



GOVERNMENT OF BERMUDA

**Department of Planning**

*Dame Lois Browne-Evans Building, 58 Court Street, Hamilton HM 12, Bermuda  
Phone: (441) 295-5151 Fax: (441) 295-4100*

**Development Applications Board Minutes**

**Minutes of a meeting held on Wednesday, 7 October, 2020, at 8:45 AM held Virtually via WebEx.**

<b>PRESENT:</b>	Denis de Frias	Victoria Pereira (Director)	Aaron Denkins
	Cynthia Millett	Paul McDonald	Larry Williams (Assistant Director)
	Patrick Cooper	Wayne Dill (Deputy Chair)	Dolores Vazquez
	Cyniqua Anderson	Dalton Burgess	Cheryl Packwood
	David Astwood	Alice Lightbourne (Chair)	Tamsyn Doran
	Meka Steede		

**APOLOGIES:** Wendy Dunne

**ISSUES AND ACTIONS FROM PREVIOUS MEETING:** None

**APPLICATIONS:**

**1. PLAN-0171-19**

**Applicant:** Harbour Court North Ltd.

**Location:** Harbour Court North - Tucker's Point Club  
Lots 18 C & D

**Description of Proposal:** Three 3 Storey (4 Bedroom) Dwelling Units with Plunge Pool and Garages.

**Planner:** Dolores B. Vazquez

**Discussion:**

Three Board members (Cyniqua Anderson, Patrick Cooper and Cynthia Millett) did not participate in the assessment of this application due to late arrival.

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

The Board queried whether consideration had been given to potential impacts to the proposed development from erosion and flooding.

The technical officer advised that this is not a high risk area to hurricanes, the proposed houses have been designed to be raised notably above sea level and located back from the coast line and further mitigation could be added in future to address such potential impacts, if needed.

**The Board resolved to approve the application, as received December 27, 2019 subject to the following conditions:**

1. The development hereby permitted shall begin before the expiration of 2 (two) years from the date of this permission.
2. 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.
3. Investigative work to determine the extent of the existing known cave on the site shall be completed and the results of such investigation shall be provided to Department of Environment and Natural Resources for their review and approval. Evidence of DENR's review and approval must be submitted with a building permit application.
  4. Prior to the submission of a building permit application an Excavation Management Plan must be submitted for review and approval to the Department of Environment and Natural Resources (DENR) given the site's location within a Cave Protection Area, which shall include:
    - details of exploration/investigative work e.g. drilling work (if any);
    - a method statement developed to minimize the risk of damaging caves during excavations;
    - a cave response plan detailing how all work shall stop in the area of the cave with commitment that Department of Planning and DENR shall be informed via email within ½ hour of exposing any cave; and
    - details of how said statement / plans of the excavation management plan shall be communicated to all contractors/ subcontractors to indicate their understanding and adherence to the method statement an response plan.

