

CENTRAL PLANNING AUTHORITY

Minutes for a meeting of the Central Planning Authority held on February 24, 2004 at 12:30 pm. in the Planning Conference Room, 3rd Floor Tower Building.

4th Meeting of the Year

CPA/04/04

Mr. A. L. Thompson (Chairman) (except item 3.03)

Mr. Attlee Bodden (Acting Chairman item 3.03)

Mr. Peter Campbell (apologies)

Mr. Dean Evans (except 3.04)

Mr. Ernie Hurlstone (apologies)

Mr. John Hurlstone (except 3.04)

Mr. Ray Hydes (apologies)

Mr. Barry Martinez

Mr. Steve McLaughlin

Mr. Rex Miller

Mr Antonio Smith (except 3.06)

Mr. Fred Whittaker

Mr. Troy Whittaker (apologies)

Mr. Kenneth Ebanks (Executive Secretary)

Mr. Robert Lewis (Assistant Director – CP)

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

APPLICANTS APPEARING BEFORE THE CENTRAL PLANNING AUTHORITY

NAME	REASONS	TIME	ITEM	PAGE
Wireless Ventures (BES)		1:32	3.04	24
Raleigh Waste Management Ltd. (RS)		1:46	3.015	44
Paul Anglin (EJ)		2:04	3.01	20
Humphreys (Cayman) Ltd. (JAB)		2:37	3.02	22
Adrian Bodden (RS/BES)		4:15	3.019 & 4.05	52 & 66
Noel March (BES)		5:24	3.011	36

1.0 CONFIRMATION OF MINUTES

1.01 Confirmation of Minutes of CPA/26/03 held on September 10, 2003.

Moved: Steve McLaughlin
Seconded: Fred Whittaker
Confirmed

1.02 Confirmation of Minutes of CPA/03/04 held on February 10, 2004.

Moved: John Hurlstone
Seconded: Steve McLaughlin
Confirmed

2.0 ADJOURNED APPLICATIONS

2.01 ARMADA CLOSE CONDOMINIUM LTD. Block 4B Parcel 641 (F03-0412) (P03-1039) (\$1,549,900) (JAB)

Application for sixteen (16) apartments.

FACTS

Location: End of Armada Close, West Bay

Zoning: **High Density Residential**

Notice Requirements Section 18(4) notices were served to adjacent property owners and one objection was received (See

“Objections” below).

<i>Background:</i>	CPA/33/03; item 3.10 , the Authority resolved to adjourn the application as submitted.
<i>Existing Use:</i>	Vacant
<i>Proposed Use:</i>	16 apartments
<i>Parcel Size:</i>	0.68 acre (29,620.8 sq. ft.)
<i>Site Coverage:</i>	27.5%
<i>Building Size:</i>	Proposed – 16,314.40 sq. ft.
<i>Parking:</i>	Proposed – 21 spaces (+ 3 non-functional) Required – 24 spaces

AGENCY COMMENTS

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

Water Authority

“Please be advised that this development will be approved upon compliance with the following requirements:

- *The developer shall provide an on-site aerobic wastewater treatment system with a treatment capacity of at least **3,600 US gallons per day (gpd)**. The required capacity is based on the following:*
- *The treatment system shall be designed to produce an effluent quality of 30 mg/l BOD₅ and 30 mg/l Suspended Solids.*
- ***Prior to installation**, the developer shall provide detailed information on the **proposed treatment system** to the Water Authority for approval.*
- *Adequate area shall be reserved for the treatment system. The location shall comply with the minimum setback requirements of the Planning Department. Special consideration shall be given to the elevation of the treatment system, relative to the elevation of the local water table.*
- *All treated effluent shall be discharged into a disposal well. The disposal well shall be constructed in strict accordance with the Authority’s standards. The discharge pipe from the treatment system shall enter the disposal well at a height of at least two feet above the water table level in the well. Discharge into the disposal well shall be by gravity-flow.*
- *If a lift (pumping) station is required as part of the wastewater collection system due to elevation and/or length of run, it shall be installed upstream of the treatment system, to meet the above requirement that the discharge from the treatment system to the disposal well is gravity-flow. Full details of any proposed pumping station (i.e., size of wet well and pump specifications) shall*

be submitted to the Water Authority for approval.

- *The treatment system shall have easy access for operation, maintenance, inspection and sampling. It is strongly suggested that the system be installed in a secure manner to prevent tampering or accidents.*

Please be advised that the following property is situated within the area presently supplied with piped water from the Cayman Water Company. The Cayman Water Company should be contacted for a connection to their distribution system.”

Chief Environmental Health Officer

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

Onsite Solid Waste Facility

- 1. The proposed onsite solid waste facility is not satisfactory. A central facility shall be provided. The facility shall be located to allow access for servicing by a front-loading truck. Provision shall be made for the truck to enter the premises, service the container and exit the site without having to reverse onto the highway.*
- 2. No overhead obstruction shall be placed in the vicinity of the container or overhead wires placed so as to impede servicing of the container.*
- 3. The facility shall be at least 10ft wide by 8ft deep and 5ft 6in high. The facility shall be provided with a drainage system approved by the Chief Environmental Health Officer.*
- 4. Design details for the facility shall be submitted for review and approval.*
- 5. A revised site plan showing the relocation of the onsite solid waste facility satisfying the location requirements as outlined above shall be submitted for review and approval.”*

OBJECTIONS

“Thank you for notifying us about the proposed inclusion of a 16 unit apartment complex in our subdivision. Please place this written synopsis in the file on this matter:

We have asked that you consider denying the permit because this is a commercial venture that will place severe strain on the infrastructure. I have included photographs of the area so that you can visualize the seriousness of the problems created by the proposed building.

First, there are no completed roads in this subdivision. See photo number 1. Unless the apartment complex, builds a road with direct access to Finch Drive, no fire, police or emergency vehicles will have sufficient access. The access to Birch Tree Hill is denied, see photo number 2, where the holder of the access easement through Nichol Lane has blocked it off with 2 fences.

Second, there are serious health concerns because of the unregulated dumping that continues on the adjoining property, see photo number 3, and the squatters

who continue to live and dump raw sewage on the other adjoining property, see photo number 4.

Third, as you can see from photos numbers 5 through 7, the properties in the subdivision are predominately single family and the present infrastructure barely can support them.

Because of the serious safety concerns raised by the single entrance, no public water system is provided in the plans leaving them well below health code requirements for the proposed density (it must be 14400 gallons and 20 ft from any building or boundary line to meet Health code requirements); the porch structure violates code with lights inside setbacks, the garbage area must be a dumpster enclosed by a block wall with closed gates as well as the failure to provide for a fire hydrant.

We encourage you to require the completion of adequate roads, direct access to Finch Drive and the other listed necessary changes to comply with the various codes that exist to provide for the safety and well being of future occupants.”

PREVIOUS PLANNING DEPARTMENT ANALYSIS

The applicant is requesting permission to construct sixteen (16) apartment units housed in two (2) two (2) story buildings. The Department would note that the proposal meets minimum planning requirements for site coverage, unit density, setbacks and aesthetics, however the Department has concern with the number of proposed parking spaces, parking layout, bedroom density, location of solid waste facility and the condition of the access road. These concerns are noted below in more detail.

- *Parking – based on the parking requirement of 1.5 spaces per unit, this development requires 24 spaces to service the site, the applicant has only provided 22 spaces and it is the opinion of the Department that two (2) spaces (#10 & #15) do not function adequately. In addition, the parking layout as submitted is unsatisfactory as the parking proposed along the western boundary is only 2’-0” from the boundary line, the Department would recommend a minimum 4’-0” landscape strip.*
- *Bedroom Density – the maximum density allowed in a high density residential zone is 42 bedrooms per acre. Parcel 641 is 0.68ac. in size and therefore can accommodate only 28.56 bedrooms. The applicant is proposing a total of 32 bedrooms.*
- *Solid Waste Facility – as can be seen from the comments from DEH, there is concern regarding the location and size of the solid waste facility as proposed. The Department’s concern is regarding the relocation of the facility as recommended by DEH. The Department is of the opinion that based on the design of the parking lot and the fact that the lot is proposed to be a one way system there is no alternate location for the facility.*
- *Access Road – the Department would like to point out that this development is proposed at the very end of the subdivision. Access to the proposed site is*

gained via Allamanda Drive to Ackee Street and finally Armada Close, the Department would note that a large portion of Allamanda Drive is not suitable for heavy vehicular traffic in its current state. The Authority should be aware that a number of single family residential developments are being constructed currently within the subdivision which use the road in its existing condition. It is the opinion of the Department that the addition of sixteen (16) multi-family units to the maximum subdivision capacity will lead to further deterioration of an already substandard road.

In summary, good planning practice dictates that multi-family developments should be located at the beginning of the subdivision to limit the impacts associated with that type of development. In this particular case, the development is proposed at the end of a subdivision which is being served by substandard infrastructure and therefore any additional loading on the infrastructure would not be recommended.

Decision of CPA/33/03; item 3.10

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

- 1) *The applicant shall submit a revised site plan illustrating the following information at a minimum:*
 - a) *A minimum of 24 functional parking spaces.*
 - b) *A minimum of four feet (4') in width landscape strip along (inside) the eastern property boundary.*
 - c) *The solid waste facility sized and located to the satisfaction of the Department of Environmental Health.*
- 2) *Clarification on access, as a large portion of Allamanda Drive is not suitable for heavy vehicular traffic in its current state.*

LETTER FROM APPLICANT

"This will advise that West Bay Development Company purchased the above lot on or about 13 October 2003.

We understand that the Central Planning Authority has requested clarification with regard to access along Allamanda Drive to subject property. (Re: Your letter dated 16 December 03, item #2) It is suggested that the road is not suitable for heavy vehicular traffic in its present condition.

We agree that the road is not in good condition, however, it appears suitable for access. When the property was purchased we were advised by Public Works that Allamanda Drive has been designated to be improved by Government and has designated the improvement as BP303. (please refer to attached Registry Map Extract) A time table for improvements was not given, however, we were led to believe that it is Government's intention and responsibility to improve the road in due time as it serves approximately 40 residential home lots plus a large parcel (653) capable of being utilized for another 5 or 6 home lots. As of this date, there

are about 13 homes built or under construction. We would hope that you would agree that it should not be expected that it is our responsibility to improve the road.

In view of the above, we respectfully request that you not require the improvement of Allamanda Drive as a condition of approval of this project.”

SUPPLEMENTARY PLANNING ANALYSIS

The applicant has revised the site plan increasing the number of parking spaces from twenty-two (22) to twenty-one (24) spaces. However, three (3) spaces are not functional. The plan also includes a four ft. (4’) landscape strip along the eastern property boundary and the solid waste facility has been located and sized to the satisfaction of the Department of Environmental Health. However, the Department has concern with the location of the solid waste facility and **does not** concur with the comments received from DEH regarding its approval, in that; the Department is not convinced that there is sufficient space to maneuver the garbage truck in order to service the container. With regard to clarification of access (condition of road) via Allamanda Drive, the applicant has submitted the above letter. It is the Department’s position that Government should not be responsible for improving private roads.

The CPA further discussed the following:

- Allamanda Drive in its current state is not suitable for the volume of vehicular traffic that would be generated by this type of development.
- The location of the solid waste facility makes it impractical to collect solid waste.

Decision: It was resolved to adjourn the application and to invite the applicant to appear before the CPA **for the following reasons:**

- 1) Allamanda Drive in its current state is not suitable for the volume of vehicular traffic that would be generated by this type of development.
- 2) The location of the solid waste facility makes it impractical to collect solid waste.
- 3) Functionality of all parking spaces.

2.02 **JAY NEWSOME & NEIL PURTON** Block 20B Parcel 217 & 103 (F99-0190) (P03-1259) (\$600,000) (JAB)

Application for one (1) warehouse and one (1) commercial building as phase II of an existing warehouse development.

FACTS

Location: Off Industrial Way, George Town

Zoning: **Light Industrial**

Notice Requirements: Section 15(4) notices were served to adjacent property owners and the application was also advertised twice in the newspaper on January 12th and 19th 2004, respectively and no objections were received.

Background: **CPA/03/04; item 3.04**, the Authority resolved to adjourn the application for a number of reasons.

Existing Use: Two (2) warehouse buildings

Proposed Use: One (1) warehouse and one (1) commercial (retail) building

Parcel Size: 1.153 acres

Site Coverage: 34.2%

Building Size: Existing – 6,000 sq. ft.

Proposed – 11,200 sq. ft.

Total – 17,200 sq. ft.

Parking: Existing – 12 approved spaces

Addition – 20 spaces

Total Required – 30 spaces

Proposed – 32

AGENCY COMMENTS

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

Chief Environmental Health Officer

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

1. *Details for the proposed restaurant must be submitted for review.*
2. *Details for the first floor of the proposed development must be submitted for review.”*

Water Authority

“Please be advised that this development is subject to approval upon compliance with the following requirements:

- *The developer shall provide an **on-site aerobic wastewater treatment system** with a treatment capacity of at least **2,500 US gallons per day (gpd)**. The required capacity is based on the following:*

BUILDING	USE	SF	GPD/SF	GPD
<i>1</i>	<i>Commercial</i>	<i>4,000</i>	<i>0.15</i>	<i>600</i>
<i>1</i>	<i>Restaurant (dining area estimated at</i>	<i>530</i>	<i>1.80</i>	<i>954</i>

	2/3)			
2	Industrial	640	0.15	960
			TOTAL	2,514

- *In addition, a **grease interceptor** shall be installed with a liquid volume of at least **600 US gallons** to treat the wastewater from the restaurant’s kitchen sinks prior to discharging into the treatment system. The grease interceptor shall be constructed in accordance with the Water Authority’s standards.*
- *The treatment system shall be designed to produce an effluent quality of 30 mg/l BOD₅ and 30 mg/l Suspended Solids.*
- ***Prior to installation**, the developer shall provide detailed information on the **proposed treatment system** to the Water Authority for approval.*
- *Adequate area shall be reserved for the treatment system. The location shall comply with the minimum setback requirements of the Planning Department. Special consideration shall be given to the elevation of the treatment system, relative to the elevation of the local water table.*
- *All treated effluent shall be discharged into a disposal well. The disposal well shall be constructed in strict accordance with the Authority’s standards. The discharge pipe from the treatment system shall enter the disposal well at a height of at least two feet above the water table level in the well. Discharge into the disposal well shall be by gravity –flow.*
- *If a lift (pumping) station is required as part of the wastewater collection system due to elevation and/or length of run, it shall be installed upstream of the treatment system, to meet the above requirement that the discharge from the treatment system to the disposal well is gravity-flow. Full details of any proposed pumping station (i.e., size of wet well and pump specifications) shall be submitted to the Water Authority for approval.*
- *The treatment system shall have easy access for operation, maintenance and inspection.*

Please be advised that the above property is situated within the area presently supplied with piped water and will be connected to the Public Water Supply system upon request by the owner.”

Response to Agency Comments

The Authority should be made aware that the comments received from the above noted agencies pertain to a restaurant that was originally proposed within the development. The restaurant has since been removed from the proposal and therefore revised comments must be requested from the agencies.

PREVIOUS PLANNING DEPARTMENT ANALYSIS

The applicant is requesting permission to add two (2) buildings as phase II of an

existing warehouse development. Building “A” of the proposed development is dedicated for commercial (retail) development and building “B” is dedicated for storage. The Department would like to bring to the Authority’s attention the following issues:

1. Parking Surface

The Department would like to point out that the applicant is requesting permission to surface a large portion of the parking lot / driveway with grasscrete pavers. The Authority should discuss whether grasscrete pavers are adequate in this instance.

2. Site Design/Parking Issues

- a) Parking stall #18 should be eliminated to prevent conflict with traffic entering the site.
- b) The handicap space (stall #1) should be relocated closer to a building and away from the entry/exit point at the northwest part of the site.
- c) Landscape strips at or near property boundaries are minimal or non-existent.
- d) The 2-way driveway (service aisle) between the buildings also necessitates that the buildings be truncated to facilitate better traffic flow.

3. Sewage Disposal

The applicant’s agent has indicated in writing and via revised plans that the restaurant is eliminated, thereby negating the need for a sewerage treatment plant. Instead, septic tanks would suffice; however, the Water Authority has not yet confirmed this in writing.

4. Combination of Subject Parcels

The proposed additions in effect would render the subject parcels in terms of function as one. However, the applicant has not indicated whether the subject parcels are to be combined.

