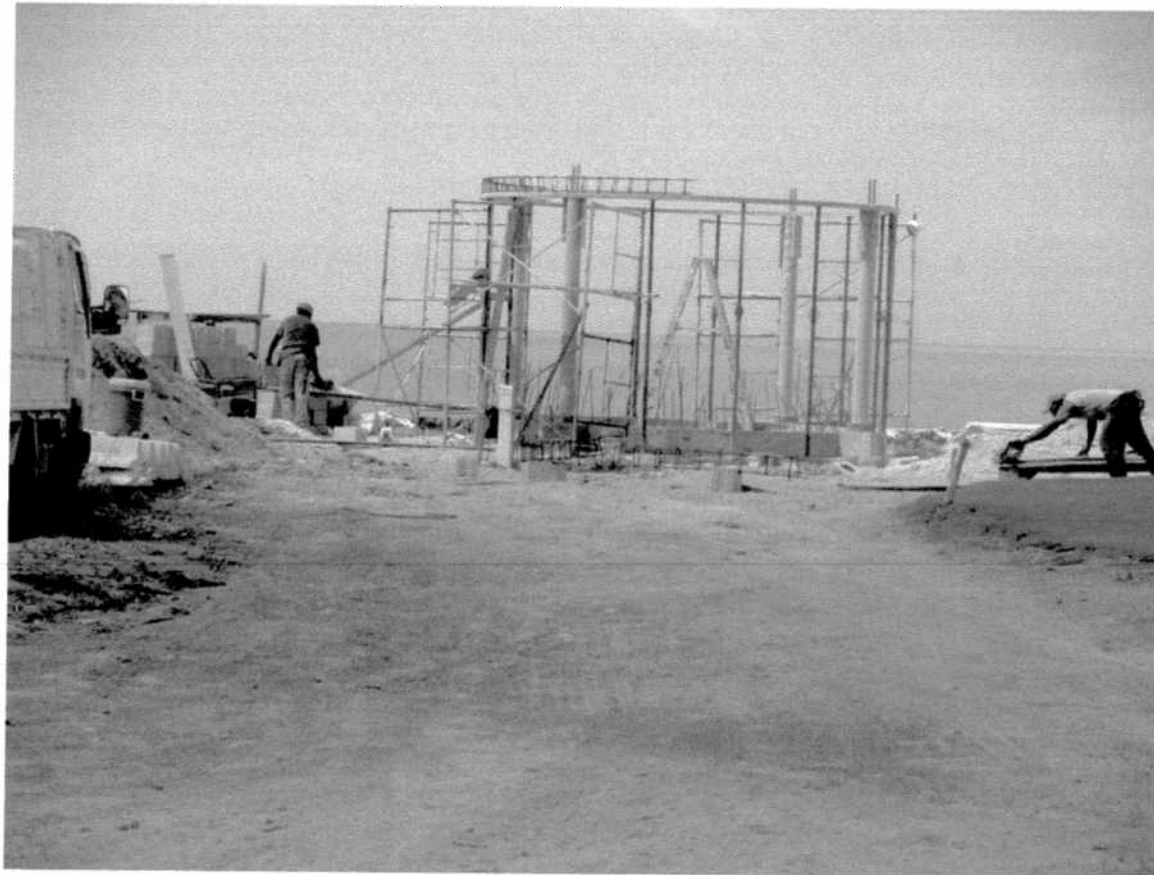
The structure is so close to the side boundary of Block 24C Parcel 20 that the roof appears to overhang onto our plot and certainly will drain on to it.

Please note that the Gazebo is clearly not situated 8 feet from our property boundary as it is indicated it should be in the Empire Development drawings submitted by Mr Lewis M Ebanks. We have not submitted a surveyor's report to evidence this for three reasons (1) Even if the structure was situated 8 feet away it is still in contravention of Regulation 9 (8) (j). (2) From the pictures it is clear that the structure significantly closer than the required 10 feet or even 8 feet. (3) We do not feel that we should pay the costs of such a survey.



## A PHOTOGRAPH TAKEN AT THE TIME THE STOP NOTICE WAS ISSUED

The below photograph was taken on 7 September 2010 and the stop notice was issued on 8 September 2010. As you will note from the other pictures in this presentation the applicant Mr Lewis M Ebanks made a conscious decision to ignore the stop notice and continued to construct the gazebo.



**THE SCALE AND IMPACT ON OUR PRIVACY**  
**PREVIOUSLY THE VIEW OVER THE NORTH SOUND WAS**  
**UNINTERRUPTED**

As you can see from the comparative scale demonstrated in these pictures this structure is extremely large and obtrusive and by no means blends into the local vista of the coastline. It will either totally destroy our privacy when in use or our view across the North Sound if screened or landscaped.



**ALL THE DEBRIS, FILL AND EQUIPMENT SEEN IN  
THIS PHOTOGRAPH IS LYING ON OUR PLOT AND  
BELONGS TO THE APPLICANT. IT IS THERE WITHOUT  
OUR PERMISSION**

We have been more than accommodating to our neighbour by not objecting to him constantly filling our land with equipment, materials, waste and boats. In return Mr Ebanks has erected, without bothering to gain any consent, an obtrusive structure which spoils our beautiful parcel and the North Sound vista of Patrick's Island.



**Objection by Gregory & Rebekah Brooks to a  
retrospective application by Mr Ebanks for permission  
to construct a Gazebo**

In conclusion the Applicant, who we understand may have been involved in various developments on the island and therefore should know the planning rules, has located the structure without obtaining the permissions required by and in contravention of the Development and Planning Regulations (2006 Revision) and has located it without any consideration for the impact on the shoreline vista or the privacy and amenity of us his neighbours. It would have been much more sensible to locate the structure on the other side of the applicant's property where any screening or landscaping which you may deem appropriate would primarily effect his view rather than that of his neighbours. You may of course conclude, like us, that this was why he chose our side to build on.

**We would therefore respectfully submit that you should require the Applicant to remove the structure completely, reinstating our land if necessary and if he still wishes to construct a gazebo to do so in an appropriate location on the other side his plot. That the Applicant will have financial loss should not enter into any debate for it is only by his not having sought the required planning approval in the first place that this situation has arisen.**

**CPA** Applicant?

**Mr. Ebanks** Mr. Gregory's presentation has many inaccuracies. He said he was given a stop notice on September 8. Do they have a copy?

**Ms. Brooks** He told them this verbally.

**Mr. Ebanks** They shouldn't exaggerate. The notice said to stop or make an application for planning permission. He said the roof line hangs over the boundary, that is inaccurate. It seems the most important issue is the view. They say this totally obstructs their view. You just have to look at the photos and see this isn't the case. He could grow coconut trees as that is legal and that would obstruct their view. If he filled the land and built a 4' wall on top, that would obstruct their view. This is just 4 thin posts.

**Mr. Brooks** What he said is it was obtrusive. The photos show this.

**CPA** Was Mr. Ebanks aware he needed planning permission for the pool and gazebo?

**Mr. Ebanks** The only way to the back of his land is through the neighbour's lot. If they got a sale then the new owner might not let him get to the back. So he thought if he does it after-the-fact, it may be costly, but the new owner may not let him through to the back. He took video and photos of the bonding and the process so Planning and BCU could be satisfied. This was based on plans approved next door. He might have lost the access quickly with the sales action.

**CPA** When did he get the notice?

**Mr. Ebanks** It said to stop or make an application, he made an application. (*The Assistant Director of Planning clarified that it was a warning letter and that it states to cease development and make an application.*)

**CPA** The objector said he was on a 6' ladder to take the photographs, is he normally on a 6' ladder when viewing the North Sound?