A copy of the Excavation Management Plan with confirmation of approval in writing from DENR must be submitted with the building permit application and must be adhered to during the course of construction. DENR shall be notified via email at least 2 days before the commencement of any excavation such that it can arrange site visits.
  5. A Conservation Management Plan (CMP) dealing with the removal of trash and discarded building materials and the selective removal of invasive species and possible augmentation with native and endemic species, in accordance with Policy ENV.8, Chapter 6 of the Draft Bermuda Plan 2018 Planning Statement shall be submitted with the Building Permit Application for review and approval in consultation with the Terrestrial Conservation Section of the Department of Environment and Natural Resources. The CMP shall include a programme for implementation and ongoing maintenance and shall be substantially completed prior to issuance of a Certificate of Completion and Occupancy.
  6. If during construction a previously undetected cave is discovered, the applicant shall cease all construction operations and immediately contact via email and within 30 minutes the Departments of Planning and Environment and Natural Resources to re-evaluate building options and agree on a suitable course of action. Construction operations shall not recommence until the approved option has been agreed in writing.
  7. The Department of Environment and Natural Resources shall be notified at least 24 hours prior to the commencement of any excavation in order to carry out a site visit.
  8. 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.
  9. For the avoidance of doubt all storm water disposal, pool water discharge and sewage generated from the site (including kitchens, bathrooms, toilets and laundry facilities) shall be connected into the Tuckers Point Club sewage treatment plant.
  10. In the interest of visual amenity, there shall be no deposition or storage of excavated material on site and all excess unused material shall be removed from the site during the course of building operations and prior to the issuance of a Certificate of Completion and Occupancy.
  11. In the interests of visual amenity, the entire site subject of this application shall be landscaped in accordance with the hereby approved plans prior to the issuance of a Certificate of Completion and Occupancy. Any trees or shrubs shown on approved plans which are removed, which die or which become seriously diseased or damaged shall be replaced by trees and shrubs of similar size and species to those originally required to be planted.
  12. Parking and manoeuvring space for 12 cars and 12 cycles shall be established for use in accordance with Policies TPT.20 and TPT.22, Chapter 12 of the Draft Bermuda Plan 2018 Planning Statement, prior to the issuance of a Certificate of Completion and Occupancy.
  13. For the avoidance of doubt, this approval completes the Harbour Court North development and no unbuilt units as approved by the Tucker's Point Club Hotel and Spa (St. George's Parish) Special Development Order 2001 or the Harbour Court, Tucker's Pont Club (St. George's

Parish) Special Development Order 2001 may be relied upon, as of right, for transference to build on other areas of the property.

**2. PLAN-0361-20**

**Applicant:** Princess Properties Ltd.

**Location:** 9 Church Street  
City of Hamilton, BM HM11

**Description of Proposal:** Proposed Permanent Approval for Previously Approved P0130/18, Existing Parking Lot on Vacant Site, Stone Clad Retaining Wall (5 ft. Max Height) and 5 ft High Wood and Masonry Screen wall, Concrete Steps and Planting.

**Planner:** Malik Richards

**Discussion:**

One Board member (Cynthia Millett) did not participate in the assessment of this application due to late arrival.

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 July 16, 2020 subject to the following condition:**

1. For the avoidance of doubt the consent hereby granted is for planning permission only and a separate application for a building permit must be made and approved.

**3. PLREV-0026-20**

**Applicant:** Stephen Kuzyk

**Location:** 11 Bluck Point Road  
Pembroke, BM HM01

**Description of Proposal:** Revised Tank Location/Increased Size, Demolition of All Walls Above Ex. Lower Floor Slabs, Replace With New CMU Walls (same Layout). Increase Window Size in Master Bed & Living Room. Revised Kitchen: Added Windows, Relocated Laundry to Upper Floor. Lower Slab in Master Closet, Add Closet Above Stair in Upper Bed #1

**Planner:** Tamsyn Doran

**Discussion:**

The technical officer discussed details of the original approval associated with PLAN-210-20, provided the Board with an overview of how the planning revision process functions and presented the current revision application seeking a view from the Board as to whether the submission should be accepted as a revision to the original planning permission, given that demolition and rebuilding of the house is now proposed rather than additions which the Board used its discretion to approve.

The Board sought clarification as to the difference between the original approval and the proposed revision. The technical officer confirmed that the location of the previously approved water tank is proposed to be altered slightly, the size of the water tank is proposed to be enlarged, some previously approved windows are proposed to be increased in size and additional windows are proposed to be added to some of the elevations along with some changes to the interior layout. However, the building footprint, siting of the building and overall height would remain the same.

The Board also sought clarification as to why the existing structure was proposed to be fully demolished. The technical officer confirmed that it was her understanding that the owner's preference was to reconstruct fully in concrete block instead of a mix of old Bermuda stone and concrete block.

One Board member presented the view that the revision should not be accepted and a separate DAP1 application should be made on the basis that a complete demolition and re-build is entirely different from an

addition, as previously approved.

The consensus of the Board was that the revision does fall within the scope of the original approval and that the Department should approve the revision.