5. Height of Buildings

The building is some 24’ from floor to ceiling and as such the applicant should be made aware that conversion of the “open space” will require planning permission.

Decision of CPA/03/04; item 3.04: It was resolved to adjourn the application, for the following reasons:

- 1) Plans shall be submitted illustrating the buildings truncated to facilitate adequate maneuvering of vehicles on site. The applicant shall liaise with the Department in this regard.
- 2) The applicant shall submit a revised site plan illustrating the following information at a minimum:

- a) The buildings truncated to facilitate adequate maneuvering of vehicles on site.
 - b) The elimination of parking stall number “18”, as its location creates a potential conflict with vehicles entering the site when a vehicle is reversing from that space.
 - c) The relocation of handicap space number “1” to a location away from the entry/exit and closer to the entrance to the building.
 - d) Additional landscaping at property boundaries. The applicant shall liaise with the Department in this regard.
 - e) The solid waste facility adjusted to eliminate a potential problem with servicing solid waste during normal business hours. The applicant shall liaise with the Planning Department in this regard.
- 3) A copy of an application submitted to the Lands and Survey Department to combine Block 20B parcels 217 and 103 shall be submitted to the Planning Department.

The floor to ceiling height of the buildings suggests that a second floor may be contemplated in the future. The applicant is advised that the proposed number of parking spaces is near the minimum required. Accordingly, additional floor area beyond the minimum required parking is unlikely to be permitted by the Central Planning Authority.

SUPPLEMENTARY PLANNING DEPARTMENT ANALYSIS

The applicant has submitted a revised site plan with regard to comments received from the Department about the issues raised at CPA/03/04; item 3.04. In addition to the revised site plan the applicant has also provided a letter detailing the changes made as noted below.

LETTER FROM APPLICANT

“Attached you will find a site plan of the proposed shops and warehouse in the industrial park. I have made modifications to the site in hopes that the CPA can accept and approve planning permission. Since you were in the meeting, I prefer to direct this to you in hopes that you can give me your opinion on whether these changes would possibly satisfy the CPA.

The changes listed below are as follows:

- 1. *In reference to comments made on traffic flow issues between Buildings 1 and 2 due to parcels not yet been combined, I am currently putting together the paperwork showing that the two lots had been combined, so it should not be an issue for exiting on the west side of the combined lots.*
- 2. *In reference to exterior building walls proximity to driveway – Although it is in almost every case in the Industrial Park where the building is on the edge of the driveway, we are proposing to install four foot high concrete-filled steel posts to deter any possible damage to the building.*

3. *The landscape areas that we have are a bit more generous than those found currently in the Industrial Park. We intend to landscape the six foot and four foot planting strips that surround the entire site with shrubs and trees and palms. Although our areas are within the minimal square footages by planning regulations, we do intend to make them quite nice.*
4. *In reference to removing parking space number 18, I have done so and shifted the numbers accordingly.*
5. *In reference to shifting parking space number 1 handicap classification, I have done so by making space 17 handicap, allowing space 1 to be well within the 20 foot setback.*
6. *In reference to the height of the proposed buildings – As I have stated, the client has already selected the building and has gotten a good deal on both buildings being of the same steel structure and height. It is my client’s intent to build the units with the square footage that is proposed and not anything more than. These units are not being offered with a second floor, only the ability to have high ceilings and ample lighting.*
7. *In reference to the driveway angles – I have adjusted the parking next to Building 2 to be angled parking. The driveway adjacent to it has now become one way, allowing for the storage units to have 20 feet of driveway before the parking. This should allow ample room for driving and a more comfortable turning radius than what is currently seen in similar units around the Industrial Park.*

The reason why I’m trying to accelerate the process is so that we can be re-submitted for the February 24th CPA meeting. It is extremely important for my client to begin constructing these units as local Caymanian business owners have already bought units and are eager to get in them as soon as possible.”

It should be noted that the applicant submitted another letter which supersedes the above one and is on record in the file.

The CPA further discussed the following:

- The revised plans appear acceptable.

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 which you will receive when the above condition is complied with.

Additionally, once construction has started, conditions (3-4) shall be complied

with before a **final Certificate of Occupancy** can be issued.

- 3) The applicant shall provide a **septic tank** with a capacity of at least **2,500 US gallons**. The septic tank shall be constructed in strict accordance with the Water Authority's standards (if utilizing prefabricated tanks, a 1,500 gallon septic tank followed by a 1,000 gallon septic tank, in series, will meet the above requirement).
- 4) The effluent from the septic tank shall be discharged into a disposal well. The disposal well shall be constructed in strict accordance with the Water Authority's standards. The discharge pipe from the septic tank shall enter the disposal well at a height of at least two feet above the water table level in the well.

The applicant is advised that **no high water uses such as food service, bar or hairdresser can be accommodated at this development**, as it is at the maximum estimated flows (based on minimal commercial/industrial use) allowed for wastewater treatment by septic tank(s). Any allowance of a high water use facility will require the abandonment of the septic tank(s) and installation of an aerobic wastewater treatment system, and grease interceptor, if applicable, to be sized by the Water Authority.

Please be advised that the above property is situated within the area presently supplied with piped water and will be connected to the Public Water Supply system upon request by the owner.

The applicant is reminded that a **TV dish, fence, shed or sign** is subject to a separate application.

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 also reminded that the **finished floor level** should be at least **five feet (5') above mean sea level**, [i.e. two ft (2') above the Vidal Bench Mark].

The applicant is further 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, Cable & Wireless and the Cayman Water Company and/or the Water Authority - Cayman**.

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

2.03 **HAYMON EBANKS** Block 20E Parcels 242 & 330 (F03-0323) (P03-0827) (\$10,000) (RS)

Application for a two-hundred square foot storage building and the storage of heavy equipment.

FACTS

<i>Location:</i>	At the Front of Randyke Gardens, near to the Linford Pierson Highway, George Town
<i>Zoning:</i>	Low Density Residential
<i>Notice Requirements</i>	Section 15(4) notices and 2 advertisements and several objections were received (See “Objections” below). One letter of support was received as well as one 15(4) notice form was returned with a statement of no objection.
<i>Background:</i>	CPA/33/03 – application adjourned for applicant to revise site plan to show access over different road.
<i>Existing Use:</i>	Vacant
<i>Proposed Use:</i>	Light industrial
<i>Parcel Size:</i>	0.6076 acres (26,467 sq ft)
<i>Site Coverage:</i>	Building = 0.76%, Parking Lot = 24.23%, Total = 24.99%
<i>Building Size:</i>	Existing – 0 Proposed – 200 sq. ft. Total - 200 sq. ft.
<i>Parking:</i>	Existing – 0 CPA Guideline – 1 Proposed - 8

AGENCY COMMENTS

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

Water Authority

“Please be advised that the above development is subject to approval upon compliance with the following requirements:

- *The developer shall provide a **septic tank** with a capacity of at least **750 US gallons**. The septic tank shall be constructed in strict accordance with the Authority’s standards.*
- *The effluent from the septic tank shall be discharged into a disposal well. The disposal well shall be constructed in strict accordance with the Authority’s standards. The discharge pipe from the septic tank shall enter the disposal well at a height of at least two feet above the water table level in the well.*

- *Any floor drains in the service areas of the facility shall be plumbed to an oil/sand separator prior to discharging into a treatment system or disposal well. The required size of separator will be determined by the Water Authority upon written confirmation of the number and type of wash equipment; e.g., hose, high-pressure wash wands, mop sink, etc.*
- *Waste vehicle fluids must be managed in the most responsible manner available. Currently the Department of Environmental Health has programs for recycling lead/acid batteries and waste oil. Currently there are no recycling programs for other waste vehicle fluids. Those fluids (e.g., waste solvent, paint, coolant) should never be mixed with waste oil, nor should they ever be disposed of into any wastewater treatment system or disposal well. At this time, the best option is to place these fluids, separately, into containers and send them to the landfill. Contact the Department of Environmental Health with any questions regarding the disposal of these fluids.”*

Chief Environmental Health Officer

“The Department has no objections to this proposal.”

Chief Fire Officer

“Approved for planning permit only.”

OBJECTIONS

Letter #1

“This letter is in response to the application by Raymond Ebanks for planning permission for” Heavy Equipment Storage” on Block 20E Parcel 330,242. We have only just received your letter of notification as it was forwarded on from our London address at 20. Albany Court. 18, Plumbers Row, London. El IEP.

As owners of the property, Block 20E - Parcel 89. we strongly object to the development applied for, for Block 20E Parcel 330,242.

It is a select residential area, and our property is in the quiet cul de sac within this area. The applied for development would cause noise pollution, as well being visually offensive. We were under the impression that the area was zoned residential yet nobody needs to store large amounts of heavy equipment as part of a residential requirement; therefore, this must be for commercial ends. It is at complete odds to the area in which it is proposed. Commercial development in such an area would be awful.

This is not just any residential area; predominately young families with young children live there; and heavy equipment should never be stored in such close proximity to very young children. It is a recipe for disaster. I would hope that the planning department will put the needs of the local residents before the commercial aims of an individual land owner, and protect young children from a potentially hazardous situation. Storing heavy equipment in a quiet, beautiful residential area can never, ever be a good thing.

We would also hope that the planning office would take into account that there are plenty of other places far more suitable if not ideal for this purpose ready available on the island So it is not a case of 'NIMBY' (Not in my back yard) because we appreciate that all ventures that enhance the economics of Caymanians should be welcomed and accommodated, but with a proviso that they are situated in appropriate locations. This parcel of land is not suitable for heavy equipment storage.

Another reason why this development would be a highly offensive and unsuitable one is that this is also very close to a Hospice where terminally ill Caymanians should not have to endure the noise and environmental pollution that such a development will inevitably cause to them.

We hope and urge that the planning department turn down this application for "Heavy Equipment Storage on the Land, Block 20E Parcel 330242."

Letter #2

"Please be advised that I object to the development of the above project by Mr. Haymond Ebanks. I own Block 20E, 279 and I am of the opinion that a heavy equipment storage in the area is not only unsightly and unsafe but the level of noise caused by this equipment could be disruptive and annoying to neighbours. Furthermore the area is zoned residential and such development could only serve to devalue my property and the surrounding area. I feel that this would be unfair to property owners who have invested considerable amounts of money to reside in that area."

Letter #3

"This is to advise that we object to the development of the above project by Mr. Haymond Ebanks. We are the owners of Block 20E, 232 in the surrounding area. The area is zoned residential and such development would prove not only offensive and unattractive but would certainly devalue our property and the surrounding area. We are of the opinion that this would be unfair not only to ourselves but to property owners who have invested huge amounts of money to reside in that area."

Letter #4

"I hereby object to the granting of permission to utilize the subject parcels for heavy equipment storage on the grounds that this purpose is not conducive to a residential area, as it would be a hazard to children within the area and its unsightliness would adversely affect real estate prices in the area."

Letter #5

"We hereby object to the granting of permission to utilize the subject parcels for heavy equipment storage on the grounds that this purpose is not conducive to a residential area, as it would be a hazard to children within the area and its unsightliness would adversely affect real estate prices in the area."

LETTER OF SUPPORT

“I am the owner of block 20E parcel 255 which is located directly across from Mr. Haymon Ebanks property, block 20E parcel 330, 242.

The application is requesting permission for Heavy Equipment Storage. I wish to support this project and have no objections to the request. It is refreshing to see a young hard working Caymanian trying to strive forward with our Islands ever changing growth and development. I wish Mr. Ebanks every success.”

PREVIOUS PLANNING DEPARTMENT ANALYSIS

The subject lands are zoned Low Density Residential (LDR). Regulation 9(1) of the Development and Planning Regulations (2003 Revision) states that the primary uses in this zone are residential and horticultural. Regulation 9(3) further states that commercial development may be permitted in this zone provided that notice of the application has been advertised twice in a newspaper and that there are no objections to the application which the Authority regards as raising grounds for refusing such permission.

There are two key components to this regulatory framework that the Department would like to expound upon. Firstly, the above noted regulations state that “commercial” development may be permitted in the LDR zone, but it must be determined whether Heavy Equipment storage is commercial or light industrial. Although heavy equipment storage would be considered light industrial in many jurisdictions, the Development and Planning Regulations contain a definition of “light industry” that does not include heavy equipment storage. Therefore, for the purposes of defining the nature of the proposed use, it must be considered “commercial”.

Secondly, the Authority must determine whether there are objections to the proposal that would warrant refusing planning permission. The nature of the objections that have been received speaks to the suitability of the proposed use given the existing uses in the area. The Department would generally concur with the points raised by the objectors and is of the opinion that the proposed use would not be suitable for the following reasons:

- The surrounding area is predominantly residential and the proposed use would negatively impact these existing uses through noise and odours associated with the heavy equipment travelling to and from the site. In addition, the visual appearance of heavy equipment is not consistent with a residential neighborhood. Although the site plan indicates that a ficus hedge would be planted along the eastern and northern property boundaries to act as a privacy screen, the other two sides would either be open or provided only with grass or palm trees.
- The subject site is located at the beginning of a residential neighbourhood and therefore all residents of the subdivision would be subject to the noise and visual incongruity on a regular/daily basis.
- Although not explicitly stated by the applicant, it is reasonable to assume that there will be minor maintenance of the equipment occurring on the site –

hence the need for a small on-site storage building. Any repair and maintenance would further impact the surrounding residential area with respect to noise and visual clutter.

- The proposed use would be more appropriately located in a commercial zone.

Given the reasons noted above, the Department is of the opinion that the proposed use would not comply with regulation 9(5) which states that “*no use of land in a residential zone shall be dangerous, obnoxious, toxic or cause offensive odours or conditions or otherwise create a nuisance or annoyance to others.*”.

SUPPLEMENTARY PLANNING COMMENTS

At the meeting of the Authority on November 26, 2003, it was brought to the Authority’s attention that despite not being mentioned in the planning report, the applicant in fact did not have legal access over the roadway shown on the site plan. The applicant and his agent appeared before the Authority (the objectors chose not to appear) and the Authority resolved to adjourn the application for the following reason:

“The access proposed is over a residential subdivision. Access to the proposed development shall be from the subdivision access road (20E/83 Rem 1).”

The applicant has now provided the Department with a signed grant of easement form wherein the applicant is securing a legal easement over the subdivision road to the west. This is not the road which the Authority stipulated must be used when adjourning the application on November 26, 2003, however, the applicant is requesting that the Authority accept the proposed access road as being satisfactory. Regardless of the location of the access road, the Department is still of the opinion that the proposed use is not suitable for the area and should be refused.

The CPA further discussed the following:

- Permission should be granted for two years only. The applicant should during that time secure an industrial location.

Decision: It was resolved to grant planning permission for **two years only, 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 applicant shall submit a landscape plan which shall be subject to review and approval by the Director of Planning.
- 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 which you will receive when all of the above conditions are complied with.

Additionally, once construction has started, conditions (4-9) shall be complied with before a **final Certificate of Occupancy** can be issued.

- 4) The applicant shall provide a **septic tank** with a capacity of at least **750 US gallons**. The septic tank shall be constructed in strict accordance with the Water Authority's standards.
- 5) The effluent from the septic tank shall be discharged into a disposal well. The disposal well shall be constructed in strict accordance with the Water Authority's standards. The discharge pipe from the septic tank shall enter the disposal well at a height of at least two feet above the water table level in the well.
- 6) Any floor drains in the service areas of the facility shall be plumbed to an oil/sand separator prior to discharging into a treatment system or disposal well. The required size of separator will be determined by the Water Authority upon written confirmation of the number and type of wash equipment; e.g., hose, high-pressure wash wands, mop sink, etc.
- 7) Waste vehicle fluids must be managed in the most responsible manner available. Currently the Department of Environmental Health has programs for recycling lead/acid batteries and waste oil. Currently there are no recycling programs for other waste vehicle fluids. Those fluids (e.g., waste solvent, paint, coolant) should never be mixed with waste oil, nor should they ever be disposed of into any wastewater treatment system or disposal well. At this time, the best option is to place these fluids, separately, into containers and send them to the landfill. Contact the Department of Environmental Health with any questions regarding the disposal of these fluids.
- 8) The **parking** lot and driveway aisles surfaced with two (2) coats of chip and spray, as a minimum standard, with tire stops being provided for each parking space.
- 9) The vehicular easement over Block 20E Parcel 278 shall be registered.