**Mr. Brooks** He took it from that point as if it was the finished floor slab.

**Mr. Gossen** If you look at the plans, there is normally a 20' canal setback, but CPA usually allows 10' for the deck, so they feel this complies. Regarding the gazebo, they don't have to move it to the other side to comply. There is also certain precedence for allowing gazebos on top of seawalls. People want shade. This won't change the view from their parcel as much as they are saying.

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

The Authority considered the application further and determined that:

- While the pool and pool deck do not comply with the minimum required setback from the high water mark, they are situated such that they have no or minimal impact on any adjoining property owners. In fact, the objectors (adjoining land owners) only express concern with the gazebo, not the pool. The Authority finds this scenario to represent an exceptional circumstance and

sufficient reason to allow a lesser setback per regulation 8(13)(b) of the Development and Planning Regulations (2008 Revision, as amended).

- The gazebo does not comply with the minimum required side setback and the Authority is of the opinion that the applicant did not demonstrate that an exceptional circumstance exists to allow a lesser setback per Regulation 8(13)(b)(i) of the Development and Planning Regulations (2008 Revision, as amended). Additionally, per regulation 8(13)(b)(ii)(C), sufficient reason does not exist to allow a lesser setback as the adjoining property owner has objected to the variance request. As such, the application must be refused and the gazebo must be removed from the property within 30 days of the date of this decision.

**2. 2 DONNA REID Block 14C Parcel 117 (F06-0480) (P10-0472) (\$110,865) (DE)**

Application for three (3) after-the-fact apartments.

**Appearance at 1:50**

**FACTS**

<i>Location</i>	Off Shedden Road, George Town across from S.T. Bodden Place and beside St. Alban Church of England
<i>Zoning</i>	<b>G COM</b>
<i>Notice Requirements</i>	No Objectors
<i>Advertisements</i>	NA
<i>Parcel Size</i>	0.35 acres
<i>Current Use</i>	Mixed-Use Development
<i>Proposed Use</i>	Residential Apartments
<i>Building Size</i>	1,168 sq. ft.

<i>Building Coverage</i>	26%
<i>Parking Coverage</i>	6%
<i>Total Site Coverage</i>	32%
<i>Existing Parking</i>	4
<i>Required Handicapped Spaces</i>	1
<i>Required Parking</i>	6

### **BACKGROUND**

July 7, 2010 (**CPA/16/10; Item 21.4**) - It was resolved to adjourn the application and invite the applicant to appear before the Authority to discuss concerns with the layout of the parking area and the number of parking spaces.

August 4, 2010 (**CPA/18/10; Item 2.2**) - It was resolved to adjourn the application and require the applicant to produce a survey plan, prepared by a licensed land surveyor, showing the location of the existing buildings in relation to the property boundaries. The survey must be submitted within 60 days of the date of this decision or the matter will be brought back to the Authority for consideration of issuing an enforcement notice.

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

### **AGENCY COMMENTS**

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

#### **National Roads Authority**

*“As per your memo dated June 1st 210 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

#### ***Existing Situation***

*The property line depicted on the site plan is not in accordance with what is on the ground and the registry map. Consequently, the front setback is not respected. The parking for the current activities on this site should be normalized and properly organized.*

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

*The traffic demand to be generated by a residential development of three (3) multi-family units has been assessed in accordance with ITE Code 220. Thus, the assumed average trip rates per dwelling unit provided by ITE for estimating the*

daily, AM and PM peak hour trips are 6.63, 0.51 and 0.62 respectively. The anticipated traffic to be added onto Shedden Road is as follows:

<i>Expected Daily Trip</i>	<i>AM Peak Hour Total Traffic</i>	<i>AM Peak 16% In</i>	<i>AM Peak 84% Out</i>	<i>PM Peak Hour Total Traffic</i>	<i>PM Peak 67% In</i>	<i>PM Peak 33% Out</i>
<b>20</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>1</b>	<b>1</b>

Based on these estimates, the impact of the proposed development onto Shedden Road 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 Shedden Road, 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 and behind the sidewalk) in order to prevent stormwater runoff from and onto Shedden Road. Suggested dimensions of the ‘hump’ would be a width of 6 feet and a height of 2-4 inches. Trench drains often are not desirable.
- Curbing is required for the parking areas to control stormwater runoff.
- Roof water runoff should not drain freely over the parking area or onto surrounding property. Note that unconnected downspouts are not acceptable. We recommend piped connection to catch basins or alternative stormwater

*detention devices. If catch basins are to be networked, please have applicant to provide locations of such wells along with details of depth and diameter prior to the issuance of any Building Permits.*

*At the inspection stage for obtaining a Certificate of Occupancy, the applicant shall demonstrate that the installed system will perform to the standard given. The National Roads Authority wishes to bring to the attention of the Planning Department that non-compliance with the above-noted stormwater requirements would cause a road encroachment under Section 16 (g) of The Roads (Amendment) Law, 2004 (Law 11 of 2004). For the purpose of this Law, Section 16(g) defines encroachment on a road as*

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

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

### **Water Authority**

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

#### **Wastewater Treatment:**

- *The developer shall provide a septic tank with a capacity of at least 1,000 US gallons for the after-the-fact apartments. The septic tank shall be constructed in strict accordance with the Authority's standards.*
- *The developer shall also provide a grease interceptor with a liquid volume of at least 600 US gallons to treat the wastewater from kitchen plumbing fixtures utilized in the preparation or clean up of food from the existing restaurant. The outlet of the grease interceptor shall be plumbed to the sewage line leading to the septic tank required above. The grease interceptor shall be constructed 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.*

#### **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 on our website: [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 applicant is requesting planning permission for three (3) after-the-fact apartments located off Shedden Road, George Town across from S.T. Bodden Place and beside St. Alban Church of England.

Currently, on the subject parcel, there are three (3) existing buildings as noted on the submitted site plan. Building A is an existing residential house used as rental units, Building B is an existing commercial take-out Cuban restaurant and Building C is the subject three (3) after-the-fact apartment units. However, the applicant's agent has provided the Department with inaccurate information in regards to this property as noted on the application form and site plan.

The existing/after-the-fact apartments consist of three (3) individual apartment units, four (4) bedrooms, and three (3) kitchens in one building block.

### **Zoning**

The property is zoned General Commercial zone and per Regulation 13 (8) of the Development and Planning Regulations (2006 Revisions), residential use may only be permitted in this zone in a 5 storey building and only on one upper storey.

Clearly, the development on the site does not comply with the Regulations, however, the Department would point out that the surrounding area has several residential developments that have been in existence for several years. The Department would also raise other issues below.

**Specific Issues**

**a) Parking**

The applicant's agent has shown on the submitted site plans that there is an existing paved parking area with 6 parking spaces that function properly. The Department would like to point out that the existing parking lot is not paved and does not function as described by the applicant (see photographs on file). Additionally, the Department does not support vehicles reversing directly onto a main road corridor such as Shedden Road. Therefore, the Department requests that the applicant revise the existing parking lot with a 4' or 6' sidewalk and proper entry/exit.

**SUPPLEMENTARY ANALYSIS**

August 4, 2010 (CPA/18/10; Item 2.2) - It was resolved to adjourn the application and require the applicant to produce a survey plan, prepared by a licensed land surveyor, showing the location of the existing buildings in relation to the property boundaries. The survey must be submitted within 60 days of the date of this decision or the matter will be brought back to the Authority for consideration of issuing an enforcement notice.

The Department has been in contact with the applicant's agent with regards to the "Survey Plan". The applicant's agent has noted:

*As mentioned to you, Dwayne about three weeks back, I have tried getting in touch with Donna Reid thru the person that I was dealing with her planning application on island and I have not receive any word on the survey that has to be undertaken".*

Therefore, the Department has forwarded the application to the Authority for further consideration.

