

d) Land Strata Lot Sizes and Lot Widths

Along with the eight (8) units, the applicant wishes to create an associated raw land strata subdivision.

The minimum lot size allowed for a house in the LDR zone is 10,000 sq. ft. The lot proposed lot sizes range from 1,537 sq. ft. to 2,236 sq. ft. As the proposed strata lot boundaries follow the shared wall, the strata lots do not comply with the minimum 80’ lot width at 21’ 6”.

e) Objector

The objector was invited to attend the CPA meeting; however, they are currently off-island and notified the Department they would not be able to attend.

2.2 TRAVERS GAS STATION (D. Travers) Block 12C Parcel 517 (F19-0065) (P19-0091) (CS)

Application for a fuel station with convenient store and canopy, generator and five (5) underground fuel tanks.

Appearance at 11:00

FACTS

<i>Location</i>	West Bay Road, West Bay Beach North
<i>Zoning</i>	NC
<i>Notice Requirements</i>	Objectors
<i>Parcel Size</i>	5.98 acres
<i>Current Use</i>	Vacant
<i>Proposed Use</i>	Fuel Station
<i>Building Area</i>	8,544 sq. ft.
<i>Parking Required</i>	14
<i>Parking Proposed</i>	23

BACKGROUND

There is no Planning history for this site.

Recommendation: Discuss the application, **for the following reasons:**

1. Zoning.
2. Objectors' concerns.

AGENCY COMMENTS

Comments from the Chief Petroleum Inspectorate, Department of Environment, National Roads Authority, Water Authority and Chief Environmental Health

Officer are noted below.

Chief Petroleum Inspectorate

“Tank and dispenser setbacks are in accordance with NFPA 30 & 30A. Price signage needs to be added to the north side of the canopy to allow approaching motorist to see the pricing before entering the premise as per regulation 62(1).”

Department of Environment

“Under delegated authority from the National Conservation Council (section 3 (13) of the National Conservation Law, 2013), the Department of Environment offers the following comments for your consideration.

The application site is low lying with a mixture of tidally flooded mangrove habitat and man-modified areas. With the proposed conversion of the mangrove habitat, it is essential that drainage is properly assessed. We recommend the incorporation of a storm-water management plan which retains and manages storm-water on site to prevent the flooding of adjacent properties.

In addition, the Department recognizes the potential for contamination issues and queries the possibility of integrating a first flush diversion system on-site for the collection and treatment of storm-water which may be laden with hydrocarbons. The Department notes, however, that both the Water Authority and Petroleum Inspectorate have been consulted and trust that any potential storm-water management and contamination issues will be identified and addressed within these agencies’ comments.”

National Roads Authority

“As per your memo dated March 1”, 2019 the NRA has reviewed the above-mentioned planning proposal. Please find below our comments and recommendations based on the site plan provided.

Road Capacity Issues

The traffic demand to be generated by the above proposed development of a ten stall gas station with a 5,400 sq. ft. convenience store has been assessed in accordance with ITE Code 944 - Gas Station with convenience store. The anticipated traffic to be added onto West Bay Road is as follows:

<i>Expected Daily Trip</i>	<i>AM Peak Hour Total Traffic</i>	<i>AM Peak In</i>	<i>AM Peak Out</i>	<i>Pass by Trips</i>	<i>PM Peak Hour Total Traffic</i>	<i>PM Peak In</i>	<i>PM Peak Out</i>	<i>Pass by Trips</i>
<i>1686</i>	<i>122</i>	<i>36</i>	<i>35</i>	<i>51</i>	<i>138</i>	<i>40</i>	<i>40</i>	<i>58</i>

Based on these estimates, the impact of the proposed development onto West Bay Road is considered to be minimal.

Access and Traffic Management Issues

One-way driveway aisles with diagonal parking shall be a minimum of twelve (12) to sixteen (16) ft wide. Please have proper signage and toad markings indicating the one way sections on site.

Two—way driveway aisles shall be a minimum of Twenty-Two (22) ft wide.

Entrance and exit curves shall have no less than fifteen (15) feet radius curves, and have a width of Twenty-four (24) ft. The eastern most driveway should be revised to reflect the requirement.