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 **finished floor level** should be at least **five feet (5') above mean sea level**, [i.e. two ft (2') above the Vidal Bench Mark].

The applicant is also 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, Cable & Wireless and the Cayman Water Company and/or the Water Authority - Cayman.**

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

3.0 NEW APPLICATIONS

3.01 PAUL ANGLIN Block 4E Parcel 655 (FA81-0066) (P04-0113) (\$140,000) (EJ)

Application to modify planning permission and request that the Authority approve plans as submitted.

Appearance at 2:04

FACTS

- Location:* Off Rev. Blackman Road in West Bay.
- Zoning:* **High Density Residential**
- Background:* December 17, 2003 (**CPA/36/03; item 3.21**) the Authority approved a three (3) bedroom house.
- Existing Use:* Vacant
- Proposed Use:* To modify planning permission and seeking the Authority’s permission to approve plans as submitted.
- Parcel Size:* 0.42 (18,295 sq. ft.)
- Site Coverage:* 12.54%
- Building Size:* Existing – 400 sq. ft.
Proposed – 1,894 sq. ft.
Total – 2,294 sq. ft.
- Parking:* Required – 2
Proposed - 2

PLANNING DEPARTMENT ANALYSIS

The applicant is requesting to modify planning permission by removing condition 1(a) of CPA/36/03 item 3.21; which states that a revised plan shall be submitted illustrating the building reoriented so that the front faces west. The applicant is asking the Authority to drop this condition and approve the subject house as originally submitted. The CPA’s condition remedied the rear setback deficiency.

The applicant’s letter requesting consideration reads as follows:

“I write to you in regards to a letter received from your Department, in relation

to the above mentioned subject, dated 20th January 2004 and ref: CPA/36/03 Item 3.21. As I have explained in my letter with the Application dated 12/12/03, I do intend to subdivide my two (2) properties 4E 655 and 4E 86 in the near future, in order to provide more front yard space for my proposed house. My intentions are to extend the access road on 4E 86, continuing up the middle boundary of both parcels, to cater access for my now proposed house and any future buildings, which I would like to face each other on both parcels. I am kindly requesting that you reconsider approving my application as originally proposed, and if necessary, I would like to have an audience with the Board, so that I can explain myself in more detail. Your kind consideration in this matter will greatly be appreciated, and if you have any further questions please do not hesitate to contact me.”

The proposal meets planning Regulations and requirements for site coverage, density, lot size, lot width, parking and side setbacks.

The Authority is reminded of Regulation 8 (13) Notwithstanding sub-regulation (1), Regulation 9 (6), (7) and (8), and Regulation 10, the Authority may grant permission to carry out development that does not comply with all or any of those provisions if the Authority is satisfied-

(a) that an exceptional circumstance exists; and

(b) that there is a sufficient reason why the permission should be granted.

The Department is not convinced that the request meets the test specified in the above Regulations as it is clear that the building was designed without any regard to site configuration.

The applicant Mr. Paul Anglin appeared before the CPA at 2:04 p.m.

CPA: The Authority can accept an eighteen feet rear building setback, but the twelve feet front setback is really too little.

Mr. Anglin: The east property boundary is only about fifty feet long. I intend to shift the common property boundary in order to widen the property. I can move the proposed house further west.

CPA: A reparcelation is possible, resulting in the realignment of the common property boundary. Perhaps the parcels can be combined. The plans show that the proposed house is separated by thirty seven feet from the existing building.

Mr. Anglin: It should be about seventy feet separation. The proposed house can be moved to twenty feet from the existing building.

There being no further discussion with the applicant, the **Chairman** thanked him for appearing. He left at 2:15 p.m.

The CPA further discussed the following:

- The application should be approved subject to revised site plans illustrating the proposed building located twenty feet from the existing structure.

Decision: It was resolved to modify planning permission of CPA/36/03 item 3.21 by deleting the wording of condition “1) a)” **and inserting the following:**

- 1) The applicant shall submit a revised **site plan** illustrating the following information at a minimum:
 - a) The proposed house relocated further west to a position twenty feet (20’) from the existing house on site.

All other conditions of CPA/36/03 item 3.21 remain applicable.

3.02 **HUMPHREYS (CAYMAN) LIMITED** Block 12C Parcel 394 (F97-0378) (P04-0078) (\$12,000) (JAB)

Application for an on-building banner sign.

Appearance at 2:37

FACTS

Location: North Tower Condo, seaside, Ritz Carlton, West Bay Road

Zoning: **Hotel / Tourism**

Notice Requirements Section 15(4) notices were served on adjacent proprietors and no objections were received

Existing Use: North Tower Condos

Proposed Use: Banner sign (1,350 sq. ft.)

PLANNING DEPARTMENT ANALYSIS

The applicant is requesting permission for a 1,350 sq. ft. banner sign to be located on the beachside of the North Condo Tower at the Ritz Carlton site, advertising sales for the Ritz Residences.

The proposed banner is 135’ long and 10’ high and is to be placed across the entire third floor of the beachside of the North Condo Tower. This type of banner advertisement should be considered very carefully as a proliferation of this type of signage will detract from the visual appearance of the beach as well as the street corridors. Approving this type of signage will set a precedent and should not be promoted in any way.

Messrs Larry Kessinger and Ben Schwan appeared before the CPA at 2:37 p.m. on behalf of the applicant.

CPA: Why is the banner proposed so large?

Mr. Kessinger. It is for the attention of beach walkers. Forty to fifty percent of our clients result from this type of tourists. This means is likely to yield better results than handouts on the beach. This is an important part of the year to seek out sales, due to the number of tourists.

CPA: What size are the letters on blue background?

Mr. Kessinger: About two feet in height.

CPA: The ten feet width of the banner is unprecedented. Two feet high letters can be read from about 800 feet away. If you are catering for beach walkers, this appears excessive. Was the kiosk successful?

Mr. Kessinger: Brochures have been distributed from it for three years. We are asking for temporary permission until June for the banner.

CPA: Are this size banner allowed in your jurisdiction?

Mr. Kessinger: Where I am from it is allowed, provided there are no traffic issues. The banner is to be placed so that the neighbours will not see it.

CPA: Can you brief us on the status of the whole development?

Mr. Kessinger: The contractor has been served notice that it is in default. The hotel is to be handed over to the Ritz Carlton in October and will open this year. Subcontractors will finish the job if the main contractor is unable to do so.

CPA: How is employee housing being addressed?

Mr. Kessinger: Two hundred rooms at Treasure Island were secured. Subcontractors are responsible for housing their employees.

CPA: What are sales like?

Mr. Kessinger: We are 60% sold out. There is significant interest and we need more.

CPA: What is the banner made of?

Mr. Kessinger: It is a nylon mesh fabric. It does not have a long life span.

There being no further discussion with the applicant's representatives, the **Chairman** thanked them for appearing. They left at 2:50 p.m.

The CPA further discussed the following:

- This banner as proposed is too large and out of character with the area and signage in general in the Cayman Islands. The sign should be reduced in size.
- Temporary planning permission should be granted for six months, subject to the sign being reduced to six feet by eighty feet.

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

- 1) The applicant shall submit a revised banner design illustrating the sign not exceeding six feet (6') in height and eighty feet (80') in length.
- 2) The banner shall be erected for no longer than six months from the first day of its placement. The applicant shall advise the Planning Department of the placement date.

(JAB)

Application for a roadside sign.

Mr. A. L. Thompson declared his interest and left the room. Mr. Attlee Bodden Acted as Chairman for this item.

FACTS

Location: North Sound Road, George Town

Zoning: **Light Industrial**

Notice Requirements: Section 15(4) notices were served to adjacent property owners and no objections were received

Background: **CPA/25/99; item 6.01** the Authority resolved to approve an application for employee housing and warehouse space.

Existing Use: Vacant / appliance center

Proposed Use: Two (2) sided, 2' x 3' sign

PLANNING DEPARTMENT ANALYSIS

The applicant is requesting permission to erect a two (2) sided, 6 sq. ft. offsite roadside sign advertising “Sony’s Auto”. The proposed sign is to be located twelve feet east of the North Sound Road reserve (BP429). The Department has no objection to this proposal.

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

- 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.
- 2) The applicant shall contact the Public Works Department regarding the exact location of BP429, in order to accurately place the sign twelve feet east of the road reserve.

3.04 **WIRELESS VENTURES** Block 14CF Parcel 205 (F99-0315) (P04-0059) (\$800) (BES)

Application for two (2) signs.

Appearance at 1:32

Messrs John Hurlstone and Dean Evans declared their interest and left the room.

FACTS

Location: Trinity Square Shopping Plaza, Eastern Avenue, George Town

Zoning: **General Commercial**

Notice Requirements: Section 15(4) notices were served on adjacent proprietors and no objections were received

Proposed Use: Two (2) signs

PLANNING DEPARTMENT ANALYSIS

The applicant is requesting planning permission to erect two (2) signs on the building façade at the main entrance of Trinity Square Shopping Plaza. The sizes of the signs are as follows:

Sign “A”: Length: 6’-0”; Width: 2’-6”; Area: 15 sq. ft. and reads “**AT&T WIRELESS**”

Sign “B”: Length: 6’-0”; Width: 2’6”; Area: 15 sq. ft. and reads “**AT&T WIRELESS**”

Granting planning permission for the signs or even one sign will set a precedent for the remainder of the tenants to seek approval for a sign at the Eastern Avenue façade. The owner of the building should erect a directory sign.

Mr. Gary Murphy appeared before the CPA at 1:32 p.m.

CPA: The Authority would like to know how future signage will be done in the complex. Uniformity is desired.

Mr. Murphy: The client can be notified about the Authority’s concern.

CPA: What about installing a directory sign?

Mr. Murphy: Each unit has its own signage. I understand from my client that the signs should be eight feet in length, not six feet.

There being no further discussion with the applicant’s agent, the **Chairman** thanked him for appearing. He left at 1:36 p.m.

The CPA further discussed the following:

- The Authority is concerned about the precedent that the proposed signage may set if allowed. Permitting the signs may set a precedent that could result in the building façade (Eastern Avenue) being visually polluted with signs. Accordingly, a masterplan of signage for the entire development on site should be submitted for the consideration of the CPA.

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

- 1) The Authority is concerned about the precedent that the proposed signage may set if allowed. Accordingly, a masterplan of signage for the entire development on site shall be submitted for the consideration of the CPA.

3.05 **FINE HOMES** Block 24E Parcel 389 (F02-0013) (P04-0136) (\$5,000) (BES)

Application to modify planning permission to erect four (4) balconies.

FACTS

Location: Whirlwind Drive, Omega Bay Estates Subdivision, Prospect

Zoning: **Low Density Residential**

Background: **CPA/05/02; item 5.03(C)** – the Authority granted planning permission for apartments on the subject property.

Existing Use: Apartments under construction

Proposed Use: Balcony

Parcel Size: 0.5695 acre (24,807.4 sq. ft.)

PLANNING DEPARTMENT ANALYSIS

The application is requesting permission to modify planning permission by way of erecting four (4) balconies at the rear of the apartments. The Department has no specific concerns with the application.

Decision: It was resolved to modify planning permission (CPA/05/02; item 5.03(C)) to allow four (4) balconies as shown on the drawings date stamped February 9, 2004, **subject to the following:**

All other conditions of CPA/05/02; item 5.03(C) remain applicable.

3.06 **SEVENTH DAY ADVENTIST C.I. MISSION** Block 14D Parcel 297 Rem 1 (F00-0366) (P04-0119) (\$7,000) (BES)

Application for a temporary church crusade tent.

Mr. Antonio Smith declared his interest and left the room.

FACTS

Location: Bobby Thompson Way and Lindford Pierson Highway, George Town

Zoning: **Medium Density Residential**

Background: October 15, 2003 (**CPA/29/03; item 3.18**) – the CPA approved a tent for church crusade until January 1, 2004.
December 17, 2003 (**CPA/36/03; item 3.19**) – the CPA extended planning permission for the tent crusade to be removed on January 31, 2004.

Existing Use: Vacant

Proposed Use: Two (2) temporary canvas tents

Parcel Size: 40 acres (1,742,400 sq. ft.)

PREVIOUS PLANNING DEPARTMENT ANALYSIS

The tents are intended for the purpose of a church crusade. The applicant has indicated that the tents would be erected for use from November 6, 2003 and removed by December 10, 2003. The Authority has granted planning permission for the temporary tents on the same property for the same period of time on four (4) previous occasions. There have been no recorded objections to the use of the tents on the previous occasions and the Department has no particular concern with the current application. Although there is no proposal to construct any permanent parking, the applicant has shown the possibility of at least 116 parking spaces on the site. The Department would recommend that the tents should be setback at least 170 feet from the nearest dwelling house on 15C/147.

SUPPLEMENTARY PLANNING DEPARTMENT ANALYSIS

The applicant is requesting an extension of time for a tent crusade on Bobby Thompson Way. The applicant is asking that the tent remain on site from January 1, 2004 to March 31, 2004.

The Department is concerned that vehicles parking on the side of the public roads (Linford Pierson Highway and Bobby Thompson Way) have created a traffic hazard for motorist using one of Cayman's most heavily used public roads. From a planning perspective and public safety, the Department would recommend that the site should not be used in the future for tent meetings due to the fact that the Linford Pierson Highway is now a main public road to the eastern districts and should be kept clear of traffic hazards. This area should be a scenic corridor at the roundabout, not an eyesore for motorist using the said road.

The CPA further discussed the following:

- Due to traffic and aesthetic concerns, the application should be favourably considered for a temporary basis only.

Decision: It was resolved to modify temporary planning permission of CPA/29/03; item 3.018 until March 31st, 2004, **subject to the following conditions:**

- 1) There shall be no parking on Bobby Thompson Way and Linford Pierson Highway.
- 2) Solid waste and toilet facilities shall be provided on the site.
- 3) The hours of use shall not extend beyond 10:00 p.m.
- 4) The site shall be restored to its original condition after each tent meeting, including the removal of the tent and any garbage, etc.
- 5) Unless specifically authorized otherwise in writing by the Central Planning Authority, the Development shall be carried out **strictly in accordance** with the approved plans.

The applicant is reminded that the proposed development is subject to compliance

with the Public Health Law, Fire Brigade Law, Water Authority Law and Roads Law.

3.07 **C.I. GOVERNMENT** Block 14CJ Parcel 9 (F03-0272) (P04-0095) (\$148,000) (JAB)

Application for a 200' communications tower.

FACTS

Location : At the rear of the Glass House property, George Town

Zoning: **General Commercial**

Notice Requirements: Section 15(4) notices were served on adjacent land owners and no objections were received.

Height of Antenna: 200'-0"

AGENCY COMMENTS

Comments from the MRCU, Civil Aviation Authority and the ICTA are noted below:

MRCU

"We would like to offer the following comments:

- *All towers / tower extensions should comply with the Aerial Spraying Protection Law (1997 Revision), attached for your information. In particular, section 3 of the law that specifies that the towers should be illuminated.*
- *All towers / tower extensions should be free-standing and comply with the ICAO provisions for aircraft safety, including, but not limited to, the requirements for safety banding (red and white). Further details on these requirements are available from the Civil Aviation Authority."*

Civil Aviation Authority

"The Civil Aviation Authority have no objections to the proposed tower provided it is lighted and marked in accordance with the requirements of ICAO Annex 14, a copy of which was submitted to your organization."

ICTA

"Please be advised that the Authority has information to the effect that the Government Tower will have a number of co-tenants and as such we have no objection to this tower application proceeding."

LETTER FROM APPLICANT'S AGENT

"Attached to this memo is an application for planning permission for a new emergency communications tower on Block 14CJ Parcel 9, 71B Elgin Avenue,

George Town. A transfer journal in the amount of \$50.00 is also attached as payment.

The proposed tower is replacing an existing tower at Radio Cayman that needs to be dismantled due to its age and deteriorated condition. The new tower will also allow for the consolidation of antennas/equipment that are located on another existing tower at the Central Police Station, which will also be dismantled after the new tower is commissioned. The new tower will be hosting antennas/equipment for several Government agencies as well as private sector entities.”

PLANNING DEPARTMENT ANALYSIS

The applicant is requesting planning permission for a 200’ high communications tower at the Government Administration building site in George Town. The proposed tower is not within the height restricted areas of George Town and therefore the Department has no objection to the proposal as submitted.

The CPA further discussed the following:

- The application appears acceptable.