**2. 3 BONNIE VIEW ESTATES LTD. Block 24E Parcel 638 (F10-0288) (P10-0971) (\$5,000) (BES)**

Application for a five (5) lot subdivision.

**An appearance was scheduled for 2:10. The objectors were present and available for the meeting, but the applicant was not.**

**FACTS**

<i>Location</i>	Bonnie View Subdivision
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	Objectors

*Parcel Size* 16.5 acres  
*Proposed Use* Subdivision

**Decision:** It was resolved to adjourn the application to re-invite the applicant and objectors to appear before the Authority to discuss the application.

**AGENCY COMMENTS**

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

**Water Authority**

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

***Water Supply:***

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

*Please note that Lot D of the proposed development site is located within the Water Authority’s piped water supply area.*

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

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

***Wastewater Treatment:***

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

**National Roads Authority**

*"As per your memo dated November 10th, 2010 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

*The NRA has no objections or concerns regarding the above proposed five (5) lot subdivision.*

*Please note: The NRA requests that the applicant provide engineering details of the 'bridge' for lot 'B' for NRA review and comments."*

**OBJECTIONS**

*"A. As the owner of the Parcel 633 in Block 24E I object to Plot B becoming an private land gained by the developer by filling the canals unless he provides the necessary measures to allow the natural flow of tidal currents between the canal areas identified as A (East) and C (West). Otherwise it should be part of the public road Bay Island Avenue. My concern is regarding the good quality of the marine life in the canals. Recent works by the developer blocked the underwater connection under the portion identified as Plot B between the east and west canal and nothing has been done to restore the flow of water.*

*B. I object the fact that in the proposed plan Plot 24E478 is not identified as a public area for the neighborhood.*

*C. Bonnie View States is a low density residential area BY LAW and Restricted Covenants only allow for detached single houses units."*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for a five (5) lot subdivision located at Bonnie View Subdivision. The resultant acreage of the lots after the subdivision would be lot "A" (canal) = 435,700 sq. ft., lot "B" = 7,100 sq. ft; lot "C" (canal) = 220,200 sq. ft.; lot "D" = 18,800 sq. ft. and lot "E" (road parcel) = 42,200 sq. ft.

### **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 issue addressed below.

### **Specific Issue**

#### **a) Canal Blockage**

The applicant has not provided any details of proposed lot B, but it appears to an attempt to provide a physical connection from the Bonnieview Estates subdivision to the large island parcel, 24E 630. However, the applicant has not indicated whether lot B will physically separate lot C or if there is a plan to allow for the canal to drain under/through lot B and retain circulation throughout the subdivision.

## **2. 4 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.

**Appearance at 2:30.**

### **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).

December 8, 2010 (**CPA/28/10; Item 2.15**) - The Authority resolved to adjourn the application and invite the applicant to appear before the Authority to discuss concerns regarding the proposed signs.

**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 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.

### **SUPPLEMENTARY ANALYSIS**

No changes have been made to the proposal as the applicant has been invited to appear before the Authority.

## **2.0 APPLICATIONS**

### **REGULAR AGENDA (Items 2. 5 TO 2. 17)**

#### **2. 5 FRANK HALL HOLDINGS Block 1D Parcel 180 (F10-0303) (P10-0990) (\$315,000) (CS)**

Application for a 42-lot Low Cost Housing Programme subdivision.

#### **FACTS**

<i>Location</i>	Off Watercourse Road in West Bay
<i>Zoning</i>	<b>LDR</b>
<i>Parcel Size</i>	8.97 acres
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	Subdivision
<i>Density</i>	3.3
<i>Allowable Density</i>	4
<i>Number of Units</i>	42

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

- 1) Prior to the commencement of any site works such as filling, grading and road construction, the applicant shall submit the following:
  - a) A revised plan showing a turnaround ('T' or hammerhead) at the terminus of the subdivision road at proposed lots 17 and 18.
  - b) A stormwater management plan prepared in accordance with the requirements of the Managing Director, NRA and approved by the Central Planning Authority. The plan shall be designed to embrace storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and should include, but not be limited to, the location of all drainage facilities and general grading details of the parcels (roads included). In general, the entire site shall be graded in such a manner that stormwater runoff is no more than that which occurred during predevelopment conditions along private boundaries with any excess runoff directed to one central drainage facility or a series of facilities. *The plan shall include proposed lot grading in order to facilitate the implementation of condition 2) a) below. Additionally, if the plan includes drainage swales then cross-sections of the swales must be provided.*

- 2) Prior to the subdivision plan being finalized, the following conditions shall be satisfied:
- a) The property shall be filled in such a manner as to ensure that the subdivision road and a reasonable building envelope for each lot are filled to 4 feet above mean sea level, with the remaining subdivision land being filled and/or graded to a level that will assist in the drainage of the subdivision per the stormwater management plan required in condition 1) a) above. After filling the site, the applicant shall submit a plan prepared by a registered land surveyor indicating spot heights at regular intervals, including the finished grade of constructed access road (s), if any.
  - b) The approved stormwater management system shall be installed on site.
  - c) The final subdivision plan shall indicate a vehicular easement over the subdivision access road in favour of each lot. The final plan must be accompanied with the requisite grant of easement forms detailing the easements to be registered.
  - d) The access road (s) abutting the proposed lots shall have a minimum of a 30' wide demarcated road parcel and shall be constructed with asphalt and approved by the Central Planning Authority prior to the lots being registered. The applicant shall liaise with the Managing Director, National Roads Authority (NRA), at predetermined stages of road construction to ensure compliance with the requisite standards. Failure to do so may render the project unacceptable. Please be advised that the road base shall be constructed to National Roads Authority (NRA) minimum design and construction specifications for subdivision roads. The NRA shall inspect and certify road base construction prior to road surfacing activities.
  - e) The applicant shall provide water infrastructure for the entire sub-division. The applicant shall submit plans for the water supply system for approval by the Water Authority. The water supply system shall be installed to the Water Authority's specifications, under the Water Authority's supervision. Copies of these specifications are available at the Water Authority's office on Red Gate Road.
  - f) The applicant shall request to have the sub-division connected to the Water Authority's public water system. This request will be acted upon after the pipelines on the sub-division have been installed in accordance with the WAC specifications and have passed all specified tests.
  - g) The surveyor's final drawing **shall include the surveyed dimensions of all lots** and shall be submitted to the Planning Department for approval prior to the survey being registered.

### **AGENCY COMMENTS**

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

## **Department of Environment**

*“The Department of Environment’s Technical Review Committee considered this proposal upon the request of the Ministry of Finance, Tourism & Development earlier this year. Please see attached Memorandum dated January 18, 2010 for detailed comments made at that time.*

*The DOE is pleased to see that the applicant has incorporated a buffer along the northern property boundary which serves to preserve the majority of the wetlands and unique limestone feature of this area. The Department would recommend the buffer be enlarged to 150 ft in width, particularly on the northeastern portion facing the attraction commonly known as ‘Hell.’ This is to account for the ‘edge effect’ that inevitably occurs when vegetation is cleared and to minimize disturbance from development activities to the habitat and features intended for preservation inside the buffer.*

*A more substantial buffer will also serve to maintain the aesthetically pleasing vista from the various viewpoints that have been designed for appreciating this long-standing attraction. Visitor satisfaction at this site remains vital to the West Bay tourism product upon which many local interests and livelihoods depend as well as direct Government revenue.”*

## **Water Authority**

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

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

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

- *The developer is required to notify the Cayman Water Company without delay, to be advised of the site-specific requirements for connection.*
- *The developer shall provide water supply infrastructure per CWC’s specification and under CWC’s supervision.*