A six (6) foot sidewalk shall be constructed on West Bay Road and proposed Access Road, within the property boundary, to NRA standards.

Tile stops (if used) shall be place in parking spaces such that the length of the parking space is riot reduced below the sixteen (16) feet minimum.

Stormwater Management Issues

The applicant is encouraged to implement state-of-the-art techniques that manage stormwater runoff within the subject parcel arid retain existing drainage characteristics of the site as much as is feasible through innovative design and use of alternative construction techniques.

However, it is critical that the development be designed so that post—development stormwater runoff is no worse than pre—development runoff. To that effect, the following requirements should be observed:

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

At the inspection stage for obtaining a Certificate of Occupancy, the applicant shall demonstrate that the installed s) stem will perform to the standard given. The National Roads Authority wishes to being to the attention of the Planning

Department that non-compliance with the above-noted stormwater requirements would cause a road encroachment under Section 16 (g) of The Roads Law (2005 Revision). For the purpose of the Law, Section 16(g) defines encroachment on a road as

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

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

Water Authority

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

Wastewater Treatment:

The development shall be connected to the West Bay Beach Sewerage System (WBBSS).

- *The developer shall notify the Water Authority's Engineering Services at 949-2387 ext. 3000 as soon as possible to ensure that:*
 - *The site-specific connection requirements are relayed to the developer.*
 - *Any existing sewerage appurtenances on the property can be clearly marked to prevent damage (for which the developer would be held responsible).*
 - *The Authority can make arrangements necessary for connection such as ordering materials, scheduling, pipe installation, etc.*

The Authority will not be responsible for delays due to insufficient notice from the developer.

- *The developer shall be responsible for providing the site-specific sewerage infrastructure required for connection to the WBBSS. The site's wastewater infrastructure shall be designed and installed to the Authority's specifications.*
- *The developer shall submit plans for the infrastructure to the Authority for approval.*
- *The Authority shall make the final connection to the WBBSS, the cost of which shall be borne by the developer.*
- *An approved oil/water separator with a minimum capacity of 278 US gallons is required. The outlet of the oil/water separator shall be plumbed to a storm water drainage well, installed to NRA specification. Best Management Practices (BMPs) shall be employed to prevent or minimize spills of hazardous materials stored / used at the facility. The oil/water separator shall be routinely maintained.*

A grease interceptor with a minimum capacity of 1,000 US gallons is required to pre-treat flows from kitchen fixtures and equipment with grease-laden waste; e.g.,

pot sinks, pre-rinse sinks; dishwashers, soup kettles or similar devices; and floor drains. The outlet of the grease interceptor shall be plumbed to the sanitary sewage line leading to the WBBSS.

Water Resource Protection (Fuel Storage and Loading Areas):

Whereas the Petroleum Inspectorate sets out requirements for safe storage and dispensing equipment, the Water Authority sets out requirements for the protection of water resources.

- *The developer shall provide details on the proposed features designed to prevent/ minimize fuel spills, leaks and contamination of storm-water runoff:*
 - *Rain canopy over the fueling area (referenced on drawing A-3)*
 - *Impervious surface within the fuel containment area (drain within area addressed below)*
 - *Plumbing schematic of all drains from the loading area and within the fuel containment area, through the oil/water separator, discharging to a storm-water drain. Drawing shall include detail for a lock-off valve for the drain located within the fuel containment area.*
 - *Note that the valve shall be locked in the off position, requiring inspection of the collected storm-water to verify the absence of fuel sheen or spill before opening the valve for a controlled discharge that does not exceed the flow rating of the oil/water separator.*
 - *Details of the proposed oil/water separator (referenced on drawing A-1.1 Enlarged Site Plan);*
 - *Locations of under and above ground fuel pipes.*
- *The developer shall install monitoring wells for the detection of spills at the facility. Once Planning Permission for the facility is granted, and based on the further information requested by the Authority, the number and location of wells required will be set out by the Authority, in consultation with the Petroleum Inspectorate. Installation of the wells, constructed per the Authority's standard specification, will be made a condition for Authority approval for certificate of occupancy.*

Generator and Fuel Storage Tank(s) Installation:

In the event underground fuel storage tanks (USTs) are used the Authority requires the developer to install monitoring wells for the USTs. The exact number and location(s) of the monitoring wells will be determined by the Authority upon receipt of a detailed site plan showing location of the UST(s), associated piping, and dispensers. The monitoring wells shall comply with the standard detail of the Water Authority. All wells shall be accessible for inspection by the Authority. In the event above ground fuel storage tanks (ASTs) are used, monitoring wells will not be required.