**The Board resolved to recommend to technical officers that the revision be accepted.**

**4. PLAN-0253-20**

**Applicant:** Aquarian Trust

**Location:** 6 High Knoll Lane  
Smiths, BM HS01

**Description of Proposal:** Proposed New Addition to Create Basement, Bedrooms, Laundry, Pump Room and Stairs, New 4 ft. High Retaining Wall and 3 ft. High Retaining Wall, New Exterior Stairs, Single Chamber Pit, Planter and Pergola.

**Planner:** Meka Steede

**Discussion:**

The technical officer presented the application with a recommendation to refuse.

The Board sought clarification as to whether it has any discretion in resolving this application. Technical officers advised that the Board does not have discretion to approve an addition with three storeys or a grade to eave height exceeding 24 feet, but may have a different interpretation from technical officers in terms of what constitutes a 'storey' and how the grade to eaves height should be measured.

One Board member raised concerns that the refusal of this application for a relatively minor exceedance of maximum height restrictions seems trivial, particularly in light of the importance of encouraging construction given the current economic climate.

Technical officers advised that the Board is required to determine applications in accordance with policies and that such feedback over policies and procedures is welcomed from the Board and can be discussed in further detail during the 'Matters Arising' segment of the meeting.

One Board member took the view that the proposal complies with policies DSN.13 and RSD.11 of the Draft Bermuda Plan 2018 given that the height of the addition, when taken from the top of the adjacent planter, would not exceed 24 feet nor two storeys and voted to approve the application.

By majority, the Board agreed with the position presented by technical officers that the proposal exceeds maximum height requirements and should therefore be refused, with a vote of 10 to refuse and 1 to approve.

**The Board resolved to refuse the application, as received July 03, 2020 for the following reason:**

1. The application fails to comply with policies DSN.13 and RSD.11 of the Draft Bermuda Plan 2018 given that the proposed addition exceeds the maximum height parameters of two storeys and 24 feet for an apartment house development within a Residential 2 zone, which the Board does not have discretion to approve, resulting a form of development which is out of character with the host building and the built form of the local area.

**5. PLAN-0186-20**

**Applicant:** Nissan Trust

**Location:** 59 Cedar Hill  
Warwick, BM WK06

**Description of Proposal:** Proposed 3 Bedroom Units (6 Units Total), Remove Existing Building, New Boundary Wall (5 ft. Max Height), New Driveway and Access Road, Rock Cuts (3 ft. Max Height) and New Pits.

**Planner:** Dolores B. Vazquez

**Discussion:**

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

The Board queried whether the proposed central turnaround area is sufficient to accommodate the turning of emergency vehicles.

The technical officer advised that this cannot be confirmed and therefore recommended that the Board defer the application so that the applicant can demonstrate that an appropriate turning radius can be achieved within the site.

**The Board resolved to defer the application, as received January 10, 2020 to allow the applicant to demonstrate that an appropriate turning radius for emergency vehicles can be achieved within the site.**

**ANY OTHER BUSINESS:**

Technical officers provided a summary of the four matters on the agenda, details of this summary and subsequent discussion is noted as follows:

1. Tours of the St. Regis Hotel and former HSBC building on Front Street for the Board had been provisionally confirmed and the Board is welcome to request visits to other sites of interest. The Board also requested a visit to the new airport terminal, which technical officers advised can be arranged.
2. As agreed with the Chair, the Board intends to produce an end of year report to document its feedback on policies and procedures of the Department. The Chair advised that further details will be discussed during a subsequent Board meeting.
3. The Department is compiling a comprehensive record of all appeal decisions issued by the Minister in 2020 for the Board for discussion and, going forward, appeal decisions will be added to the agenda of Board meetings.
4. The Department has been updating the guidance notes section of the website and would welcome the feedback of the Board on those which have recently been uploaded and those which are currently being drafted. Further details on this matter will follow.



Chairman of the Development Applications Board

Date 8 October 2020