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

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

## **National Roads Authority**

*“As per your memo dated November 12th, 2010 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

### ***General Issues***

*The ROW from Lot 2 to Lot 10 is no longer needed as the applicant owns the parcel the ROW is in favour of (372).*

### **Infrastructure Issues**

*The layout of the subdivision is ok, but the applicant may need to provide some type of turn-around or cul-de-sac at Lots 17 and 18. Please see attached NRA recommended cul-de-sacs/turn-arounds.*

*The subdivision's road base shall be constructed to NRA minimum design and construction specifications for subdivision roads - this includes elevations, minimum longitudinal slopes and minimum cross fall of minus 2 percent from the centre line to the shoulder.*

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

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

*The NRA advises the CPA to require the developer to provide for street lighting and any traffic calming measures on the proposed roads of the subdivision. Once the roadway has been taken over as a public road, the NRA can then assume that responsibility.*

### **Stormwater Management Issues**

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

*The applicant shall demonstrate that the Stormwater Management system can be designed to include storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and ensure that surrounding properties that are lower, and nearby public roadways are not subject to stormwater runoff from this site.*

*The applicant is encouraged to consider stormwater management techniques other than deep wells, and to contact the NRA for advice on these alternative control measures.”*

### **LETTERS FROM APPLICANT**

#### **Letter #1**

*“I actually started work in this application almost 1 year ago, when FHH first approached Government about them backing it as a Low Cost Housing Programme. At that time Cockspur Way didn't exist, and I notice that I still have parcel 1D 176REM2 on the large scale lot layout plan. Since then, that parcel was subdivided into 1D 673 thro' 678 (as evident on the updated RM copy I included in the submission), but I can assure you that all those new owners were notified of the application. Although I have overlooked updating the abuttal detail of the large scale plan, both FHH and I feel that a connection to Cockspur Way is not desirable because of the following reasons:-*

- 1) Government's request for the creation of a Reserve of Wetland / POS land on the north side of the proposed residential lots now completely cuts off the*

*subdivision from Cockspur Way. We are assuming that Government intend that this area to be left in a natural state, and not have a new road dissecting it, which would likely bring the associated negative environmental impact of heavy traffic flow etc.*

- 2) *It should be noted that access to the edge (only) of the Reserve area is already provided from the subdivision road further to the east. If a connection through the proposed Government lands to Cockspur Way is actually considered desirable (possibly as a "tourist attraction route" ?), then this link could be utilised through the Reserve. It is realised that a more direct connection is possible by extending the subdivision road between lots 22 & 24 northwards, but this would most likely result in the loss of lot 23. If this happened, and in view of the fact that FHH has already lost the potential of many lots in the Reserve area, I am positive that FHH would wish to make this up by creating a replacement lot - probably at the western-most end of the Wetland / POS Reserve area.*
- 3) *Finally, from our considerable past experience of FHH subdivision applications, I am 100% certain that any proposed link to Cockspur Way will be strongly opposed by the existing residents of that small subdivision!"*

#### Letter #2

- 1) *"Yes, I was proposing to ensure that the R of L removed the ROW along the back of Lots 1 (not 2 as on NRA letter) thru Lot 10, on registration of the new survey, as the subdivision road will provide all necessary access.*
- 2) *I was thinking that a turn-a-round at Lots 17 & 18 could be avoided, in view of the short distance from the nearby road junction. I definitely don't want to lose a Lot by introducing a turn-a-round within the parcels, and so would have to position it inside the requested Government Reserve Lands. Also, I am not sure what (if any) plans Government have for continuing the access road inside the Reserve - maybe a temporary turn-a-round could be placed inside, if it really is necessary?"*

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

The application is for a 42-lot Low Cost Housing Programme subdivision.

#### **Major Development Application**

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

aforementioned sections of the Law. The Department has included responses for each section of the Law for the Authority's consideration.

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

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

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

*Response: There are no other such aspects.*

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

*Response: There are no such aspects.*

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

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

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

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

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

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

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

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

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

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

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

*Response: An inquiry is deemed not necessary.*

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

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

### **Zoning**

The property is zoned Low Density Residential. The applicant has received Cabinet approval for this site to be considered as a Low Cost Housing Programme on October 12, 2010.

The Department offers comments on the specific issues addressed below.

### **Specific Issues**

#### **a) Low Cost Housing Programme**

The applicant received approval from Cabinet to designate this proposed subdivision for the Low Cost Housing Programme subject to the following:

- a. The house lots be no smaller than that specified in Regulation 9, the Development and Planning Regulations (2006), that is to say 4,800 sq.ft.;
- b. That each house plus land be sold for no more than \$200,000
- c. That you enter into negotiations post haste with a view to Government acquiring the approximately 1.63 acres [of wetland allocation], and
- d. That you confirm you monetary contribution to Future Sports Club and provide an undertaking to support all reasonable efforts to preserve Hell as a landform, habitat and tourist attraction.

The applicant proposes a minimum lot size of 6,030 sq. ft. which is larger than what Cabinet approved. Furthermore, the proposed subdivision is 3.3 houses per acre, while the maximum allowed density in the LDR zone is 4 houses per acre.

#### **b) Road Turnaround**

There is no turnaround provided at the end of the road in the location of lots 17 and 18. The Department would suggest that a small “hammer head” turnaround could be provided on lot 18 as it is wider than lot 17.

#### **c) Road Connectivity**

For larger subdivisions, the Department recommends more than one road access to a major road. This subdivision is providing only one access. There is an opportunity to connect to Cockspur Way, which would provide a secondary access to Watercourse Road, however, that would mean crossing into the area that is being set aside for acquisition by Government to preserve a wetland area. The applicant has also provided an explanation for not connecting to this road, which is included in this report. The Authority should determine whether or not a second access point is required in this instance.

**2. 6 ERVIN EBANKS Block 24C Parcel 19 (F02-0007) (P10-0878) (P10-0879) (\$7,000) (KA)**

Application for an after-the-fact gazebo and pool.

**FACTS**

<i>Location</i>	Patrick's Avenue, Patrick's Island
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	NA
<i>Building Size</i>	250 sq. ft.

**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.

**PLANNING DEPARTMENT ANALYSIS**

**General**

The applicant has applied for an after-the-fact gazebo and pool. The site is located on Patrick's Avenue, Patrick's Island.

**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 gazebo has been constructed 10' from the rear boundary adjacent to the waterfront and the patio for the pool would be 10' from the waterfront boundary. The required canal setback is 20'. This application is as a result of an enforcement

on the adjacent property, 24C 20, for a similar development, which is also being considered at this CPA meeting.

The Authority considered the application further and determined that while the pool and pool deck do not comply with the minimum required setback from the high water mark, they are situated such that they have no or minimal impact on any adjoining property owners. The Authority finds this scenario to represent an exceptional circumstance and sufficient reason to allow a lesser setback per regulation 8(13)(b) of the Development and Planning Regulations (2008 Revision, as amended).

**2.7 GARFIELD ELLIS Block 25B Parcel 100 (FA87-0027) (P10-1088)(BES)**

Application for modification to re-consider condition (1) of CPA/19/10.

**FACTS**

*Location* Mahogany Way

*Zoning* LDR

**BACKGROUND**

**February 4, 1987** - An addition to dwelling house was granted planning permission.

Aug. 18, 2010 (**CPA/19/10; Item 2.2**) - It was resolved to grant planning permission **to allow a maximum of three dwelling units, subject to the following conditions:**

- 1) The building identified as Unit 5 on the floor plan dated June 25, 2010, shall be removed within 90 days from the date of this letter.
- 2) The former rear patio shall be removed within 90 days from the date of this letter. Per the floor plan dated June 25, 2010, this area includes bedrooms 1 and 2 of Unit 3 and the kitchen and bathroom of Unit 4.
- 3) The applicant is required to obtain a Building Permit from the Chief Building Control Officer.
- 4) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

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

**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/19/10; item 2.1 be modified to delete condition 1) and accept the

plans date stamped November 23, 2010.