Water Supply:

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

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

Chief Environmental Health Officer

The department has no objections to the proposed in principle. The applicant must submit the kitchen layout for review and approval."

APPLICANT'S LETTER

"Proposed Gas station for Refuel on West Bay Beach South 12C 517

By way of response I have noted the objections which seem typical of the objections to any proposed development. I would simply say,

- a) The Application complies with current zoning and does not seek any variances.*
- b) The owner of parcel 517, HH Limited, sold the land East of West Bay Road, to enable the construction of the Ritz Carlton Hotel and Condominiums. The developer of the Ritz Carlton had actual knowledge of the Neighborhood Commercial zoning of 12C 517, sought no restriction, and the subsequent condominium owners are thereby bound and in any event subject to the Development Plan.*
- c) The proposed land use is one of relatively low density. Alternative land uses, similar to other developments along WBR, such as the Grove, would result in much higher population densities and residents who will put larger pressure on the public areas of the beaches immediately across from the site. The proposed use is unlikely to result in increased vehicular traffic on West Bay Road or pedestrians crossing West Bay Road.*

Speaking as CEO of Refuel for the benefit of the Board I would like to address some of the objector's comments, as they seem unaware of the vision and goals that make Refuel unique in Cayman.

Refuel is an independent Caymanian owned and operated company, focused on fighting climate change and preserving the Cayman environment by bringing lower cost alternative fuel solutions to the consumer and lowering harmful motor vehicle emissions.

Firstly, Refuel is currently the only fuel company that sells emission reducing ethanol blended gasolines and biodiesel blended diesels, being the only supplier on Island of E10 Gasoline (10% Ethanol, 90% Petroleum Gasoline) and B20 ULSD (20% Biodiesel, 80% Petroleum ULSD). Global pressure for more sustainable options has lead governments around the world to mandate the addition of renewables into petroleum products in an effort to oxygenate fuels and reduce emissions. As such ethanol blended gasoline and biodiesel-blended diesels have become commonplace proven fuels around the globe, but until Refuel opened, they had not been adopted in Cayman.

Cayman's National Energy Policy recognizes the benefits of E10 and B5 (5%Biodiesel, 95% Petroleum ULSD) and under clause 3.3.4 "Fuel Sector Strategy" promotes the introduction of E10 and B5 into Cayman's fuel market whenever it is economically advantageous to do so.

Refuel is proud to currently be the only brand bringing the vision of the National Energy Policy to life, and bringing these emission reducing fuels to Cayman. We have tried by negotiation to incorporate our fuels into the existing supplies of other retailers with no success, and so it is our vision to make these fuels common place in Cayman through our own brand, and this new station will greatly assist our efforts.

The environmental and health benefits of these emission-reducing fuels are well documented. Ethanol combustion compared to gasoline reduces lifecycle CO2 emissions by 40%-100% (depending on type of energy used for processing), CO emissions in E10 are reduced by up to 35%, and total toxic mass of emissions in E10 are reduced by up to 13%. Similar statistics are observed for Biodiesel. Biodiesel acts as an Oxygenator, lubricant, and a Cetane booster. Biodiesel combustion compared to Diesel reduces lifecycle CO2 emissions by up to 78.5%, CO emissions by up to 37%, Sulphur Dioxide by up to 100% and potential carcinogens by 60-90%.

The Australian Medical Association said "In our opinion, there is incontrovertible evidence that the addition of ethanol to petrol and biodiesel to diesel will reduce the deaths and ill-health associated with the emissions produced by burning those fuels."

It is our vision to slowly educate the population on the benefit of these modern emission reducing fuels and integrate them further into the market while pursuing second generation renewables that can be made locally, to one day reduce Cayman's reliance on imports.

