



GOVERNMENT OF BERMUDA

Department of Planning

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Development Applications Board Minutes

Minutes of a meeting held on Wednesday, 26 August, 2020, at 8:45 AM at Virtual via WebEx.

PRESENT: Denis de Frias
Cyniqua Anderson
David Astwood
Victoria Pereira (Director of Planning)
Paul McDonald (Acting Senior Planning Officer)
Dolores Vazquez (Planner)
Malik Richards (Assistant Planner)
Andrew Petit (Director of Department of Environment and Natural Resources)
Peter Drew (Terrestrial Conservation Officer)
Shaun Lavis (Hydrogeologist)

Cynthia Millett
Dalton Burgess

Wayne Dill (Chair)
Cheryl Packwood

APOLOGIES: Dexter Johnston
Wendy Dunne

Aaron Denkins
Alice Lightbourne (Chair)

Patrick Cooper

ISSUES AND ACTIONS FROM PREVIOUS MEETING: None

APPLICATIONS:

1. PLAN-0179-20

Applicant: Nissan Trust

Location: Lot 6 Cedar Hill, Warwick
South of 59 Cedar Hill, Warwick

Description of Proposal: Proposed 1 Bedroom Unit (1 Unit Total), Covered Entrance, Tank, Pump Room, New Driveway, New Boundary Wall 4 ft. Max Height, Proposed Rock Cut 1ft. Max Height, New Planting and Pergola.

Planner: Dolores B. Vazquez

Discussion: The technical officer presented the application with a recommendation to approve. No questions or comments were posed by the Board.

The Board resolved to approve the application, as received January 07, 2020 subject to the following conditions:

1. For the avoidance of doubt the consent hereby granted is for planning permission only. Prior to the commencement of building operations a separate application for a building permit must be made and approved.
2. The hereby approved Conservation Management Plan shall be substantially implemented prior to the issuance of a Certificate of Completion and Occupancy. A request for inspection of the plantings shall be made in writing to the Department of Environment and Natural Resources and copied to the Department of Planning. Approval of the inspection will be required prior to the issuance of a Certificate of Completion and Occupancy. If any trees or shrubs shown on approved plans are removed, die or become seriously diseased or damaged, they shall be replaced by trees and shrubs of similar size and species to those originally required to be planted.
3. In the interest of visual amenity, the hereby approved walls shall be faced with Bermuda stone or rendered and finished to give the appearance of Bermuda stone, and completed prior to the issuance of a Certificate of Completion and Occupancy.

4. The development hereby permitted shall begin before the expiration of 2 (two) years from the date of this permission.

2. PLAN-0342-20

Applicant: Conyers Trust Company Limited

Location: 8 Lone Palm Drive
Pembroke, BM HM05

Description of Proposal: Proposed New Garage.

Planner: Malik Richards

Discussion: The technical officer presented the application with a recommendation to refuse. No questions or comments were posed by the Board.

The Board resolved to refuse the application, as received June 29, 2020 for the following reason:

1. The proposal is in conflict with policies ZON.9 and WDR.3 of the Draft Bermuda Plan 2018 given that the proposed garage is located within the Woodland Reserve and there are other areas within the lot outside of the Woodland Reserve in which the garage could reasonably be located.

3. PLAN-0288-20

Applicant: Bermuda Government / Public Works

Location: 48 Devon Spring Road
Devonshire, BM FL01

Description of Proposal: Retroactive Installation of 17 Containers (20 ft. by 8 ft. each) for Storage, Office, Workshops and Sea Tanks, 2 Containers (40 ft. by 8 ft. each) for Eye Wash Station / Staff Lunch Room, Bathroom and Lockers, 8 Ft. High Fence to Eastern Boundary, Yard Paving, and Utility Infrastructure (Water Tank, Cess Pit, Soak Way Pit), Construction of Pump and Electrical Room, Provision of Sand Storage Area and Repairs and Alterations to Fence around Entire Boundary with Green Screening to Facilitate Use of Site as Government Depot for The Highways, Sewage and Water Sections of The Ministry of Public Works, Non-Retroactive Proposed Installation of Additional Yard Paving with Parking for 24 Cars and 17 Bikes, Plumbing, Electrical and Sewer Lines and Associated Works.

Planner: Dolores B. Vazquez

Discussion: The technical officer presented the application with a recommendation to refuse. No questions or comments were posed by the Board.

The Board resolved to refuse the application, as received May 06, 2020 for the following reason:

1. The applicant has failed to demonstrate to the satisfaction of the Board that he was not responsible for the breach of planning control or that, at the time the development was being so carried out, he did not know, and could not reasonably be expected to have known, that the development was in breach of planning control as required under Section 20 (2A) of the Development and Planning Act 1974.

4. PLAN-0313-20

Applicant: Ministry of Public Works c/o Claudia Mibelli

Location: North of 37 Headquarters Hill, Devonshire

Description of Proposal: Proposed New Communications Tower and Foundation.

Planner: Dolores B. Vazquez

Discussion: The technical officer presented the application with a recommendation to approve. No questions or comments were posed by the Board.

The Board resolved to approve the application, as received June 02, 2020 subject to the following conditions:

1. For the avoidance of doubt the consent hereby granted is for planning permission only. Prior to the commencement of building operations a separate application for a building permit must be made and approved.
2. The existing telecommunications tower shall be dismantled, all of its components shall be removed from the site and the surface of this part of the site shall be made good prior to the issuance of a Certificate of Completion and Occupancy.

3. The development hereby permitted shall begin before the expiration of 2 (two) years from the date of this permission.

5. PLAN-0239-20

Applicant: Wilkinson Estates Limited

Location: 13 Coney Island Road East
Hamilton, BM CR04

Description of Proposal: Proposed Demolition of Unstable Mound with Subterranean Void in Wilkinson's Quarry in Hamilton Parish.

Planner: Dolores B. Vazquez

Discussion: The technical officer presented the application with a recommendation to approve.

A Board Member asked how the determination was made in respect of comparing the expert assessments provided by the applicant and objectors. The technical officer advised that the Board report and presentation to the Board provide a summary of the objector's submission and applicant's consultant expert advice, as it relates to their expertise with caves, for consideration by the Board.

Mr. Andrew Pettit, Director the Department of Environment and Natural Resources, provided details of his interpretation of a legal opinion which he obtained from Chambers yesterday, namely that, in summary, prior to the determination of this application by the Development Applications Board, the applicant should apply for a permit under Section 8A of the Protected Species Act 2002. This Section allows the Minister to permit, amongst other options, the destruction of protected species or critical habitats. This approach would therefore allow the Minister responsible for the environment the chance to consider the proposal prior to a decision being made by the Board and would not be compelled to issue a licence as a result of a decision of the Board. Mr. Pettit therefore recommended that the Board defer the determination of this application until such time that the aforementioned procedural matters have been resolved.

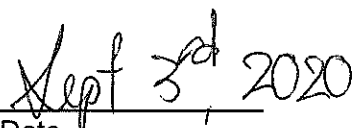
The Director of Planning confirmed that the Minister has been made aware of this application and, in light of the above, the Director agreed that the Board should defer the application.

In light of the foregoing, the Board determined that it was appropriate to defer the application to allow the procedural matters set out above to be resolved.

The Board resolved to defer the application, as received February 24, 2020 to allow for procedural issues relating to potential impacts on protected species to be addressed.

ANY OTHER BUSINESS: None


Chairman of the Development Applications Board


Date