All other conditions of CPA/19/10; item 2.1 remain applicable.

### **PLANNING DEPARTMENT ANALYSIS**

#### **General**

*The application is for five (5) after-the-fact apartments with 9-bedrooms (2,972 sq. ft.), located on Mahogany Way.*

#### **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) Lot Size**

*The lot size is 10,890 sq. ft., whereas the minimum lot size for apartments in Low Density Residential zone is 25,000 sq. ft. in accordance with Regulation 9(8)(f) of the Development and Planning Regulations (2006 Revision). The Department is of the view that applicant has not demonstrated sufficient reasons why such a large lot size variance is warranted.*

##### **b) Setbacks**

*The proposed rear setback is 4'-9", and the minimum required rear setback is 20'. The side setback is 9'-7", whereas the minimum side setback is 10' respectively. A letter of consent from the affected landowner was submitted in support of the application.*

##### **c) Density**

*The proposed density 20 apartments per acre, whereas the maximum allowable density is 15 apartments per acre as prescribed in Regulation 9(8)(c) of the Development and Planning Regulations (2006 Revision). In addition, the maximum allowable bedrooms are six (6). The applicant has constructed nine (9) bedrooms.*

##### **d) Site Coverage**

*The site coverage is 27.2% and the maximum allowable site coverage is 25% pursuant to Regulation 9(8) (h) of the Development and Planning Regulations (2006 Revision).*

### **SUPPLEMENTARY PLANNING ANALYSIS**

The applicant is requesting re-consideration of condition (1) of CPA/19/10; Item 2.2 to retain to said structure on site. For the CPA information, the applicant has submitted revised plans addressing conditions (2). In support of the application, the applicant's agent has submitted the following letter.

*"On August 18, 2010, the Central Planning Authority resolved to grant permission for (3) three units, subject to conditions. It is our humble request to modify the Planning permission by proposing an alternate scenario which we hope will satisfy the authority.*

*The modification request primarily involves condition (1), which states "The building identified as unit (5) shall be removed within 90 days."*

*We humbly ask simply due to the fact that this structure is new, well built and houses our clients' mother and sister, that we are allowed to retain said structure as one of the allowable 3 units.*

*As can be seen from the revised proposal we have removed the rear patio from the main structure as per condition # 2 and redesigned the floor plan to show only 2 units.*

*Please be aware that no objections have been received with regard to either proposal, and in fact four of the immediate neighbors have given written consent in favor of the project. We feel that with the addition of a functional parking lot, sidewalk, landscaping and overall location of this project will make a fine redevelopment site.*

*We humbly ask the CPA to take information into consideration when deciding upon application. "*

**2. 8 COX LUMBER CO. Block 13E Parcel 25 (FA84-0127) (P10-1104) (\$2,000) (CS)**

Application for an after-the-fact fence enclosure.

**FACTS**

<i>Location</i>	At the corner of Courts Road and Eastern Avenue in George Town
<i>Zoning</i>	<b>G COM</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	54,450 acres
<i>Current Use</i>	Retail
<i>Proposed Use</i>	Storage
<i>Building Size</i>	1,045 sq. ft.
<i>Building Coverage</i>	43.3%
<i>Parking Coverage</i>	35.7%
<i>Total Site Coverage</i>	79%

**BACKGROUND**

May 31, 1984 (CPA/11/3.1) - The Authority granted planning permission for a

shopping centre.

January 21, 1998 (**CPA/38/97; Item 6.09**) - The Authority granted planning permission for an addition to the existing "Cox Lumber" store.

August 19, 1998 (**CPA/24/98; Item 6.01**) - The Authority granted planning permission for a lumber storage building in the service yard area of the existing Lox Lumber store.

December 21, 1998 (**CPA/37/98; Item 7.03**) - The Authority granted permission for an amendment to planning permission for interior revisions and a proposed building extension to the Cox Lumber store.

January 7, 2009 (**CPA/01/09; Item 2.13**) - The Authority granted planning permission for a warehouse addition.

**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 for an after-the-fact fence enclosure.

### **Zoning**

The site is zoned General Commercial. The proposed development is allowed in the zone, however the Department wishes to discuss the following concerns.

### **Specific Issues**

#### **a) Setbacks**

The applicant has constructed the fence enclosure up to the side property line. The enclosure is 12' high and will be used to store construction materials for the Cox Lumber store. The applicant has provided a consent letter from the immediate adjacent property owner affected by the setback encroachment.

**2. 9 MONKEY BAY LTD. Block 33B Parcel 110 (F10-0347) (P10-1066) (\$4 million) (CS)**

Application for five (5) houses on five (5) separate lots.

**FACTS**

<i>Location</i>	In Rum Point at the southeast corner of Rum Point Drive and Water Cay Road
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	NA
<i>Parcel Size</i>	2.23 acres
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	Five Houses
<i>Building Size</i>	20,250 sq. ft.
<i>Density</i>	2.2
<i>Building Coverage</i>	11%
<i>Proposed Parking</i>	10
<i>Required Parking</i>	5

**BACKGROUND**

December 9, 2009 (**CPA/30/09; Item 2.1**) - The Authority granted planning permission for a five (5) lot subdivision.

**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.
- 3) Prior to the boat slips being excavated, a silt screen shall be installed that fully encloses the work area and it must remain in place throughout the period of construction and until the water contained in the screen has cleared to the same appearance as the water immediately outside of the screen. This screen must be maintained and should it prove not to be effective, work must cease until the screen is corrected.

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 five (5) 3-storey houses, each with a pool, dock and shoreline modification.

### **Zoning**

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

### **Specific Issues**

#### **a) Setbacks**

The houses are designed to have a covered entranceway along the side of the house. Four (4) of these houses will have these entranceways constructed on the side property line of the underlying approved subdivision. The Department does not view the house design as shared semi-detached homes as the houses do not share a common wall. However the proposal does comply with minimum lot size and density requirements if the homes did have the common wall.

#### **b) Shoreline Modification**

Each house proposes to have an inlet dredged off an inland canal to allow for a dock and boat parking, perpendicular to the house. As the proposal lies along an inland canal that is privately owned, the Department has no concerns regarding the request.

**2. 10 HOZMAN MCKENZIE Block 9A Parcel 482 (F97-0006) (P07-1183) (\$201,020) (CS)**

Application for an after-the-fact addition an existing house to create a duplex.

**FACTS**

<i>Location</i>	Chevy Street, West Bay
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	12,684.7 sq. ft.
<i>Current Use</i>	Apartments
<i>Proposed Use</i>	Apartments
<i>Building Size</i>	2,117 sq. ft.
<i>Density</i>	10.3
<i>Allowable Density</i>	15
<i>Building Coverage</i>	18.4%
<i>Parking Coverage</i>	18%
<i>Total Site Coverage</i>	364%
<i>Existing Parking</i>	2
<i>Proposed Parking</i>	6
<i>Required Handicapped Spaces</i>	1
<i>Required Parking</i>	5
<i>Number of Units</i>	3

**BACKGROUND**

January 29, 1997 (**CPA/03/97; Item 2.06**) - The Authority granted planning permission for a three bedroom house.

February 20, 2008 (**CPA/07/08; Item 2.15**) - The Authority adjourned the present application to invite the applicant in to discuss concerns regarding site suitability, minimum lot size and lot width requirements, setback requirements, and the need for a sidewalk along the roadway.