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 in writing by the Central Planning Authority, the Development shall be carried out **strictly in accordance** with the approved plans which you will receive when the above condition is complied with.
- 3) The tower shall comply with the Aerial Spraying Protection Law (1997 Revision), specifically section 3 therein regarding illumination.
- 4) The tower shall be free-standing and comply with ICAO provisions for aircraft safety, including, but not limited to, the requirements for safety banding (red & white or orange & white).

3.08 **TEDDIE DEWEY WELDS** Block 4E Parcel 255 (F97-0004) (P04-0062) (\$7,500) (CH)

Application for an additional unit (1-bedroom) to create five (5) apartment units.

FACTS

Location: Off Powell Smith Road, West Bay

Zoning: **High Density Residential**

Notice Requirements: Section 15(4) notices were served on adjacent proprietors and no objections were received.

Background: January 23, 2002 (**CPA/02/02; item 5.13 (C)**) planning permission granted for one (1) unit addition to create apartments.

January 24, 2001 (**CPA/03/01; item 6.05**) planning permission granted for 1- unit addition to create a duplex.

June 12, 2000 - Administrative approval granted for a second house (1,086 sq. ft.)

April 25, 2000 - Administrative approval granted to amend to increase the floor area of the approved house by 136 sq. ft. (total = 1, 222 sq. ft.)

May 7, 1997 (**CPA/15/97; item 7.10**) resolve to amend planning permission for *CPA/04/97; item 2.03* (location of the house)

February 11, 1997 (**CPA/04/97; item 2.03**) planning permission granted for two (2) bedroom house.

Existing Use: Four (4) apartment units

Proposed Use: Apartments (1- unit addition)

Parcel Size: 0.30 ac (13,068 sq. ft.)

Site Coverage: Buildings – 21.9%

Density: Existing – 4 units
Proposed – 1 unit
Total - 5 units
Allowable - 7 units

Building Size: Existing – 2,640 sq. ft.
Proposed – 224 sq. ft.
Total – 2,864 sq. ft.

Parking: Required - 8
Proposed - 8

AGENCY COMMENTS

Fire Department has no concern with the proposed development. Comments from Water Authority are noted below.

Water Authority

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

- *The developer shall provide a **septic tank** with a capacity of at least **1,500 US gallons**. The septic tank shall be constructed in strict accordance with the*

Authority's standards.

- *All treated effluent shall be discharged into a disposal well. The disposal well shall be constructed in strict accordance with the Authority's standards.*
- *The discharge pipe from the septic tank shall enter the disposal well at a height of at least two feet above the water table level in the well.*
- *If the developer proposes to utilize an existing septic tank and/or disposal well, they shall certify that tank and/or well meets Water Authority's standards.*

Please be advised that the following property is situated within the area supplied with piped water from the Cayman Water Company. The Cayman Water Company should be contacted for a connection to their distribution system.

Please contact the undersigned should there be any questions.”

Response to Agency Comments

Water Authority concerns can be addressed through standard conditions of approval.

PLANNING DEPARTMENT ANALYSIS

The applicant is requesting approval to construct an additional 224 sq. ft. one (1) bedroom unit to create a five (5) apartment unit development on the subject parcel.

Site Layout and Coverage

The applicant has previously made several applications (unit additions) on the subject parcel, for which planning permission was granted. It should be noted that the buildings contribute to 21.9% of the site coverage (40% maximum allowed). Based on a site visit the site is satisfactorily landscaped.

Sidewalk

The parcel has no road frontage hence a sidewalk is not attached to the development.

Conclusion

The application meets all other planning requirements including setbacks, parking, density and building height.

The CPA further discussed the following:

- The application appears acceptable.

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 which you will receive when the above condition is complied with.

Additionally, once construction has started, conditions (3-11) shall be complied with before a **final Certificate of Occupancy** can be issued.

- 3) The applicant shall provide a septic tank with a capacity not less than **1,500 US gallons**.
- 4) The treated effluent shall be discharged into a deep well.
- 5) All treated effluent shall be discharged into a disposal well. The disposal well shall be constructed in strict accordance with the Water Authority's standards. The elevation of the discharge pipe for the treated effluent into the disposal well shall be a minimum of two feet above the elevation of the local water table.
- 6) If the applicant proposes to utilize an existing septic tank and/or disposal well, it shall be certified that the tank and/or well meets Water Authority's standards.
- 7) The solid waste enclosure shall be designed to accommodate at least five 33-gallon containers.
- 8) A minimum dimension of 5ft by 7ft 6in shall be provided the enclosure.
- 9) If the enclosure has a height greater than 2ft 6in in from the ground level a gate shall be provided for the removal of containers. The gate shall be at least 2ft 6in wide.
- 10) The enclosure shall be located in such a way that it is easily accessible for service.
- 11) The **parking** lot and driveway aisles shall be surfaced with two (2) coats of chip and spray, as a minimum standard, with tire stops being provided for each parking space.

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

Provisions 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.

3.09 **JOSEPH ANDERSON** Block 24E Parcel 110 (F04-0003) (P04-0068) (\$110,000) (CH)

Application for after-the-fact additional unit to create a duplex and lot size variance.

FACTS

<i>Location:</i>	Almond Ave., off Marina Dr., Prospect.
<i>Zoning:</i>	Low Density Residential
<i>Notice Requirements:</i>	N/A
<i>Background:</i>	January 7, 2004 planning permission granted for a single family dwelling.
<i>Existing Use:</i>	House
<i>Proposed Use:</i>	Duplex
<i>Parcel Size:</i>	0.304 acre (13, 242.24 sq. ft.) (Required: 13,500 sq. ft.)
<i>Site Coverage:</i>	19.5 %
<i>Building Size:</i>	Existing – 1,294 sq. ft. Proposed – 1,294 sq. ft.

LETTER FROM APPLICANT'S AGENT

“Please accept this letter as a request for a lot size variance, to allow the structure to remain as shown on the attached drawings, for the following reasons:

- The immediate parcel to the right (24E42) has been developed with a Duplex and the same parcel appears to be a smaller lot.*
- The parcel across the access road consist of an apartment development.*
- The structure, in my opinion should not be detrimental or have an adverse affect on the present status or the future of the neighboring parcels.*
- The application is in compliance with all other requirements.*

I trust that this information will be adequate for the approval of this application.”

PLANNING DEPARTMENT ANALYSIS

The applicant made an initial request for planning permission to construct an additional unit to create a duplex. On February 4, 2004, the Department conducted a site visit and it was discovered that the development had commenced (foundation) without the approval of the CPA. The agent was contacted and subsequently a letter of warning issued regarding the unauthorized development.

Additional planning fees were paid in accordance with Part III of the First Schedule of the Development and Planning Regulations (2003) Revision. The application is before the Authority as after-the-fact and the applicant is also seeking a lot size variance. The Board should note that previous planning permission (administratively) was granted for a house, which is currently under construction. The application meets setbacks, site coverage and parking requirements.

Research of records and the site visit reveal that duplexes and a three (3)

apartment units exist on similar lot size on adjacent parcels. Therefore the development is consistent with surrounding developments. However, after-the-fact applications is not sufficient reason why planning permission should be granted.

The CPA further discussed the following:

- The application appears acceptable.

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 that you will receive when the above condition is complied with.

Provisions 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 obtain a Final Certificate (of Fitness for **Occupancy**) **prior to occupying that part of the building.**

3.010 **NEW TESTAMENT CHURCH OF GOD** Block 19E Parcels 135 and 136 (F00-0185) (P04-0047) (\$5,000) (CH)

Application for temporary tent (church related).

FACTS

- Location:* Commercial Ave off North Sound Road, Industrial Park, George Town
- Zoning:* **Heavy Industrial**
- Notice Requirements:* Section 18(4) notices were served to adjacent property owners. No objections were received.
- Background:* December 18, 2002 (**CPA/32/02; item 3.02**) planning permission granted for temporary tent (gospel crusade).
 June 5, 2002 (**CPA/14/02; item 5.03 (A)**) planning permission granted for temporary tent.
 January 9, 2002 (**CPA/01/02; item 5.08**) planning permission granted for temporary tent.
January 24, 2001 (CPA/03/01 Item 6.03) planning permission granted for temporary tent.

June 21, 2000 (CPA/21/00; item 4.06) planning permission granted for temporary tent.

Existing Use: Vacant (used as a parking area during working hours)

Proposed Use: Church tent

Parcel Size: Parcel 135 – 0.34 acre (14,810.4 sq. ft.)

Parcel 136 – 0.65 acre (28,314 sq. ft.)

Total 43,124.4 sq. ft.

Site Coverage: 12.3%

Tent Size: 111 sq. ft. X 48 sq. ft. Total 5,328 sq. ft.

PLANNING DEPARTMENT ANALYSIS

The applicant is seeking permission to erect a temporary tent for an annual gospel crusade on the subject parcel. The site coverage is 12.3% thus leaving the remainder space for parking. The applicant should ensure that parking and driveway arrangements are orderly and that no obstructions are caused to traffic within the vicinity.

The Board should note that previous planning permission was granted for similar use on several occasions. The applicant has indicated that the tent will be needed for the period March 13, 2004 to March 19, 2004. The Department recommends that the applicant seek recommendations from the relevant agencies in respect of toilet facilities, fire safety, garbage disposal and other public health and safety matters.

The CPA further discussed the following:

- Temporary permission should be granted. The application appears acceptable.

Decision: It was resolved to grant temporary planning permission for the period March 12, 2004 to March 26, 2004, **subject to the following conditions:**

- 1) The temporary development shall not obstruct traffic in the area.
- 2) The tent shall be removed off the subject parcel on or before March 26, 2004 and the site reinstated similar or better than that existing prior to the event.
- 3) The applicant shall comply with the requirements of DEH regarding toilet facilities and garbage storage, and from the fire service regarding fire safety.
- 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 is reminded that the proposed development is subject to compliance with the Public Health Law, Fire Brigade Law, Water Authority Law and Road

Law.

3.011 **NOEL MARCH** Block 28C Parcel 111 REM.1 (F03-0371) (P04-0115) (\$0) (BES)

Application to modify planning permission to delete conditions 1(c) and 1(d) of CPA/33/03; item 3.03).

Appearance at 5:24

Robert Lewis declared his interest.

FACTS

Location: Shamrock Road and Hurst Road, Savannah

Zoning: **Low Density Residential.**

Background: Nov. 26, 2003 (CPA/33/03; item 3.03), the Authority granted planning permission for a subdivision on the subject property with conditions.

Parcel Size: 11.92 acres (519,235.2 sq. ft.)

AGENCY COMMENTS

Comments from the Chief Engineer are noted below.

Chief Engineer

“Further to our previous comments re: the above referenced PWD would add the following:

The necessary traffic/road improvements to Shamrock Road in this area will be carried out by PWD as part of phase II of Hirst Road-Shamrock project due to commence in late 2004 or early 2005. In this regard PWD would have no objection to the subdivision being accessed via Shamrock Road.

There is still a question of corner clips that we feel are necessary for the intersections of the subdivision access roads with the main roads (Hirst and Shamrock).

All previous comments relative to stormwater management still apply.

LETTER FROM APPLICANT

“Attached is our application (on behalf of the proprietor) requesting an Amendment to the Planning Permission for the phased subdivision of parcel 28C 111 REM 1, into 29 residential parcels, 1 LPP area and 1 road reserve.

You will recall that my client and I did attend at the CPA meeting of 26th November 2003 and made representations to the Board regarding some of the PWD comments. We now formally request that conditions 1c) and 1d) be excluded from the permission letter, for the following reasons.

I(c) The matter of providing a centre turn lane on Shamrock Road had been

discussed with PWD prior to the CPA meeting, and a Memo obtained from them, which noted that they would be carrying out this requirement as part of phase II of the Hirst & Shamrock Road improvement project. They therefore had no objection to the proposed Shamrock Road access. This Memo had not been received by the Board at the time of the meeting, but we did present copies to the Members for their information. It seems to me that perhaps this fact was overlooked when the conditions of the permission were decided.

Id) It is fully appreciated that chamfers or truncations should be provided at all internal and main road intersections. However, as presented by us at the meeting, this particular parcel was previously created with two 30ft access corridors, which did not provide for such chamfers. I am uncertain when this occurred, but certainly it was a matter that a previous CPA Board must have permitted when the parcel was created as a Remainder of the parent parcel subdivision. Certainly, the situation did exist when the present proprietors took ownership of the parcel in 2000.

The permission calls for 30ft chamfers for the Hirst Road intersection. As discussed with the Board at the meeting, the developer considers it extremely unlikely that he can negotiate the provision of the required chamfers at the this entrance, He had previously discussed the possible acquisition of all or part of parcel 28C 39 REM I (to provide some additional lots and a greater road frontage for the development), but without success. Additionally, the Board will note that the proprietor of parcel 28C 92 (to the north) was one of the objectors to the development, and is therefore hardly going to accommodate the provision of a chamfer over his land. I trust that the Board will realise that the developer cannot compel an adjacent proprietor to provide access over their land, and if this is not obtainable and the requirement must still be met, then the future development of the (almost) 12-acre parcel will be made impossible. One solution that the Board might wish to consider is for the private subdivision road (once registered) to be gazetted as public, and for that process to include the taking” of adequate land for the chamfers, from the adjacent owners.

I trust therefore, that in view of the above-mentioned considerations, the Board will now reconsider the serious impact of the inclusion of the two conditions, and either remove them entirely or suitably amend the wording, so that the subdivision and development of the land can in fact proceed.”

PLANNING DEPARTMENT ANALYSIS

The applicant is requesting planning permission to modify planning permission by way of deleting conditions 1(c) and 1(d) of CPA/33/03; item 3.03, which reads... “1(c) Provision for a centre turn lane at Shamrock Road and adequate taper for left turns on and off the proposed subdivision access road. 1(d) a minimum of thirty ft chamfers or radius curves is necessary for the intersection of the access road with Hirst Road.” As noted above, PWD will carry out the necessary traffic/road improvements to Shamrock Road/Hirst Road as part of phase II. As a result, the Department has no objection to the applicant’s request to remove condition “1(c)”, since PWD will be undertaking the necessary road

improvements at the said junctions.

However, Regulation 25(a) requires truncations, so the Department is not in favour of the removal of condition “1(d)”.

Messrs Noel March and Doug Young appeared before the CPA at 5:24 p.m.

CPA: You have tried to secure truncations from the adjoining proprietors?

Mr. March: Yes, without any success. The objector obviously will not cooperate. Neither will the other proprietor who is Mr. Jackson.

Mr. Young: PWD is expected to further upgrade Shamrock Road and put in the turning lane.

There being no further discussion with the applicant and his agent, the **Chairman** thanked them for appearing. They left at 5:27 p.m.

The CPA further discussed the following:

- The planning permission should be modified as proposed by the applicant.

Decision: It was resolved to modify planning permission to delete conditions 1(c) and 1(d) of CPA/33/03; item 3.03), **subject to the following condition:**

- 1) All other conditions of CPA/33/03; item 3.03 remain applicable.

3.012 **JOHN MCLEAN JR.** Block 69A Parcel 21 (F04-0052) (P04-0100) (\$45,000) (KG)

Application for a nine (9) lot subdivision.

FACTS

Location: Off Queens Highway access by Sunnyfield Road

Zoning: **Agriculture/Residential**

Notice Requirements: Section 15(4) notices were served on adjacent landowners. No objections were received.

Background: No previous CPA action.

Existing Use: Vacant

Proposed Use: Subdivision

Parcel Size: 8.25 acres (359,370 sq. ft.)

Proposed Lot Size: Avg. size between 25,075.22 sq. ft. and 52,663.47 sq. ft.

AGENCY COMMENTS

Comments from the Department of Environment are noted below.

Department of Environment

“The DOE submits the following on the above-noted application.