May 21, 2008 (**CPA/18/08; Item 2.3**) The Authority resolved to adjourn an application for an after-the-fact addition of two (2) dwelling units to create three (3) apartments for the following reason:

1. The applicant is required to submit revised drawings illustrating a duplex instead of three apartments.

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

- 1) **No later than 6 months from the date of this decision**, the applicant is required to obtain a Building Permit from the Chief Building Control Officer.
- 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.

**No later than 12 months from the date of this decision**, the applicant shall obtain a Final Certificate (of Fitness for Occupancy).

### **AGENCY COMMENTS**

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

#### **Water Authority**

- *“The developer shall provide a septic tank with a capacity of at least 1,500 US gallons for the proposed. 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.*

#### **Water Supply:**

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

- *The developer is required to notify the Cayman Water Company without delay, to be advised of the site-specific requirements for connection.*
- *The developer shall provide water supply infrastructure per CWC's specification and under CWC's supervision.”*

#### **National Roads Authority**

##### ***“Road Capacity Issues***

*The traffic demand to be generated by a residential development addition of only 2 multi-family units can easily be determined. Assuming a worst case traffic generation scenario, the proposed development is being reviewed as an apartment complex project in accordance to 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 Chevy Street as follows:*

<i>Expected Daily Trip</i>	<i>AM Peak Hour Total Traffic</i>	<i>AM Peak 16% In</i>	<i>AM Peak 84% Out</i>	<i>PM Peak Hour Total Traffic</i>	<i>PM Peak 67% In</i>	<i>PM Peak 33% Out</i>
<i>13</i>	<i>1</i>	<i>0</i>	<i>1</i>	<i>1</i>	<i>1</i>	<i>0</i>

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

***Access and Traffic Management Issues***

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

*A six (6) foot sidewalk shall be constructed on Chevy Street, within the property boundary, to NRA standards. Please have applicant provide.*

***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 (along the entire width of the driveway) in order to prevent stormwater runoff from and onto Chevy Street.*
- Curbing is required for the parking areas to control stormwater runoff.*
- Roof water runoff should not drain freely over the parking area or unto surrounding property. Note that unconnected downspouts are not acceptable. We recommend piped connection to catch basins in or near the parking lot. 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**

The primary concerns of the Department are site suitability, minimum lot size, minimum lot width, and side setback requirements. As per Regulation 9 (8) (f) of the Development and Planning Regulations (2006 Revision), a minimum of 25,000 sq. ft. is required for apartments on any given parcel. The subject parcel is only 12,684.7 sq. ft., lacking 12,315.3 sq. ft. Minimum lot width for apartments is one hundred feet, and this parcel is only 95 feet 6 inches. Regulation 9 (8) (j) states that a two story building shall have a fifteen foot side setback, and the existing house is 14 feet 9 inches from the side, and the after-the-fact extension is 14 feet 6 inches from the side setback.

The applicant was unable to obtain a letter of consent for the setback encroachment from the affected land owner. However, notices were served, and the Department heard no feedback from the notified neighbours.

The applicant has requested to not be required to construct a sidewalk along the road as per CPA policies for apartments. The reason behind this request is that it would be out of character with the rest of the street. All structures on Chevy Street are single family dwellings, and apartments are not considered suitable in this area. The Department requests that the Authority uses their discretion on whether or not a sidewalk should be required if the application is approved.

### **SUPPLEMENTARY ANALYSIS #1**

A site visit was conducted since the last meeting, and the apartments are only halfway built. It appears that the house is vacant. The applicant has been invited in to appear before the Authority to discuss concerns regarding site suitability, minimum lot size and lot width requirements, setback requirements, and the need for a sidewalk along the roadway. No changes have occurred to the plans.

### **SUPPLEMENTARY ANALYSIS #2**

The applicant has submitted a revised floor plan showing only one additional kitchen. Therefore the revised proposal is for a 4-bedroom second unit. The only comment the Department would have is that there are a lot of parking spaces (6) and this is a great deal of hard surface for a duplex.

**2. 11 ANGELA MESSAM Block 22D Parcel 216 (F94-0272) (P10-0799) (\$5,000) (DE)**

Application for an after-the-fact duplex addition.

**FACTS**

<i>Location</i>	Off Selkirk Drive and Duke Way
<i>Zoning</i>	<b>LDR</b>
<i>Advertisements</i>	NA
<i>Parcel Size</i>	0.0288 acres
<i>Current Use</i>	Duplex
<i>Proposed Use</i>	Duplex Addition
<i>Building Size</i>	140 sq. ft.
<i>Existing Parking</i>	4
<i>Required Parking</i>	4

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

- 1) **No later than 6 months from the date of this decision**, the applicant is required to obtain a Building Permit from the Chief Building Control Officer.
- 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.

**No later than 12 months from the date of this decision**, the applicant shall obtain a Final Certificate (of Fitness for Occupancy).

**LETTER FROM APPLICANT**

*“I am herby seeking your approval, to build an additional section to my property, located at 22D, 216 HI. This allowance will afford my family the opportunity to build a study in which my younger children ages eleven (11) and nine (9) can have an area to unwind after school and to do their homework in. At present both children share a room; however, the living situation is not conducive to learning, and not providing the proper learning environment that as a parent, I would want for my children. Hence, my reason for building the study.*

*It was brought to my attention that the property line is to be 20ft away from any construction of property; however, because of poor hindsight, the property line is now at 14ft, which I am deeply apologetic for. I was under the impression that any additional property had to be at least 10ft away from the property line.*

*It is my hope that you will accept my apology and grant me the permission to complete this much needed study.*

*Thank you kindly for your assistance in this matter."*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for a single storey house addition for a study onto the existing duplex for Unit 1. The site is located off Selkirk Drive at the corner of Duke Way and Princess Street.

### **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) Deficient Side Setback (Corner Lot)**

The proposed side setback is 14' from the subdivision road of Princess Street which is on Block 22D Parcel 141 Rem 9. In this instance, a 20' setback is required. The applicant is requesting a variance and has not received written consent letter from the adjoining landowners per the new Development and Planning Regulations (Amendment-2010), Regulation 8 (13).

The applicant has received the following email message from the landowners: *"I made contact with Mr. Selkirk Watler Jr. who informed me that the company responsible for the properties in Red Bay Estate when into liquidation and the road was return to government. I was waiting to see if planning had any confirmation to what he stated. He also promised to speak to the attorney who dealt with liquidation but so far I have not heard anything further. Is it possible to ascertain if the road now belong to government and what would I have to do to have this matter resolved."*

The Department has contacted the Lands & Survey Department in regards the above email message in which the Department has noted that *"Red Estate Ltd is still the landowners of the Road"*. See attach land registry on file.

**2. 12 STEVE & ANNIE KAY MCLAUGHLIN Block 25C Parcel 75 (F98-0035) (P10-1083) (\$20,000) (DE)**

Application is to modify planning permission in order to allow the as-built location of the septic tank.

**FACTS**

<i>Location</i>	Off Raven Road Spotts Newlands
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Advertisements</i>	NA
<i>Parcel Size</i>	1.04 acres
<i>Current Use</i>	House
<i>Proposed Use</i>	House
<i>Density</i>	4
<i>Proposed Parking</i>	1
<i>Required Parking</i>	1

**BACKGROUND**

**May 7, 2009** - House approved administratively.

**Decision:** It was resolved that having regard to the Development Plan and other material considerations it is expedient to modify planning permission. Now therefore the Central Planning Authority in pursuance of Section 17 of the Development and Planning Law (2008 Revision) hereby orders that planning permission be modified to allow the as built location of the septic tank and effluent well.

**AGENCY COMMENTS**

Comments from the National Roads Authority are noted below.

**National Roads Authority**

*“NRA has a crash wall built at the rear of the parcel. Therefore, NRA has no objection to the proposed location.”*

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is to modify planning permission in order to allow the as-built location of the septic tank.

**Zoning**

The property is zoned 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’s permission for an 8' setback variance from the rear boundary line and the new Spotts Newlands By-Pass. The as built location for the septic tank is 12' instead of the required 20' rear setback from the main road.

NRA has a crash wall built at the rear of the parcel. Therefore, NRA has no objection to the proposed location.

**2. 13 TORTUGA RUM COMPANY LTD. Block 15B Parcel 366 (FA93-0325) (P10-1082) (\$1,500) (KA)**

Application for a sign for the new café in Unit #3 of Windjammer Plaza.

**FACTS**

<i>Location</i>	Windjammer Plaza, Walkers Road
<i>Zoning</i>	<b>N COM</b>
<i>Notice Requirements</i>	NA
<i>Advertisements</i>	NA
<i>Current Use</i>	Commercial Building

**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 application is for the installation of a sign for the new café in Unit #3 of Windjammer Plaza on Walkers Road.

**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 sign is for one of the commercial units on the ground floor of Windjammer Plaza. It would measure 7’ wide by 2’ in height. The sign would comply with the Department’s sign guidelines with regard to size, colour and location. The Department has no concerns with regard to this sign.

**2. 14 HARVEY STEPHENSON Block 43A Parcel 38 (F01-0074) (P10-0839) (\$100,982) (BES)**

Application for a commercial building.

**FACTS**

<i>Location</i>	Lookout Road
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	52,097.8 sq. ft.
<i>Proposed Use</i>	Fruit Stand
<i>Building Size</i>	1,009.82 sq. ft.
<i>Building Coverage</i>	12.2%
<i>Parking Coverage</i>	3.2%
<i>Total Site Coverage</i>	15.4%
<i>Proposed Parking</i>	4
<i>Required Parking</i>	3

**BACKGROUND**

**March 30, 2001** - A dwelling house was reviewed administratively and granted planning permission.

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

Conditions (1-2) listed below shall be met before building permit drawings can be submitted to the Building Control Unit.

- 1) 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.**
- 2) 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.

- 3) 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.
- 4) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out strictly in accordance with the approved plans.

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

If the existing grade level does not currently provide for it, the applicant is reminded that the finished floor level of all buildings should be at least five feet (5') above mean sea level, [i.e. two feet (2') above the Vidal Bench Mark].

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

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

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

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

### **AGENCY COMMENTS**

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

#### **Water Authority**

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

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

- *The developer shall provide a septic tank with a capacity of at least 750 US gallons for the proposed fruit stand. 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**

*"As per your memo dated October 7th, 2010 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.*

**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-four (24) ft.*

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

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

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

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

- The applicant shall demonstrate, prior to the issuance of any Building Permits, that the Stormwater Management system is designed to embrace storm water runoff produced from a rainfall intensity of 2 inches per hour for one hour of duration and ensure that surrounding properties and/or nearby roads are not subject to stormwater runoff from the subject site.*
- The stormwater management plan shall include spot levels (existing and finished levels) with details of the overall runoff scheme. Please have applicant provide this information prior to the issuance of a building permit.*
- Construct a gentle 'hump' at the entrance/exit (along the entire width of each driveway) in order to prevent stormwater runoff from and onto Lookout Road. Suggested dimensions of the 'hump' would be a width of 6 feet and a height of 2-4 inches. Trench drains often are not desirable.*
- Curbing is required for the parking areas to control stormwater runoff.*
- Roof water runoff should not drain freely over the parking area or onto surrounding property. Note that unconnected downspouts are not acceptable. We recommend piped connection to catch basins or alternative stormwater detention devices. If catch basins are to be networked, please have applicant to provide locations of such wells along with details of depth and diameter prior to the issuance of any Building Permits.*

*At the inspection stage for obtaining a Certificate of Occupancy, the applicant shall demonstrate that the installed system will perform to the standard given. The National Roads Authority wishes to bring to the attention of the Planning Department that non-compliance with the above-noted stormwater requirements would cause a road encroachment under Section 16 (g) of The Roads (Amendment) Law, 2004 (Law 11 of 2004). For the purpose of this Law, Section 16(g) defines encroachment on a road as*

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

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

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The application is for a 1,009.82 sq. ft. one-storey commercial building. The site is located at Lookout Gardens Subdivision, Bodden Town. As indicated on the site plan, access to the building would be off Lookout Road.

### **Zoning**

The property is zoned Low Density Residential and the Planning Regulations will allow for this use in this zone provided there are two newspaper advertisements and no objections that raise grounds for refusing the application. The applicant has undertaken the newspaper advertisements and notified adjacent land owners within a 500' radius – no objections were received. The Department is of the view that the proposed use is suitable for this site as the applicant has other approved commercial buildings in the area in the same zone and are also used in association with agriculture. The Department has no particular concern with the application.

## **2. 15 WHITTAKER & PRENDERGAST Block 14CJ Parcel 79 (FA91-0029) (P10-1102) (\$5,000) (DE)**

Application for change-of-use from house to a duplex.

### **FACTS**

<i>Location</i>	Off Shedden Road onto Martin Drive, George Town.
<i>Parcel Size</i>	0.7 acres (30,492 sq ft)
<i>Zoning</i>	General Commercial
<i>Current Use</i>	House
<i>Proposed Use</i>	Duplex
<i>Building Size</i>	770 sq. ft.
<i>Footprint</i>	770 sq. ft.
<i>Building Coverage</i>	3%
<i>Total Site Coverage</i>	3%
<i>Existing Parking</i>	3

### **BACKGROUND**

February 5, 2008 (CPA/05/08; Item 2.30) - It was resolved to grant planning permission for a duplex.

September 4, 2008 - Administrative approval for modification for a house.

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

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

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

### **LETTER FROM APPLICANT**

*“Thanks for your prompt response on this matter.*

*Firstly, the project is being designed for two separate families, with the idea being that they would share the central kitchen area but have separate sleeping and living areas.*

*The doors to the front of the house should be considered separate entrances for the two families.*

*Secondly, regarding the description provided for the application form if a duplex is a more accurate way of describing the project then that is fine by us.*

*Finally, with regards to the set back issue, I will get with the architect and sort that issue out.*

*I trust this information does shed some light on the project. Provided we can resolve the setback issue, do you still see this project as one that requires a decision by the CPA and is it advisable for me to attend that meeting?”*

### **PLANNING DEPARTMENT ANALYSIS**

The applicant is requesting planning permission to change from a house to a duplex located off Shedden Road onto Martin Drive, George Town.

It must be noted that the parcel is zoned General Commercial and Regulation 13(8) does not allow residential development on it's own on the ground floor. However, the Authority should also be aware that there are other residential buildings on the property and within the immediate area.

The proposal rebuild does comply with Regulation 8 (8) (b) and 13 (8), (11) of the Development and Planning Regulations (2006 R).

**2. 16 G.J.R. STEIN Block 27B Parcel 71 (F09-0005) (P10-1096) (BES)**

Application for modification of planning permission to allow lesser setbacks.

**FACTS**

*Location* Mangrove Point Road

*Zoning* **LDR**

**BACKGROUND**

**CPA/12/10; Item 2.23** - A dwelling unit/boat house was granted planning permission.

**Nov. 2, 2010** - A Building Permit was issued for a dwelling unit/boat house.

**Decision:** It was resolved that having regard to the Development Plan and other material considerations it is expedient to modify planning permission. Now therefore the Central Planning Authority in pursuance of Section 17 of the Development and Planning Law (2008 Revision) hereby orders that planning permission CPA/12/10; item 2.23 be modified to allow the setbacks shown on the plans date stamped December 6, 2010.