1. *The parcel has been extensively cleared of vegetation during previous site activity. A sizable stand of continuous secondary growth forest is evident in the northwestern most corner of the site, extending to lots on either side of parcel 21. A small band of mixed undisturbed dry forest and xerophytic shrubland exists to the north of the larger secondary stand. No other significant environmental resources seem to remain on the property.*
2. *The parcel does not fall within the eastern iguana habitat nor do any of the other environmental sensitive areas overlay this property.*
3. *Although not as high in biodiversity as primary forest, there is still valuable in conserving the remaining secondary growth dry forest. Therefore the DOE would recommend the relocation of LPP to part of proposed lot C where the majority of this environmental resource exists. This would be in keeping with 3.17(1) of the draft Development Plan 2003, which “ensures that the layout and design of subdivision proposals are sensitive to a site’s physical and environmental characteristics and promote appropriate parcel orientation.” If feasible any subsequent development of parcels 22, 105 and 46 should have their LPP about this relocated one on parcel 21 to form a contiguous area of biodiversity and vegetative cover. The area could form a small community park or nature trail for these developments, which could be marketed as unique and attractive features.*

Please do not hesitate to contact the Department should you have any queries or require further information.

PLANNING DEPARTMENT ANALYSIS

The applicant is proposing a nine (9) lot subdivision. All proposed lots exceed the minimum lot size requirements for the Agriculture/Residential Zone.

LPP

Lot H has been specified as the proposed LPP with an acreage area of 25,075.22 sq. ft. in order to satisfy Regulations 28(1). The total area of the original parcel is **359,370 sq. ft.** The land for Public Purposes is calculated at 5% of the total, which is 17,968.5 sq. ft. (0.4125 acre.). The applicant has complied with **Regulation 28(1)** which, **states that the Authority may require the applicant to set aside land for public purposes.**

The CPA further discussed the following:

- The location of the access point to the subdivision is near a sharp bend in Sunnifield Drive. Additionally, the usable shape of lots could be improved through a land swap with the neighbour to the west. The applicant’s agent has indicated that this option could be pursued. Finally, the LPP should be relocated to protect the sparse remaining vegetation. The subdivision design should accordingly be revised.

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

- 1) The applicant shall liaise with the Department regarding revising the subdivision design.
- 2) The access **road (s)** abutting the proposed lots shall have a minimum of a 30' demarcated road parcel or as otherwise noted and shall be constructed with asphaltic concrete and approved by the Director of Planning prior to the lots being registered. The applicant shall liaise with the Chief Engineer, Public Works Department, at predetermined stages of road construction to ensure compliance with the requisite standards. Failure to do so may render the project unacceptable.
- 3) The applicant shall provide water infrastructure for the entire subdivision. The water supply system shall be approved by Water Authority and installed to the Water Authority's specification, under the Water Authority's supervision. Copies of these specifications are available at the Water Authority's offices.
- 4) The **surveyor's final drawing** shall be submitted to the Planning Department for approval prior to the survey being registered.

3.013 KIM SAMUELS Block 5B Parcel 228 (F04-0030) (P04-0048) (\$72,000) (JAB)

Application for a restaurant.

FACTS

Location: Mary Mollie Hydes Road, Boggy Sand, West Bay

Zoning: **Neighbourhood Commercial**

Notice Requirements: Section 15(4) notices were served to adjacent property owners. No objections were received

Existing Use: Vacant

Proposed Use: Restaurant

Parcel Size: 0.122 acre (5,314 sq. ft.)

Building Size: Proposed – 800 sq. ft.

Parking: Proposed - 4
Required – 4

AGENCY COMMENTS

Comments were requested (2/2/04) from the following agencies, (WAC, PWD, RCIP, DEH and CFO); however, only comments from the Water Authority are noted below:

Water Authority

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

- *The developer shall provide a **septic tank** with a capacity of at least **1,500 US gallons**. The septic tank shall be constructed in strict accordance with the Authority's standards.*
- *All treated effluent shall be discharged into a disposal well. The disposal well shall be constructed in strict accordance with the Authority's standards.*
- *The discharge pipe from the septic tank shall enter the disposal well at a height of at least two feet above the water table level in the well.*
- *The developer shall also provide a **grease interceptor** with a liquid volume of at least **600 US gallons** to treat the wastewater from the kitchen sinks prior to discharging into the treatment plant mentioned above. The grease interceptor shall be constructed in accordance with the Water Authority standards.*
- *On-site wastewater treatment systems shall be located at least 100 feet from the mean high waterline of any water body (sea, lakes, canals, etc.). The location shall comply with the minimum setback requirements of the Planning Department."*

PLANNING DEPARTMENT ANALYSIS

The applicant is requesting permission to construct a restaurant on parcel 228. The proposal meets all minimum planning requirements with regard to site coverage, setbacks, number of parking spaces and aesthetics. However, the Department notes the following matters regarding the proposal:

Parking – the Department would recommend that one of the two proposed parking spaces nearest to the building be changed to a handicap parking space.

Service Area – the drawings as submitted do not show a service area for the loading / unloading of delivery vehicles onsite. A service area is a necessary element for a restaurant and the Department would recommend that the site plan be revised to show all development slipped west so that the service area can be accommodated on the east.

Sidewalk – the applicant has proposed a 4'-0" wide sidewalk (pavers). The Authority should discuss whether a 6'-0" wide sidewalk should be required in this instance.

Suitability - the Department is of the opinion that this is a suitable location for a restaurant as large scale re-development of "Heritage Square" is ongoing with further development planned for the future. However, the Department would recommend that the above comments be taken into consideration when deciding upon this application in order for the restaurant to function more efficiently.

The CPA further discussed the following:

- A side service door has been provided as shown on revised plans.
- The width of sidewalk proposed is acceptable.

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

- 1) The applicant shall submit a revised **site plan** illustrating the following information at a minimum:
 - a) One of the two parking spaces nearest to the building designed as a handicap parking space. The applicant shall liaise with the Department in this regard.
- 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 which you will receive when all of the above conditions are complied with.

Additionally, once construction has started, conditions (4-12) shall be complied with before a **final Certificate of Occupancy** can be issued.

- 4) The applicant shall provide a septic tank with a capacity of at least 1,500 US gallons. The septic tank shall be constructed in strict accordance with the Water Authority's standards.
- 5) All treated effluent shall be discharged into a disposal well. The disposal well shall be constructed in strict accordance with the Water Authority's standards.
- 6) The discharge pipe from the septic tank shall enter the disposal well at a height of at least two feet above the water table level in the well.
- 7) The applicant shall also provide a grease interceptor with a liquid volume of at least 600 US gallons to treat the wastewater from the kitchen sinks prior to discharging into the treatment plant mentioned above. The grease interceptor shall be constructed in accordance with the Water Authority standards.
- 8) Scaled drawings showing details of the proposed exhaust system for all heat sources in the kitchens must be submitted for review and approval. The data must include:
 - a) the length and width of the hood;
 - b) the total volume of air to be exhausted;
 - c) the type, rating and number of filters to be installed;
 - d) a section through the hood showing the angle at which the filters would be installed;
 - e) the total resistance in the ventilation system; and
 - f) the rated horsepower of the fan.

- 9) Design specifications for the hot water system must be submitted for review and approval. The data must include:
 - a) the type of heater proposed;
 - b) the thermal efficiency of the heater;
 - c) the minimum designed hot water requirements;
 - d) the storage capacity of the heater;
 - e) the rating of the heater; and
 - f) the recovery rate of the heater.
- 10) Provide one 3-compartment sink for dishwashing.
- 11) Provide hand washing basin equipped with liquid soap dispenser and hand toweling in serving area.
- 12) Provide a 5 ft by 5 ft garbage enclosure.

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 **finished floor level** should be at least **five feet (5') above mean sea level**, [i.e. two ft (2') above the Vidal Bench Mark].

The applicant is also 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, Cable & Wireless and the Cayman Water Company and/or the Water Authority - Cayman**.

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

3.014 **DONALD & ELLEN GLIDDEN** Block 1D Parcel 619 (F03-0383) (P03-0978) (EJ)

Application for after-the-fact 40' shipping container.

FACTS

Location: Corner of Poinciana Lane and Watercourse Road, West Bay

Zoning: **Medium Density Residential**

Background: N/A

Existing Use: After-the-fact container and house
Proposed Use: After-the-fact 40' shipping container for storage
Parcel Size: .63 acre (27,442 sq. ft.)
Building Size: After-the-fact container – 320 sq. ft.
Parking: Required – 1
Proposed – 1

PLANNING DEPARTMENT ANALYSIS

The applicant is seeking the Authority’s permission for an after-the-fact container for the purpose of storage.

The Department would like to remind the Authority of its policy discouraging the use of shipping containers in a residential area. The container meets the required front, rear and side setback. The proposed access is off Poinciana Lane.

The Department is concerned with the precedence it may set for the area and the potential proliferation of containers, even if on a temporary basis. This application was first submitted on September 26, 2003; however, the Department has just received the required Section 15(4) notices date stamped February 2, 2004, a five (5) month time period.

The CPA further discussed the following:

- The aesthetics of this type of development is unsuitable for the area.
- Approving this development would set an undesirable precedent for the area.

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

- 1) The aesthetics of this type of development is unsuitable for the area.
- 2) Approving this development would set an undesirable precedent for the area.

Accordingly, the applicant is invited to liaise with the Department concerning scheduling an appearance to address the Authority.

3.015 RALEIGH WASTE MANAGEMENT LTD. Block 14D Parcels 426 & 427 (F03-0325) (P03-0833) (\$130,000) (RS)

Application for an after-the-fact storage building.

Appearance at 1:46

FACTS

Location: Within the Raleigh Gardens apartment complex, off Bobby Thompson Way, George Town

Zoning: **Medium Density Residential**

Notice Requirements: Section 15(4) notices served to adjacent property owners

and no objections were received

Existing Use: Sewage treatment plant and the subject storage building
Proposed Use: Same
Building Size: 3,200 sq. ft.

LETTER FROM APPLICANT

“Raleigh Gardens Ltd. (RGL) seeks Planning Permission for a 3200 sq ft temporary storage building on Parcels 426 & 427.

BACKGROUND

September 25th 2001

Parcels 426 & 427 were created. Ownership of Parcel 426 was transferred to Raleigh Waste Management Ltd. and Parcel 427 was transferred to Government. RGL proceeded with the construction of a sewage treatment plant on Parcel 426,

March, 2002

Jim Skilling of RGL made a telephone call to Ron Sanderson to enquire if a storage building could be constructed on Parcel 426, and if Planning Approval was required for such a structure. Jim Skilling was advised that temporary storage sheds associated with development projects that have obtained Planning Permission do not normally require separate approval.

December, 2002

RGL purchased a pre-fabricated storage building and erected it on Parcels 426 & 427.

July, 2003

The Planning Department contacted DDL Architects to advise that Planning Permission Is required for the storage building. Ron Sanderson advised DDL that the structure is much larger than the building that he had imagined Jim Skilling to be referring to in their March 2002 conversation.

August, 2003

DDL prepared an application for after the fact Planning Permission, notified neighbours and submitted to the Planning Department. In the process DDL observed that the building is partially positioned on parcel 427 which now belongs to Government.

September, 2003

IDOL (Brian Eccles) and Quin & Hampson (Angelyn Hernandez) met with Lands & Survey Dept (John Barkley) to discuss the problem of encroachment. Q&N I L&S had further subsequent correspondence and it was agreed in principle that, subject to Planning Permission being granted, RGL will lease Parcel 427 from Government until June 2007, At the end of the lease RGL would remove the building from the land.

ISSUES SIGNIFICANT TO THE PLANNING APPLICATION

At this time ROL seeks Planning Permission for the storage building. In support of the application RGL wishes to highlight the following points:

- 1. The building is being used for the storage and safe keeping of building materials used in the construction of Coco Retreat (current) and Mystic Retreat (future). Each of these projects has an approximate construction value of US\$7 million. The building is an essential part of the construction operation. Prior to its construction ROL had to retain a significant number of unsightly containers on site.*
- 2. The building will be removed upon completion of construction in June 2007.*
- 3. RGL has not received objections or complaints about the building from adjoining property owners.*
- 4. The construction of the building without Planning Permission came about because of a misunderstanding between RGL's construction manager and the Planning Officer. RGL apologizes for this.*
- 5. Government has approved the lease agreement with RGL subject to Planning Permission. If granted Government will receive monthly lease payments from RGL until 2007."*

PLANNING DEPARTMENT ANALYSIS

Background

By way of background to this application, the Department must advise the Authority of the following information. Several months ago, a representative of the applicant contacted the Department regarding the possibility of locating a "temporary" construction shed on the site. The shed was to be used to store supplies during the construction of the Raleigh Gardens apartment development. The applicant was advised that typically, planning permission is not required for temporary construction storage sheds, similar to temporary construction site offices. The Department and the Authority have traditionally taken the view that these temporary structures are an inherent part of the construction process and would be allowed as ancillary to the approval of the primary development.

Some time after advising the applicant of the Department's position on "temporary" storage sheds, it was brought to the Department's attention that a very large, metal storage building had been erected with a concrete slab floor. When contacted by the Department, the applicant stated that the building was in fact the "temporary" storage shed referred to in the previous conversations. Clearly, there had been some miscommunication on this matter and the applicant was advised to submit an application for planning permission for the storage building.

General Issues

The applicant is seeking after-the-fact approval for a storage building. The building is 80' x 40' (3,200 sq. ft.) and rests on a concrete pad. The applicant has

indicated that the approval being sought would be temporary only, for a period of 3 years.

The applicant has submitted a copy of a survey plan with the building accurately plotted. Approximately 2/3 of the building encroaches on to the adjacent parcel (lot 427), which is Crown Land. For purposes of clarity, the Authority is reminded of history of this parcel of Crown Land. Prior to being subdivided parcels 426 and 427 together formed the applicant's LPP contribution from a previous subdivision. During the earlier phases of the Raleigh Gardens development, the applicant approached the Authority with a request to locate a sewage treatment plant on the LPP. Through negotiations with the applicant, the Authority agreed to allow the treatment plant on the LPP provided that the parcel was subdivided with the remaining land being transferred to the Crown. The subdivision was approved and finalized and the Crown now owns parcel 427 where the storage building encroaches.

During the review of the application for the storage building, the Department advised the applicant to contact Government to determine whether there was a possibility of leasing the effected portion of the Crown land. This action was recommended as there would be little benefit in the Authority considering the application without knowing whether a lease of Crown land was a realistic option. The applicant has been in contact with the Registrar of Lands and the applicant's attorney has written the Department indicating that there is an agreement in principle for leasing the affected portion of Crown land. With this information in hand, the Authority is now in a position to make a fully informed decision on whether or not to approve the after-the-fact storage building.

As a final issue, the Department would note that the metal building is not particularly attractive and at the very least, if approval is granted, the roof should be painted dark green, which would help to blend the building into the surrounding environment.

Messrs Brian Eccles and Clifton (Pappie) Connolly appeared before the CPA at 1:46 p.m.

The **Chairman** outlined the history of the development based on Department records and asked the applicant's agent to respond.

Mr. Eccles: I had no idea of the structure's existence. When I became aware of it, the previous site manager was contacted and I advised that an application should be submitted. A survey was commissioned and it was discovered that the building straddles a property boundary. A lease has been agreed in principle, subject to planning permission. My client is embarrassed by this matter. The purpose of the building is to store materials until the last phase is completed, expected before May 2007.

CPA: When was the building erected?

Mr. Eccles: I believe it was built in December 2002.

CPA: You are requesting permission for three years?

Mr. Eccles: Coco Retreat is about 50% completed. The next phase is expected to start in February of next year. A one to two year construction period is expected for that last phase.

CPA: The previous project manager appears to have misled the Department.

Mr. Eccles: The individual concerned is no longer associated with the development.

There being no further discussion with the applicant's representatives, the **Chairman** thanked them for appearing. They left at 1:55 p.m.

The CPA further discussed the following:

- Temporary planning permission should be granted, effective from February 1, 2004 to February 1, 2006.
- The roof should be painted green to better blend in with the surrounding area.

Decision: It was resolved to grant temporary planning permission until February 1st, 2006, **subject to the following condition:**

- 1) The applicant shall provide a copy of the registered lease between Government and Raleigh Waste Management Ltd. regarding the use of the affected portion of Block 14D Parcel 427. The lease shall specify that it expires on February 1, 2006.
- 2) The roof shall be painted green to better blend in with the surrounding area.

3.016 ROBERT GLAZIER Block 33B Parcel 94 (F03-0445) (P03-1131) (\$0) (EJ)

Application to modify CPA condition.