All other conditions of CPA/12/10; item 2.23 remain applicable.

**LETTER FROM APPLICANT**

*“With reference to our client's 18th May 2010 planning permission and 14th October 2010 building control / permit approval, we write to request the Planning Authority's approval for a variance that would allow the stairway of the boat-house building to encroach within the roadside setback.*

*In setting out the works the builder has found that the waterway retaining wall that was built by the original developer is approx aft inboard of the waterside boundary line.*

*Our client would therefore wish to build the boat-house 23ft from the road instead of 26ft and this will mean the entry staircase portion would be 17ft from the roadside boundary at the closest point. We attach two copies of a drawing to illustrate the proposed arrangement.”*

**PLANNING DEPARTMENT ANALYSIS**

**General**

The application is for setback modification for a dwelling unit/boat house on Mangrove Point Road.

**Zoning**

The property is zoned Low Density Residential and while the proposed use is a permitted use per Regulation 9 (8), the Department would offer the following

comments regarding specific issue noted below.

**Specific Issue**

**a) Setback**

Front: the balcony is setback 17’ from the boundary; the planter wall is 8’-2” and 23’ from the main structure.

**2. 17 HERMAN & SHIRLEY PANDOHIE Block 38C Parcel 42 (F10-0363) (P10-1124) (\$3,000) (CS)**

**Application for a shed.**

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

**FACTS**

<i>Location</i>	On Pasture Lane, north of Shamrock Road in Lower Valley
<i>Zoning</i>	<b>LDR</b>
<i>Notice Requirements</i>	No Objectors
<i>Parcel Size</i>	9,583 sq. ft.
<i>Current Use</i>	House
<i>Proposed Use</i>	Shed
<i>Building Size</i>	124 sq. ft.
<i>Building Coverage</i>	27.5%

**BACKGROUND**

There is no planning history for the site. There is an existing house and two sheds on the 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.

**LETTER FROM APPLICANT**

*“Further to the application submitted for approval for the above-mentioned, we hereby request a variance to the Development and Planning Law, in regard to minimum setback areas.*

*Our goal is to demolish the existing storage shed and cistern at the rear of our property and to replace it with an updated shed structure only. Due to the location of the existing shed and residence, we would have to relocate the new shed, as shown on the site plan. The shed would unfortunately, encroach into the minimum setback area.”*

## **PLANNING DEPARTMENT ANALYSIS**

### **General**

The applicant is requesting planning permission for a shed.

### **Zoning**

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

### **Specific Issues**

#### **a) Setbacks**

The applicant is requesting a rear yard setback variance. The rear yard setback in the LDR zone is 20' and the applicant is requesting at 12'-3" setback. The two existing sheds are located nearly entirely within the rear yard setback. One of the sheds will be demolished, however the shed to remain is located entirely within the side and rear yard setbacks. The proposed shed will be located further from the rear property line than the shed to remain.

The applicant has provided a consent letter for the variance request from the affected adjacent property owner.

#### **b) Site Coverage**

The maximum site coverage allowed in the LDR zone is 25%. The proposed shed increases the site coverage to 27.5%.

### **3.0 ENFORCEMENTS**

#### **3.1 PROPRIETORS OF STRATA PLAN 104 Block 12E Parcel 63 (CE10-0062) (CE)**

Illegal construction of a storage shed and patio.

#### **FACTS**

*Location* Cayman Club on West Bay Road, Seven Mile Beach

*Zoning* H/T

#### **BACKGROUND**

September 10, 2008 (CPA/29/08; Item 2.3) - The Authority resolved to refuse an application for an after-the-fact storage shed and patio, for the following reasons:

1. The building addition, patio and wall do not comply with the minimum required side setback of 20 feet per Regulation 10(1)(f) of the Development and Planning Regulations (2006 Revision) and the Authority is of the opinion that you did not demonstrate any acceptable reasons why the lesser setback should be allowed per Regulation 8(13)(b).
2. A portion of the patio and wall obstructs the existing 6-foot wide public right-of-way.

**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 December 7, 2010, it was observed that the patio and unfinished concrete shed are still in place and therefore the Department wishes to continue with enforcement.

### 3.2 ANDREA CANTAVE Block 14C Parcel 12 (CE10-0092) (CE)

Illegal construction of a roof addition

#### **FACTS**

*Location* On Eastern Avenue in George Town  
*Zoning* GC

#### **BACKGROUND**

March 21, 2007 (CPA09/07; Item 2.32) - The Authority resolved to refuse an application for after-the-fact modifications to the second floor for the following reasons:

1. The Authority reviewed evidence provided by the structural engineer's report and the report from the Building Control Unit and it was clear that several elements of the construction were unsafe which is dangerous to human life.
2. There is insufficient parking on site for the existing uses and proposed construction.
3. The existing sewage treatment facility is inadequate for the development.
4. An on-site solid waste facility has not been provided.

On the basis of these reasons, the application is refused and the after-the-fact construction must be removed within 60 days of this decision.

**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 5, 2010, it was observed that a new roof has been constructed to an existing restaurant, which increases the building height. Upon review of the parcel's history, the Department is concerned the development still suffers from the issues mentioned in the CPA reasons for refusal per CPA/09/07; Item 2.32.

### 4.0 **DEVELOPMENT PLAN MATTERS**

### 5.0 **PLANNING APPEAL MATTERS**

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

### **6.1 DOMINIC WILLIAMS & LUCY WOOD Block 61A Parcel 25 (CE10-0127) (CE)**

Illegal land clearing and excavation.

#### **FACTS**

*Location* off Queen's Highway, North East Coast  
*Zoning* A/R

**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**

The members were advised that the land had been cleared and excavation was on going. The members examined the photographs provided. It was noted that no application for planning permission had been submitted or approved for this activity.

### **6.2 LISA & VIDAL MUNDAY Block 39E Parcel 37 (F10-0357) (P10-1105) (BS)**

The members were requested to review the road side elevation of the house to determine if it was acceptable per Regulations 9(1) and (2).

**Decision:** It was resolved that the overall design of the houses complies with Regulations 9(1) and (2) of the Development and Planning Regulations (2008 Revision, as amended).

### **6.3 CLAUDE & SANDRA LANGLOIS Block 32C Parcel 405 (F10-0320) (P10-1030) (BS)**

Breach of condition of planning permission.

#### **FACTS**

<i>Location</i>	Little Red Rd, Lower Valley
<i>Zoning</i>	LDR

**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**

The members were advised that planning permission for a house was administratively approved on December 9, 2010 with standard conditions of approval, including the requirement to obtain a building permit. The Department visited the site on December 14, 2010 and noted that the house was already constructed, but a building permit had not yet been issued. Additionally, given the level of construction the Department is of the view that it may have started prior to planning permission being granted, which means additional fees are owed. The Department is trying to verify this latter issue.

### **6.4 CPA MEETINGS**

Members were reminded that the next CPA meeting is January 5, 2011 at 10:00am.

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

#### **7.1 ILLEGAL DEVELOPMENT**

Staff were directed to take photographs of the various signs at the junction of Hirst Road and the East-West By-pass Road and bring this matter to the next meeting for consideration of issuing an enforcement notice.

The meeting adjourned at 3:10p.m. The next regular meeting of the Central Planning Authority is scheduled for ***Wednesday 5<sup>th</sup> January 2011 at 10:00 a.m.*** in the Conference Room, 1<sup>st</sup> floor, Regatta Office Park, Leeward One.

Ray Hydes  
Acting Chairman

Haroon Pandohie  
Executive Secretary

cc: All members of the Central Planning Authority