FACTS

<i>Location:</i>	Sand Point Road, Cayman Kai
<i>Zoning:</i>	Low Density Residential
<i>Background:</i>	CPA/33/03 item 3.16 the Authority approved an addition creating a duplex.
<i>Existing Use:</i>	Two (2) single family homes
<i>Proposed Use:</i>	Remove condition 1a) of CPA/33/03 item 3.16.
<i>Parcel Size:</i>	.46 acre (20,037 sq. ft.)
<i>Site Coverage:</i>	12.72% (25% maximum)
<i>Building Size:</i>	Existing – 2,015.27 sq. ft. Approved – 533.05 sq. ft. Total – 2548.32 sq. ft.
<i>Parking:</i>	Required – 1

PLANNING DEPARTMENT ANALYSIS

The applicant is requesting the Authority to remove condition 1(a) of CPA/33/03 item 3.16, which requires the applicant to submit a revised site plan illustrating the parking area of hard surface (asphaltic concrete or equivalent).

In keeping with the CPA policy for duplexes, the Department would like to remind the Authority that applications for duplexes are normally required to pave driveways with a hard surface finish, bearing in mind that the Sand Point Road area consist mostly of single family homes with few hard surface driveways.

The CPA further discussed the following:

- Based on the character of parking surfaces in the area, the Authority found the request to modify planning permission acceptable.

Decision: It was resolved to modify CPA permission of CPA/33/03 item 3.16 to delete condition “1) a)”, **subject to the following condition:**

- 1) All other conditions of CPA/33/03 item 3.16 remain applicable.

3.017	ALFREDO & DIANE MONTOYA Block 13E Parcels 73 & 140 (F04-0033) (P04-0057) (\$93,000) (JAB)
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Application for a second floor addition to an existing commercial building and change-of-use for the first floor.

FACTS

Location: Intersection of Shadow Lane and West Bay Road, next to Kentucky Fried Chicken

Zoning: **General Commercial**

Notice Requirements: Section 15(4) notices were served to adjacent property owners. No objections were received

Existing Use: Commercial

Proposed Use: Office / retail addition and restaurant

Parcel Size: 0.0492 acre (2,143.2 sq. ft.)

Building Size: Existing – 665 sq. ft.
Proposed – 665 sq. ft.
Change of Use – 665 sq. ft.
Total - 1,330 sq. ft.

Parking: Proposed - 2 spaces
Required - 5.55 (6) spaces

AGENCY COMMENTS

Comments were requested from agencies on 28/1/04, and to date (20/2/04) only comments from the Water Authority were received.

Water Authority

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

- ***This development is required to connect to the West Bay Beach Sewerage System.** Please contact Tom van Zanten, New Works Engineer at 949-6352 ext 258 for details on the exact location and invert details of the manhole where the connection shall be made.*
- *The Water Authority shall make the actual connection to the existing manhole(s), the cost of which shall be borne by the developer.*
- *The developer shall notify the Water Authority’s New Works Engineer as soon as possible when connection(s) to the sewerage system is anticipated in order for the Authority to make the necessary arrangement for connection.*
- *The developer shall notify the Water Authority prior to any work being carried out on this property so that manhole(s) can be properly marked to prevent any damage. The developer will be held responsible for any damage caused to any part of the sewerage system situated on this property.*
- *The developer must also provide a **grease interceptor** with a liquid volume of at least **600 US gallons** to treat the wastewater from the restaurant’s kitchen sinks prior to discharging into the WBBSS. The grease interceptor shall be constructed in accordance with the Water Authority standards.*

Please be advised that the following property is situated within the area supplied with piped water from the Cayman Water Company. The Cayman Water Company should be contacted for a connection to their distribution system.”

LETTER FROM APPLICANT’S AGENT

“We note that there is not enough parking as required under the law, but we would like to bring to your attention the following:

1. *The proposed restaurant will be a walk-in restaurant to take advantage of the numerous tourists that walk by and the local residents from the nearby community. The food offered at the establishment will only be fast food for take-out service. We note only a few tables are provided for the passing tourist.*
2. *The Montoya’s are in the process of negotiations with the owners of the old Merren’s Complex. They have numerous family members in the vicinity for whom they will also try to obtain the necessary parking spaces.*

The Montoya’s will have no objection to the board stipulating that parking arrangements be achieved within the customary 500 ft. radius.

We look forward to your kind consideration.”

PLANNING DEPARTMENT ANALYSIS

The applicant is requesting permission to add a second floor of 665 sq. ft. to an existing commercial building on parcel 73. In addition, the applicant is also requesting permission to change the use of the existing ground floor from office / retail into a restaurant.

Although the re-development proposal will improve the site aesthetically, the overall property is too small to accommodate the required parking in order to intensify the use. The applicant has proposed two (2) parking spaces whereas the proposed re-development requires a minimum of six (6) parking spaces. The Department would note that additional parking cannot be accommodated on this site. There is also no provision for a service area, and if it was proposed the parking deficit would increase.

The Department would recommend that the applicant seek four (4) additional offsite parking spaces (within 500’) to accommodate the proposed uses. If this cannot be achieved, the Department would recommend that the applicant re-consider the development proposal.

The CPA further discussed the following:

- The required number of parking spaces should be secured prior to further consideration by the Authority.

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

- 1) A minimum of six parking spaces is required for the development. As two parking spaces are proposed to be provided on site, a minimum of four off-site parking spaces shall be dedicated to the development within a distance of 500’. Revised site plans shall be submitted illustrating the dedicated off site parking spaces and the distance away from the subject property. The applicant shall liaise with the Department on this matter.

3.018 **SELKIRK WATTLER** Block 22D Parcel 141 REM 9 (F04-0066) (P04-0124) (\$20,000) (KG)

Application for a two (2) lot subdivision, Red Bay Estates.

FACTS

Location: Located off of Selkirk Dr.; access by Duke Way, Red Bay.

Zoning: **Low Density Residential**

Notice Requirements: Section 15(4) notices were served on adjacent landowners. No objections were received.

Existing Use: Vacant

Proposed Use: Subdivision

Parcel Size: 0.6687 acres (29,130 sq. ft.)

Proposed Lot Size: Avg. size 29,130 sq. ft.

PLANNING DEPARTMENT ANALYSIS

The applicant is proposing a two (2) lot subdivision. All proposed lots exceed the minimum lot size requirements for the Low Density Residential Zone.

The access road condition is below the usual standard, as it is a marl track (**see aerial photograph**).

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

- 1) The access **road (s)** abutting the proposed lot shall have a minimum of a 30' demarcated road parcel or as otherwise noted and shall be constructed with asphaltic concrete and approved by the Director of Planning prior to the lots being registered. The applicant shall liaise with the Chief Engineer, Public Works Department, at predetermined stages of road construction to ensure compliance with the requisite standards. Failure to do so may render the project unacceptable.
- 2) There shall be a 30 feet vehicular right of way over the remainder (lot 'B') in favor of lot 'A'.
- 3) The **surveyor's final drawing** shall be submitted to the Planning Department for approval prior to the survey being registered.

3.019 **ADRIAN BODDEN** Block 59A Parcel 272 & 273 (F00-0071) (P04-0077) (RS/BES)

Application to modify planning permission CPA/19/00; item 6.07 granted on June 7, 2000 for a 4 lot subdivision and excavation.

Appearance at 4:15

This application is in conjunction with item 4.05

FACTS

Location: Off Frank Sound Drive

Zoning: **Agricultural/Residential.**

Parcel Size: 39 acres

Background: June 7, 2000 (**CPA/19/00; item 6.07**), the Authority granted planning permission for four lots subdivision and excavation of 161,000 cu. yds. of fill material.

May 22, 2002 (**CPA/13/02; item 8.02**), the Authority will not consider excavations or extensions to excavations until after the first week in Sept. 2002 regarding an informal

guidance request by the applicant.

September 11, 2002 (**CPA/22/02; item 3.23**), an application to modify planning permission of CPA/19/00; item 6.07 to delete conditions 2(i) and 2(ii). **See (CPA/19/00; item 6.07) conditions below.**

Memo from P.S. PCDA&IT to Director of Planning dated Dec. 18, 2003 seeking clarification of the following: (a) the depths of excavation did the CPA approved; (b) what steps did the CPA require the applicant to take regarding retention of stormwater, (c) Has the applicant sought or received permission to extend the excavation, (d) Has the applicant sought or received Mr. Alfred Solomon permission to extend the excavation.

Memo to P.S. PCDA&IT from Director of Planning dated Jan. 22, '04 regarding the applicant's quarry site as follows:

“The Department's comments are in order of the questions requested.

- The Central Planning Authority approved the excavation with a depth of 12 feet. The Water Authority has been monitoring the depth of the excavation, as they issue the quarry permits. *On October 19, 2000, the Water Authority advised the applicant that the depth of the excavation exceeded 12 feet in certain locations and that the method of excavation must be changed to avoid this from occurring again.* We understand that the method of excavation was changed and we have not heard again from the Water Authority in this regard. The Department has no data or plans indicating fill levels or excavation depth of the site.
- The Authority did not impose any conditions of approval regarding storm water management.
- The applicant has not sought or received planning permission to extend the excavation. At a meeting of the Central Planning Authority on May 22, 2002, the applicant requested that the Authority to provide an informal guidance prior to submitting a new application to excavate or an extension for excavations on the site, where it was resolved to not consider excavations or an extensions to excavations.
- A site inspection was conducted by planning staff on January 23, 2004 and it was observed that the applicant

is excavating a new lake at the southern portion of the property without planning permission. According to the approved plans, the applicant is not excavating the site in accordance with CPA approval granted on June 7, 2000. As a result, Mr. Adrian Bodden has been instructed to cease excavation and submit the necessary application.

- Mr. Alfred Solomon was not listed as an objector and did not receive a copy of the Central Planning Authority's decision. It must be noted; however, that Mr. Solomon did submit a document entitled "*No Objection Conditions to Development*" during the application review period. The Director of Planning, at that time, deemed Mr. Solomon's document to be a letter of non-response as it was not clear whether it was actually an objection. The Planning Department staff contacted Mr. Solomon on May 31, 2000 to try and clarify the matter. Mr. Solomon advised that he did not object provided his conditions were met and that he did not wish to appear before the CPA on the matter. On this basis, the Director again deemed Mr. Solomon's document to not be an objection to the application.

January 23, 2004, a letter from the Director of Planning informing the applicant to stop excavation of areas not approved by the CPA.

February 10, 2004 (CPA/03/04; item 4.060, the Authority modified planning permission of CPA/19/00; item 6.07 to permit excavation of marl from 161,000 cu. yds. to 193,600 cu. yds.

PREVIOUS PLANNING DEPARTMENT ANALYSIS AND CPA MINUTES
JUNE 7, 2000 CPA/19/00; item 6.07

"As noted above, the applicant is proposing a 4 lot subdivision, intended for family purposes. In association with the subdivision, the applicant intends to excavate fill material in order to fill low lying areas within the subdivision with the remaining material being trucked off site. The applicant has indicated that the depth of the excavation will be 10' and that approximately 40,000 cubic yards of material will be trucked off site.

There is a vehicular right-of-way leading to the subject lands and this right-of-way will be continued to provide access to the 4 subdivision lots. The right-of-way is not currently constructed and should be improved to the satisfaction of the Director of Planning to ensure adequate access to the family subdivision lots. There is also an existing right-of-way over the subject lands leading to parcels to the east and this right-of-way will be retained.

While the Department does not generally encourage random excavations throughout the Island, there appear to be several factors in this instance that would weigh in favour of the location of the applicant's proposed pond. The property is quite low lying and does require fill in order to be used for residential or agricultural purposes. In addition, the access to the property, upon being improved, does not travel through a developed residential area and the impact of trucks involved with the excavation operation should be minimal. In addition, the access to the property leads to the junction of Frank Sound Drive and East End Road, two high quality roads that can accommodate the resulting truck traffic.

It should be noted that the application fees have been deferred by the Financial Secretary until the application has been considered. It is suggested that should the application be approved, a condition should be included requiring the payment of the fees prior to the commencement of the excavation. Recently, an approach was adopted whereby the application fee was made payable in quarterly installments and this would again seem to be a reasonable approach in this instance.

Mr. Adrian Bodden entered the meeting at 4:40 p.m.

The Chairman noted that the main concern pertained to the access to the property.

Mr. Bodden indicated that he was not aware of the situation until three weeks ago. He stated that he had taken steps to address the situation by acquiring an additional 6 foot right-of-way over the abutting parcel.

In response to a question from the Authority, Mr. Bodden confirmed the width would be a total of 12 feet. He also added that the ownership of the adjacent parcel next to the right-of-way was vested in the Financial Secretary.

The Authority noted that 12 feet was not wide enough to remove fill from the site.

Mr. Bodden noted that he had an agreement with another landowner in the area for a 30 foot wide right-of-way. He added that he would not be opposed to the imposition of a condition requiring a 30 foot wide right-of-way in favour of his property.

The Authority confirmed that Mr. Bodden intended to fill and truck the material off of the site.

Mr. Bodden replied that the land is not presently usable for either agricultural or residential purposes and that most of the fill would remain on the property. He said it would be necessary to excavate a lake with a depth ranging between 10 and 12 feet. He referred to pictures in the file that depicted a wet area on the northern portion of the parcel and added that this would be where the lake would be created. He had spoken to the National Trust and the owners of other excavations in the vicinity. He was of the opinion that he would be experiencing salt water and that there would be no fresh water lenses on the site. He also noted the drainage patterns and the presence of sawgrass type vegetation on the site.

The Authority asked Mr. Bodden to explain the phasing that he had planned.

Mr. Bodden stated that the road would have to be constructed first and then pads for drilling would be built next. In order to meet the loan payments, Mr. Bodden would like to begin removing material as soon as possible.

The Authority stated that it was considering approval with no material to be removed until lot 1 is filled.

Mr. Bodden indicated that he had to remove material in order to meet his financial commitments.

The Authority discussed the ratio of fill to remain on site and fill to be removed.

Mr. Bodden stated that he had no objection to this arrangement and responded to the Authority's suggestion of 50% on site until lot 1 is filled as a good idea.

The Authority confirmed that blasting would be required to be undertaken.

Mr. Bodden stated that blasting was necessary. He also stated that it was necessary for him to move a little and fill a little as he went along.

In response to a question from the Authority, Mr. Bodden confirmed that he was able to obtain a 30 foot wide right-of-way.

Mr. Bodden exited the meeting at 5:00 p.m.

The Authority agreed that the application was acceptable and that the conditions were important. It was agreed that until lot 1 was filled to the applicant's intent, only 50% of the material could be removed. After that time, 33% of the material could be removed. The road would also have to be built prior to the removal of material and spot elevations would be required every 6 months.

Decision: *It was then (CPA/19/00; item 6.07) resolved to grant planning permission, **subject to the following conditions:***

- 1) Under the Water Authority Law, the developer is required to obtain a quarry permit for the excavation of the lake. A quarry permit is issued under the following conditions:
 - a) The developer needs to provide proof of Planning Permission.*
 - b) The developer needs to complete the application form.*
 - c) The fee to be paid to the Water Authority for a quarry permit is \$0.02 per square metre.*
 - d) Recently the Water Authority Board required that quarry operators who carry out blasting have third party liability insurance. Prior to issuing the permit the Authority requires proof of this insurance. Please note that the Authority does not require third party liability insurance in the event no blasting is carried out for this development.*
 - e) All blasting in the quarry has to be carried out in strict accordance with the directives of the Chief Engineer of the Public Works Department.**
- 2) With respect to water supply infrastructure the above development is*

approved subject to complying with the following requirements:

- a) *The developer will be required to provide water infrastructure for the entire subdivision. The water supply system must be approved by the Water Authority and installed to the Authority's specification and under the Authority's supervision. Copies of these specifications are available at the Water Authority offices.*
- b) *The developer shall request to have the subdivision connected to the George Town Water Distribution System. This request will be acted upon after the pipelines on the subdivision have been installed in accordance with the Water Authority's specifications and have passed all tests specified in the specifications."*
- 3) *The applicant shall submit a revised site plan illustrating the following information at a minimum:*
 - a) *One large island shall be shown rather than two disjointed ones. The Department also recommends that the island have a gently sloping face rather than a vertical drop-off in order to mimic the type of habitat that would effectively attract and support waders and other waterfowl.*
 - b) *The extent of fill to be deposited on Lot 1.*
- 4) *Prior to the removal of any material from the site, the applicant shall obtain a minimum 30 foot wide easement in favour of the parcel.*
- 5) *Prior to the removal of any material from the site for sale, the applicant shall construct a vehicular road way to the property.*
- 6) *The applicant shall provide the Planning Department with spot elevations of the property every 6 months to the satisfaction of the Director of Planning.*
- 7) *Until such time as lot 1 is filled to the applicant's intent, a least one-half of the excavated material shall remain on the property and be used as fill. Subsequent to the filling of lot 1, at least two-thirds of the excavated material shall remain on the property and be used as fill.*
- 8) *The surveyor's final drawing shall be submitted to the Planning Department for approval prior to the survey being registered.*
- 9) *The applicant shall notify the Planning Department in writing of the new parcel numbers, immediately upon registration of the lots with the Registrar of Lands.*
- 10) *Prior to the excavation commencing, the applicant shall pay the applicable application fee. The fee can be paid in quarterly installments. The value of each payment shall be determined by the Department.*
- 11) *A fifty foot buffer of natural vegetation shall be retained around the perimeter of the subject property except in locations where said buffer would not be practical as determined by the Director of Planning.*
- 12) *Unless specifically authorized otherwise in writing by the Central Planning*

*Authority, the Development shall be carried out **strictly in accordance** with the approved plans which you will receive when all of the above conditions are complied with.”*

FEBRUARY 18, 2004 PLANNING DEPARTMENT ANALYSIS

*This enforcement notice recommendation is a result of the applicant not complying with the Central Planning Authority approval granted on **June 7, 2000 (CPA/19/00; item 6.07)**, namely, condition (6) The applicant shall provide the Planning Department with spot elevations of the property every 6 months to the satisfaction of the Director of Planning.*

Additionally, the applicant has excavated a lake at the southern portion of the property without a modification to planning permission.

For the Authority’s information, a copy of the previous Planning Department Analysis and CPA minutes of the original application has been provided below for the Authority review.

**PREVIOUS PLANNING DEPARTMENT ANALYSIS AND CPA MINUTES
JUNE 7, 2000 CPA/19/00; item 6.07**

“As noted above, the applicant is proposing a 4 lot subdivision, intended for family purposes. In association with the subdivision, the applicant intends to excavate fill material in order to fill low lying areas within the subdivision with the remaining material being trucked off site. The applicant has indicated that the depth of the excavation will be 10’ and that approximately 40,000 cubic yards of material will be trucked off site.

There is a vehicular right-of-way leading to the subject lands and this right-of-way will be continued to provide access to the 4 subdivision lots. The right-of-way is not currently constructed and should be improved to the satisfaction of the Director of Planning to ensure adequate access to the family subdivision lots. There is also an existing right-of-way over the subject lands leading to parcels to the east and this right-of-way will be retained.

While the Department does not generally encourage random excavations throughout the Island, there appear to be several factors in this instance that would weigh in favour of the location of the applicant’s proposed pond. The property is quite low lying and does require fill in order to be used for residential or agricultural purposes. In addition, the access to the property, upon being improved, does not travel through a developed residential area and the impact of trucks involved with the excavation operation should be minimal. In addition, the access to the property leads to the junction of Frank Sound Drive and East End Road, two high quality roads that can accommodate the resulting truck traffic.

It should be noted that the application fees have been deferred by the Financial Secretary until the application has been considered. It is suggested that should the application be approved, a condition should be included requiring the payment of the fees prior to the commencement of the excavation. Recently, an approach was adopted whereby the application fee was made payable in

quarterly installments and this would again seem to be a reasonable approach in this instance.

PLANNING DEPARTMENT ANALYSIS

The applicant is seeking approval to recognize the shape of the lake, as currently excavated and to change the amount of approved material from 161,000 cubic yards to 193,600 cubic yards. When approval was initially granted the shape of the lake was different than what has actually been excavated on the ground. In support of the modification request, the applicant has submitted the following letter:

“I am requesting permission to modify CPA/19/00; item 6.07, to change the approved lake design to reflect the as-built design for the following reasons:

- The original design of the lake was based on limited topographical information as the land was thickly vegetated with logwood. After the land was cleared it was clear that the lake design would have to be modified in order to achieve maximum on-site drainage by quarrying the low portions of the property. Please note that no “high land” has been quarried to date.*
- As can be seen from the 1999 aerial photo provided showing the land in its natural state, it is clear that a large portion of the land (39 acres) was either low in elevation or categorized as swamp. It should be noted that I have undertaken an as-built survey of the lake and have included a current aerial photo and when compared to the 1999 aerial photo it is also clear that the changes made to the shape of the lake are directly related to the locations of the low areas on the property.*
- The Authority should also be made aware of the fact that in excess of twenty (20) acres of property has been filled to date and fruit trees, palm trees and other shade trees have been planted in order to begin / provide landscaping for the future development phases of the property. In addition, portions of property are also being farmed with peppers, okra, callaloo, bananas, plantains, sweet potato, cassava, pineapple and sugar cane, as well as approximately 12 acres of fenced grass land for the raising of horses and cows.*
- Please be aware that the only 8.5 acres of the approved 10 acres has been completed to date, as shown on the survey plan and master plan. In addition it is my intention to apply for a three (3) acre extension to the southern lake as soon as possible (see master plan), in order to complete the project as well as utilizing the quarry to its fullest potential, creating a thirteen acre lake.*
- As can be seen by the aerial map provided by the Water Authority, a large number of depth surveys have been undertaken on the site and no issues have ever been raised as to the quarry practices used. My question is “Have all other operating quarries in Grand Cayman been subjected to this type of intense investigation and if not, would they be rendered in compliance if a study was undertaken?”*

- *The area that is being quarried to the south is a peat bog with a peat burden of 2-4 feet and is the area on the site with a “swamp” designation. No trees exist on the bog, only cutting grass. Please note that the existing and proposed lake in the south will not encompass the entire property in the south as approximately 6.67 acres will remain to the far south for future residential development.*

In summary, I have no excuse for not applying for this modification sooner, however, in my opinion, the reasons given for the changes made to the shape of the lake are valid and that the changes were necessary to achieve a product which is not only storm water friendly and aesthetically pleasing, but also infuses best management practices with regard to the environment. It is my intention to live on this land when the commercial phase of the development is complete and I invite the CPA to visit the property at your convenience in order to see the progress made, first hand.”

To date, the applicant has not submitted spot elevations of the property to verify the fill levels of the properties. The Department cannot verify if the property is filled to the minimum levels above mean sea level. With regards to the buffer strip around the property, the lakes are excavated as follows: (a) the northwest corner of the larger lake is excavated 25-feet from the nearest point to the boundary and 125-feet from the property line respectively; (b) the east lake is excavated 35-feet at the nearest point to the property line; and, (c) the south lake is excavated 70-feet from the western lot line. The approved plans indicated the lake setback at 50-ft from the east and west property lines and 150-ft north property line. The 6-ft right of way over the subject parcel in favor of Block 59A Parcel 91 is now through a lake.

The applicant Mr. Adrian Bodden and his attorney Mr. Samuel Jackson appeared before the CPA at 4:15 p.m.

The **Chairman** welcomed them and indicated that there appears to be issues regarding:

- a) A fifty feet buffer from boundaries not being maintained;
- b) Excavation where a right-of-way to adjacent property is located; and
- c) A separate parcel is being excavated.

Mr. Jackson: The last CPA decision regularized the applicant’s previous miscalculation on the amount of excavated material.

CPA: The Authority does not have an issue with the twelve feet of excavation depth.

Mr. Jackson: The modification before you is a result of a change in shape of the excavated area approved, due to the topography, whereby low areas were excavated. No harm was done to the highland vegetation. The applicant chose to do two lots instead of the approved number of lots. However, he will have three lots. It is difficult to excavate strictly in accordance with approved plans. But that being said, we are here to regularize any anomaly. The matter of the right-

of-way is not an issue. The applicant is providing a thirty feet vehicular right-of-way to adjoining parcel. The pedestrian right-of-way will be redundant. I am concerned about rumours of enforcement against my client. I submit that if any member has any interest in this matter, it should be declared. I understand that the Department started an investigation on this matter.

CPA: This was as a result of the applicant straying from the planning permission.

Mr. Jackson: This occurred because the land was being developed in a better way. We are here to rectify the situation. Accordingly, any enforcement proceeding should not be entertained. There is the perception of potential bias against my client. Any personal interest should be declared. I understand that a meeting was held at the Ministry on this matter. This meeting could be as a result of my client complaining that he was not being afforded due process.

CPA: It is the Director of Planning duty to investigate planning matters. He reports to the CPA and does not vote. The CPA accepts the reasons for the deviation from approved plans.

Mr. Jackson: The right-of-way matter is really a non-issue. The subdivision was done for liability reasons, which is quite legal.

CPA: Which happened first, the excavation or the subdivision?

Mr. Jackson: The excavation commenced first.

CPA: As the applicant is represented by an attorney, the CPA may wish to take legal advice on this matter. A four lot subdivision was approved, but only two lots were done.

Mr. Jackson: An application for the two lot subdivision was not necessary. Similar to a strata lot, the neighbours do not have to be notified. A parcel by law is the same as a strata lot. The adjacent landowners were notified of the original proposal. No one was prejudiced by the subdivision.

CPA: Did excavation occur before the subdivision?

Mr. Boddén: No. I appeared before the CPA solely regarding changing the approved cubic yardage, which the CPA legally approved. Objectors saw the original plan. There is no intensification of development.

CPA: The records indicate that the two lot instead of four lot subdivision was approved by the Department on December 13, 2003. There was deviation from the original permission. About 1.5 acres remain to be excavated. You intend to fill the remainder?

Mr. Boddén: Significant filling has already occurred. I am digging the swamp area.

CPA: Is the access road being improved?

Mr. Boddén: That is the first thing that I did. It is high. I am in the process of purchasing land to the east. A thirty feet vehicular right-of-way will be registered to that parcel. There has been no objections from anyone. I am digging out four

feet of mud, filling it back, then preparing it for blasting.

CPA: What will be the end result of the development?

Mr. Bodden: I will live there. The excavation pays for the land. I will be returning to the CPA with a request to excavate three more acres.

CPA: What do you intend to do with the fill?

Mr. Bodden: I will sell it. Photos on display show the original condition of the land in 2000.

CPA: How much filling have you done?

Mr. Bodden: I have filled twenty three acres already. Also, fill is being used towards developing my other development across the road.

Mr. Jackson: I submit that the requirement for the submission of spot elevations to the satisfaction of the Director of Planning is not a legal requirement. Guidance is needed on this matter from the CPA.

CPA: It was indicated that the depth was a miscalculation. However, the minutes refer to a depth of ten feet.

Mr. Bodden: No, it says ten to twelve feet.

CPA: The previous permission is for a depth of ten feet.

Mr. Bodden: No, it does not say anything about depth.

CPA: The letter clearly states ten feet deep.

There being no further discussion with the applicant and his attorney, the **Chairman** thanked them for appearing. They left at 4:54 p.m.

The CPA further discussed the following:

- The Authority noted that works should have been done in accordance with the original permission. An application to modify permission should have been submitted for the consideration of the CPA prior to any deviation from the permission. Additionally, CPA conditions should have been met, including the submission of spot heights and retaining at least 50' of unexcavated land at the periphery of the property.
- The CPA decision of CPA/03/04 to modify planning permission should be revoked. Though it was understood that the decision of CPA/03/04 corrected an inconsistency between the original plans and the amount of excavated material previously approved, the additional material approved in effect sanctioned the new excavation shape. That unintended consequence was premature, as an application to modify planning permission to change the shape of the excavated area had been submitted and was awaiting the expiration of the required notice period prior to consideration by the Authority.
- Enforcement and stop notices should not be issued. The application to modify permission to increase the amount of material approved to be excavated from

161,000 cubic yards to 193,600 cubic yards should be approved, subject to the payment of the appropriate planning fee. Additionally, the application to modify planning permission to accept the altered shape of excavation should also be approved, subject to the following conditions:

-The common property boundary (between parcels 272 and 273) should be shifted 50' further north.

-All further excavation should be no closer than 50' to the property boundaries.

-Where excavation has occurred less than 35' from the western property boundary, it should be filled back to 50' from said boundary.

Decision: It was resolved to modify planning permission of CPA/19/00; item 6.07 to recognize the shape of the lake as currently excavated and to change the amount of approved material from 161,000 cubic yards to 193,600 cubic yards, **subject to the following conditions:**

- 1) The common property boundary between parcels 272 and 273 shall be shifted fifty feet (50') to the north so that the buffer around the lake can be maintained.
- 2) The excavated area near the western property boundary shall be filled to a minimum of thirty-five feet (35') from the western property boundary. This shall be done before anymore fill is removed from site. Once completed please advise the Department so that authorization to resume trucking off-site can resume.
- 3) The applicant is to submit spot elevations within 14 days as required by condition 6 (CPA/19/00; item 6.07).
- 4) The applicant shall liaise with the proprietor of Block 59A Parcel 91 regarding the relocation of the R.O.W. in favour of said land.
- 5) Except as hereby modified, all conditions of CPA/19/00; item 6.07 remain applicable.

4.0 ENFORCEMENTS

4.01 ODALYS DIAZ Block 27C Parcel 197 (CE03-0109) (CE)

An Enforcement Notice was authorized by the CPA on January 14, 2004 for Odalys Diaz for the erection of an illegal timber structure. This is in addition to the Enforcement Notice issued on 14/8/2002, for which court proceedings is continuing. An inspection was conducted on February 11, 2004 and it was discovered that the structure had been demolished.

Decision: It was resolved to withdraw the Enforcement Notice.

Application for after-the-fact carport.

The applicant was scheduled to appear at 3:00 pm and did not do so.

FACTS

<i>Location:</i>	Prospect Drive, Prospect
<i>Zoning:</i>	Low Density Residential
<i>Background:</i>	<p>May 29, 2003 a warning letter was sent via registered mail to Mr. Watler the registered owner of the property.</p> <p>August 14, 2003 an application was submitted.</p> <p>January 19, 2004 a request was made to submit notification of 150' radius.</p> <p>February 3, 2004 Mr. Manderson submitted the notification of 150' radius which completed the application.</p> <p>February 10, 2004 (CPA/03/04; item 4.03) the Department informed the CPA that the applicant is scheduled to appear at the next CPA meeting.</p>
<i>Existing Use:</i>	House, apartment and workshop
<i>Proposed Use:</i>	After-the-fact carport
<i>Parcel Size:</i>	.2883 (12,558 sq. ft.)
<i>Site Coverage:</i>	36.8% (11.8% over the maximum allowed 25%)
<i>Building Size:</i>	<p>After-the-fact carport – 264 sq. ft.</p> <p>Existing – 4,388 sq. ft.</p> <p>Total – 4,652 sq. ft.</p>

PLANNING DEPARTMENT ANALYSIS

As a result of an enforcement warning letter dated May 29, 2003 (CE03-0050), for an after-the-fact carport, the applicant is now seeking approval from the Authority by requesting two variances.

On Tuesday, February 3, 2004 Mr. George Manderson Jr. submitted the certification of posted registered notification to persons within 150' radius regarding the illegal carport.

The first variance is for a (17.6 foot) road setback, existing 2.6 foot from the road, instead of the required 20 ft. The second variance is for the over site coverage existing at 36.8% or 11.8% over the maximum allowed 25% site coverage for low density residential areas.

The Department cannot support the application for the following reasons:

1. The development does not meet Regulation 8(13)(a) or 8(13)(b) regarding exceptional circumstance or sufficient reason to grant permission.
2. The 2.6ft road setbacks, sets a precedence for the area and does not meet Regulation 9(8)(i) of the Development and Planning Regulations (2003 Revision).
3. The 11.8% over site coverage is also precedence for the area. This does not meet Regulation 9(8)(h) of the Development and Planning Regulations (2003 Revision).

The Authority should note that reversing unto the public road contravenes Section 2 of The Roads Law.

The Authority is reminded of Regulation 8 (13) Notwithstanding sub-regulation (1), Regulation 9 (6), (7) and (8), and Regulation 10, the Authority may grant permission to carry out development that does not comply with all or any of those provisions if the Authority is satisfied-

(a) that an exceptional circumstance exists; and

(b) that there is a sufficient reason why the permission should be granted.

The front setback of 2.6 ft. is contrary to Regulation 9(8)(h)(i) and does not meet the test of Regulation 8(13)(a & b) of the Development and Planning Regulations (2003 Revision).

The after-the-fact development contravenes the Roads Law.

It is also recommended that an Enforcement Notice be issued to have the development demolished.

Decision: It was resolved to adjourn the application to once more invite the applicant to address the CPA.

The applicant is advised that failure to appear before the Authority may result in the application being considered in the applicant's absence, with a possible result of the issuance of an Enforcement Notice to remove the subject structure, in accordance with Section 18(1) of the Development and Planning Law (2003 Revision). The applicant should urgently liaise with the Department on this matter.

4.03 UPDATE ON EVERTON POWELL Block 14E Parcel 472 (CE03-0083) (CE)

Chronology

As a result of an illegal auto repair garage and the storage of automobiles on the above property, which is situated on Anthony Drive, Windsor Park, a warning letter was served on the Occupier Mr. Everton Powell on August 25, 2003.

Mr. Powell was granted a fourteen (14) day period to comply with conditions of the warning letter, but chose not to.

On October 1, 2003 the matter was referred to the Central Planning Authority

recommending the issuance of an Enforcement Notice in accordance with Section 18 of the Development and Planning Law (2003 Revision). As a result the Authority authorized the issuance of the Enforcement Notice.

Efforts by the Code Enforcement Officer to locate Mr. Powell in order to serve the Enforcement Notice was futile. As a result Ms. Phyllis B. Ebanks, the owner of the property gave an undertaking that she would serve the notice to Mr. Powell upon his return.

On Friday, October 9, 2003, the notice was served on Mr. Powell in the presence of a witness. This was acknowledged by Mr. Powell.

On the morning of February 16, 2004, a visit was made to the subject property and it was observed that Mr. Powell had not made any effort to remove some twenty (20) vehicles that had accumulated on the property over the years.

As a result charges were filed in court for Mr. Powell charging him for the said offence.

Mr. Everton Powell is scheduled to appear in Court on March 16, 2004 for the offence of "Failing to comply with an Enforcement Notice" pertaining to an illegal operation of a auto body repair garage and the storage of automobiles on the above property.

4.04 DIOS MAR LTD. Block 12E Parcel 71 (CE04-0009) (CE)

Illegal banners.

As a result of banners being displayed as means of advertisement at the intersection of Lawrence Boulevard and West Bay Road, a warning letter was sent via registered mail on January 23, 2004.

No correspondence has been received nor has an application been submitted to date.

Decision: It was resolved to authorize the issuance of an Enforcement Notice in accordance with Section 18 of the Development and Planning Law (2003 Revision) to **DIOS MAR LTD.** for illegal banners.

4.05 ADRIAN BODDEN Block 59A Parcels 272 and 273 (F00-0071) (P04-0112) (BES)

Enforcement Notice/Stop Notice and revoke planning permission to modify CPA/19/00; item 6.07.

Appearance at 4:15.

This item is considered in conjunction with item 3.019 above.

FACTS

Location: Off Frank Sound Drive

Zoning: **Agricultural/Residential.**

Background: June 7, 2000 (**CPA/19/00; item 6.07**), the Authority granted planning permission for four lot subdivision and excavation of 161,000 cu. yds. of fill material.

May 22, 2002 (**CPA/13/02; item 8.02**), the Authority will not consider excavations or extensions to excavations until after the first week in Sept. 2002 regarding an informal guidance request by the applicant.

September 11, 2002 (**CPA/22/02; item 3.23**), an application to modify planning permission of CPA/19/00; item 6.07 to delete conditions 2(i) and 2(ii) was approved.

February 10, 2004 (**CPA/03/04; item 4.06**) CPA modified planning permission of CPA/19/00; item 6.07 by increasing approved material from 161,000 cubic yards to 193,600 cubic yards.

Parcel Size: 39 acres

PLANNING DEPARTMENT ANALYSIS

This enforcement notice recommendation is a result of the applicant not complying with the Central Planning Authority approval granted on **June 7, 2000 (CPA/19/00; item 6.07)**, namely, *condition (6) The applicant shall provide the Planning Department with spot elevations of the property every 6 months to the satisfaction of the Director of Planning and condition (11) A fifty foot buffer of natural vegetation shall be retained around the perimeter of the subject property except in locations where said buffer would not be practical as determined by the Director of Planning.*

Additionally, the applicant has excavated a lake at the southern portion of the property without a modification to planning permission.

To date, the applicant has not provided spot elevations of the property to verify the fill levels of the property. The Department cannot verify if the property is filled to a minimum of 4' above mean sea level. With regards to the buffer strip around the property, the lakes are excavated as follows: (a) the northwest corner of the larger lake is excavated 25' from the nearest point to the boundary and 125' from the property line respectively; (b) the east lake is excavated 35' at the nearest point to the property line; and, (c) the south lake is excavated 70' from the western lot line. The approved plans indicated the lake setback at 50' from the east and west property lines and 150' north property line.

The applicant Mr. Adrian Bodden and his attorney Mr. Samuel Jackson appeared before the CPA at 4:15 p.m.

The **Chairman** welcomed them and indicated that there appears to be issues regarding:

- a) A fifty feet buffer from boundaries not being maintained;

- b) Excavation where a right-of-way to adjacent property is located; and
- c) A separate parcel is being excavated.

Mr. Jackson: The last CPA decision regularized the applicant's previous miscalculation on the amount of excavated material.

CPA: The Authority does not have an issue with the twelve feet of excavation depth.

Mr. Jackson: The modification before you is a result of a change in shape of the excavated area approved, due to the topography, whereby low areas were excavated. No harm was done to the highland vegetation. The applicant chose to do two lots instead of the approved number of lots. However, he will have three lots. It is difficult to excavate strictly in accordance with approved plans. But that being said, we are here to regularize any anomaly. The matter of the right-of-way is not an issue. The applicant is providing a thirty feet vehicular right-of-way to adjoining parcel. The pedestrian right-of-way will be redundant. I am concerned about rumours of enforcement against my client. I submit that if any member has any interest in this matter, it should be declared. I understand that the Department started an investigation on this matter.

CPA: This was as a result of the applicant straying from the planning permission.

Mr. Jackson: This occurred because the land was being developed in a better way. We are here to rectify the situation. Accordingly, any enforcement proceeding should not be entertained. There is the perception of potential bias against my client. Any personal interest should be declared. I understand that a meeting was held at the Ministry on this matter. This meeting could be as a result of my client complaining that he was not being afforded due process.

CPA: It is the Director of Planning duty to investigate planning matters. He reports to the CPA and does not vote. The CPA accepts the reasons for the deviation from approved plans.

Mr. Jackson: The right-of-way matter is really a non-issue. The subdivision was done for liability reasons, which is quite legal.

CPA: Which happened first, the excavation or the subdivision?

Mr. Jackson: The excavation commenced first.

CPA: As the applicant is represented by an attorney, the CPA may wish to take legal advice on this matter. A four lot subdivision was approved, but only two lots were done.

Mr. Jackson: An application for the two lot subdivision was not necessary. Similar to a strata lot, the neighbours do not have to be notified. A parcel by law is the same as a strata lot. The adjacent landowners were notified of the original proposal. No one was prejudiced by the subdivision.

CPA: Did excavation occur before the subdivision?

Mr. Bodden: No. I appeared before the CPA solely regarding changing the

approved cubic yardage, which the CPA legally approved. Objectors saw the original plan. There is no intensification of development.

CPA: The records indicate that the two lot instead of four lot subdivision was approved by the Department on December 13, 2003. There was deviation from the original permission. About 1.5 acres remain to be excavated. You intend to fill the remainder?

Mr. Boddien: Significant filling has already occurred. I am digging the swamp area.

CPA: Is the access road being improved?

Mr. Boddien: That is the first thing that I did. It is high. I am in the process of purchasing land to the east. A thirty feet vehicular right-of-way will be registered to that parcel. There has been no objections from anyone. I am digging out four feet of mud, filling it back, then preparing it for blasting.

CPA: What will be the end result of the development?

Mr. Boddien: I will live there. The excavation pays for the land. I will be returning to the CPA with a request to excavate three more acres.

CPA: What do you intend to do with the fill?

Mr. Boddien: I will sell it. Photos on display show the original condition of the land in 2000.

CPA: How much filling have you done?

Mr. Boddien: I have filled twenty three acres already. Also, fill is being used towards developing Frankly Sound Development.

Mr. Jackson: I submit that the requirement for the submission of spot elevations to the satisfaction of the Director of Planning is not a legal requirement. Guidance is needed on this matter from the CPA.

CPA: It was indicated that the depth was a miscalculation. However, the minutes refer to a depth of ten feet.

Mr. Boddien: No, it says ten to twelve feet.

CPA: The previous permission is for a depth of ten feet.

Mr. Boddien: No, it does not say anything about depth.

There being no further discussion with the applicant and his attorney, the **Chairman** thanked them for appearing. They left at 4:54 p.m.

The CPA further discussed the following:

- The Authority noted that works should have been done in accordance with the original permission. An application to modify permission should have been submitted for the consideration of the CPA prior to any deviation from the permission. Additionally, CPA conditions should have been met, including the submission of spot heights and retaining at least 50' of unexcavated land at the periphery of the property.

- The CPA decision of CPA/03/04 to modify planning permission should be revoked. Though it was understood that the decision of CPA/03/04 corrected an inconsistency between the original plans and the amount of excavated material previously approved, the additional material approved in effect sanctioned the new excavation shape. That unintended consequence was premature, as an application to modify planning permission to change the shape of the excavated area had been submitted and was awaiting the expiration of the required notice period prior to consideration by the Authority.
- Enforcement and stop notices should not be issued. The application to modify permission to increase the amount of material approved to be excavated from 161,000 cubic yards to 193,600 cubic yards should be approved, subject to the payment of the appropriate planning fee. Additionally, the application to modify planning permission to accept the altered shape of excavation should also be approved, subject to the following conditions:
 - The common property boundary should be shifted 50' further north.
 - All further excavation should be no closer than 50' to the property boundaries.
 - Where excavation has occurred less than 35' from the western property boundary, it should be filled back to 35' from said boundary.

Decision: It was resolved not to issue Enforcement and Stop Notices and to revoke the modification permission of CPA/19/00; item 6.07.

5.0 DEVELOPMENT PLAN MATTERS

6.0 MATTERS FROM THE DIRECTOR OF PLANNING

6.01 PUBLIC OPEN SPACE ZONE Block 53A Parcel 102 (RS)

The subject lands are situated west of the former Apollo restaurant and are held in private ownership. Despite the fact that the lands are private, the seaside portion of the parcel is currently zoned Public Open Space (POS) and is commonly used as a public parking area and the Public Works Department appears to stockpile small amounts of aggregate on the site. The landowner has contacted the Department to inquire how and why the land became zoned POS.

The Department has investigated the matter and can find no specific reason why the land was rezoned from its former Low Density Residential (LDR) to POS. The basic framework of the Development and Planning Law and Regulations is such that lands that are rezoned POS are intended to be acquired by Government. In this instance, Government did not acquire the subject lands and given the landowner's recent inquiry, the Authority should consider the matter with respect to the following scenarios:

- a) Should the Authority feel it is worthy to keep the land zoned POS, then Government must decide to acquire the land that is zoned POS. Should the Government wish to acquire the land then the appropriate steps to do so would be initiated. Should the Government not be willing to acquire the land, then it would not appear to be reasonable or just to retain the POS zone on privately held land. As such, the Department would then recommend that the POS be rezoned back to LDR.
- b) If the Authority does not feel that the lands should be retained as POS then a rezone can be initiated to revert the land back to the original LDR zone.

Decision: It was resolved to recommend that Government acquire the Public Open Space.

6.02 SUBDIVISION LOTS WITHOUT RESTRICTIONS Block 53A Parcels 123, 126, 127, 128 and 132 (formerly Parcel 5) (RS)

On February 2, 2000, the Authority granted planning permission for a 34 lot subdivision on Block 53A Parcel 5. On October 24, 2000, the Department forwarded a memorandum to the Director of Lands and Survey advising that it was acceptable to finalize the first phase of the subdivision (the above noted parcels form part of this phase) provided a restriction was placed on title to ensure that the lots could not be transferred until all outstanding conditions of approval had been satisfied.

Unfortunately, it was recently brought to the Department’s attention that the Phase I lots were finalized with new parcel numbers, but the restriction was not placed on the land registers. The above five lots of Phase I have now been transferred to other individuals; however, there are outstanding conditions of approval, including the fact that the subdivision road has not been completed. The Lands and Survey Department has now placed the necessary restriction on the remaining Phase I lots; however, the status of the subject five lots with regard to the subdivision road remains unclear.

The Department has been contacted to determine how it and/or the Authority would review an application for a house on one of the five lots. That is, would/could a house application be approved? And if so, would the road have to be constructed and to what standard and by whom? In order to provide some clarity to these landowners and a comfort level for all involved, it would be beneficial if the Authority could provide direction on this matter.

Decision: It was resolved to have all conditions complied with prior to granting planning permission for any future development.

6.03 MINISTRY OF PLANNING, COMMUNICATION, WORKS AND INFORMATION TECHNOLOGY Block 10A Parcel 43 Rem 2 and Block 10A Parcel 227 (RZ03-0001) (HP/RS)

Application to change the zoning from Public Open Space and Mangrove Buffer

to Hotel / Tourism and Mangrove Buffer.

On October 15, 2003, the Authority resolved to forward the proposed rezone to the Ministry with the recommendation that the rezone be forwarded to the Legislative Assembly for approval.

On February 6, 2004, the P.S., PCDA&IT advised the Director of Planning that he had been directed by the Governor-in-Cabinet to advise that the subject parcels should not be rezoned. As a result, the process is now complete.

6.04 VISTA DEL MAR DEVELOPMENT Block 10A Parcels 49 Rem 1, 50, 51, 52, 53, 54, 55, 57, 58, 66, 67, 192, 666 and Block 9A Parcels 270, 130, 272 and Block 10E Parcels 38, 39 (RZ02-0006) (HP/RS)

Application to change the zoning from Low Density Residential, Neighbourhood Commercial and Mangrove Buffer to Hotel / Tourism.

On May 14, 2003, the Authority resolved to forward the proposed rezone to the Ministry with the recommendation that the rezone be forwarded to the Legislative Assembly for approval.

On February 2, 2004, the P.S., PCDA&IT advised the Director of Planning that he had been directed by the Governor-in-Cabinet to advise that approval had not been given for the proposed rezone. As a result of the rezone being refused, the process is now complete.

6.05 APA '04

Mr. Barry Martinez confirmed that he would not be attending.

6.06 AGGREGATE POLICY

Being forwarded to the Ministry of PCDA&IT for consideration of Cabinet under Section 5 of Development and Planning Law (2003 Revision).

6.07 PLANNING DEPARTMENT'S FINAL COMMENTS ON PROPOSED AMENDMENTS TO DEVELOPMENT PLAN 1997

At CPA/03/04, held on February 10, 2004, the Department presented recommendations on several issues pertaining to the Development Plan. The Authority endorsed the Department's recommendations on those matters. However, as noted at that meeting, there were two final matters that required the Authority's consideration. The first of those matters is a revised appendix that would more clearly illustrate examples of traditional Caymanian architecture and the second matter is a revised policy for Roads Requirements. Hard copies of the proposed revisions were provided for the Authority and they were endorsed.

7.0 CPA MEMBERS INFORMATION/DISCUSSIONS

THIS SECTION OF THE MINUTES ARE EXEMPT PER SECTION 20(B) AND (D) OF THE FREEDOM OF INFORMATION LAW, 2007, WHICH READS: "(B) ITS DISCLOSURE

WOULD, OR WOULD LIKELY TO, INHIBIT THE FREE AND FRANK EXCHANGE OF VIEWS FOR THE PURPOSES OF DELIBERATION;" OR "(D) ITS DISCLOSURE WOULD OTHERWISE PREJUDICE, OR WOULD BE LIKELY TO PREJUDICE, THE EFFECTIVE CONDUCT OF PUBLIC AFFAIRS.

The meeting adjourned at 6:15p.m. The next regular meeting of the Central Planning Authority is scheduled for *Wednesday 10th March 2004 at 12:30 p.m.* in the Planning Department's Conference Room, Third Floor Tower Building.

A. L. Thompson
Chairman

Kenneth S. Ebanks
Executive Secretary

cc: All members of the Central Planning Authority
Hon. Minister (P.C. DA. & IT)
Chief Immigration Officer
Solicitor General
Chief Fire Officer
Chief Engineer, PWD
Chief Education Officer
Director, Department of Environmental Health
Director, Department of Environment
Managing Director, Caribbean Utilities Company

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