Secondly, Refuel and all fuel retailers are under tremendous pressure from both the public and private sector to reduce fuel costs. Unless CIG reduce the 75c/Gallon duty on Gasoline the only way we can reduce our price is through increased volume and economies of scale, which is where this second station comes in. Mr. Duke Munroe, the chief fuels inspector for the Utility Regulation and Competition Office (OffReg), said in a November Public Accounts Committee hearing that the Refuel gas station has consistently had 20 to 30 cent lower average prices than its competitors. Even though our primary goal is to increase the renewable content of fuels in Cayman we are again proud to have done more to reduce fuel costs in Cayman than anyone else over the past 40 years, and we strive to continue to find new ways to lower our costs, increase our volume, and pass these savings onto the local consumer.

Thirdly, Refuel is a staunch supporter of the local community and I would be remiss to not mention the strong support we receive on Social media in response to the news of a second station, (Image 1-3). We have monthly charitable donations to a wide range of non-profits, we believe in a strong minimum wage with our cashiers earning about double the national average for similar positions,

and we support the only waste to energy producer in Cayman, Island Biodiesel, who last year recycled over 15 tonnes of waste vegetable oil into Biodiesel to be sold at Refuel. Another station in such a prominent location will greatly assist our endeavors.

Lastly, on a purely subjective note, we believe our existing station to be one of the most attractive stations in the Caribbean. Modeled after a traditional Caymanian Cottage with incredibly lush landscaping, (image 4-7) the designs for our new station are consistent with this style.

In closing I would like to restate that; the application complies with zoning and no variances have been requested.”

OBJECTIONS

Objection #1

“Planning objection for new gas station on block and parcel 12C517 West Bay Beach South

Please accept this letter as our written objection to the proposed developments of a new gas station including convenience/liquor store retail, fueling canopy, five underground tanks and associated works (the “Proposal”) on Block/Parcel 12C517 West Bay Beach South (the “Property”). We wish to object to this proposal on the following grounds:

- There are numerous gas stations already situated on the West Bay Road and there is no need for an additional one.*
- The West Bay Road is Grand Cayman’s premier tourist and residential area. Commercial activities such as gas stations should be encouraged to situate themselves away from tourist areas.*
- Prevailing winds could send fumes from the fuels located at the Property to the nearby beach, hotels and condos which would adversely affected users of those areas of Seven Mile Beach.*
- The proposed location of this gas station could adversely affect the market values of the nearby properties, which were developed to attract and retain high net worth investors, and in so doing generating considerable revenues for the Cayman Government through stamp duty.*
- The proposed location of the gas station would undoubtable detract from the rental appeal of nearby properties to tourists, which currently attract high net worth tourists whose spending contributes to the Cayman economy and sustain the employment of Caymanians within the tourism industry.*

We trust the above provides ample grounds to support our objection but please contact us should you wish to discuss further. We greatly appreciate you taking the time to consider our objection of this Proposal.”

Objection #2

“As a residential strata lot owner at the Ritz, Block 12C Parcel 394 neighboring Block 12C Parcel 517 on which the gas station and convenience retail store is proposed, I wish to register my objection.

I object on the grounds that 7MB should not be a corridor lined with gas stations. As one of the most desired beaches in the world with expensive real estate lining 7MB it would detract from the desirability by putting additional gas stations in place.

Although a convenience and liquor store may be viewed by some as services supportive of a residential neighborhood and tourism zone, an over-abundance of such neighborhood commercial activities is undesirable. It is my view that the addition of another convenience and liquor store is unnecessary and will only contribute to the congestion along the Seven Mile Beach area.

The expanding presence of gas stations situated along West Bay Road is counterproductive to recent measures taken to diminish the volume and nature of traffic along West Bay Road. The reduction of the speed limit to 25mph and the development of a parallel by-pass roadway are significant factors to successfully transferring non-local traffic. As such, subsequent developments along West Bay Road should be consistent with that objective. Should the proposed development be approved, vehicular access to the gas station should be restricted to the by-pass road only and not West Bay Road.

I value the opportunity to register my concerns and objection and I thank the Central Planning Authority for their due consideration.”

See Appendix ‘A’ for additional information submitted by the above objector.

Objection #3 – 1st Letter

“Dear Sir

My return address is PO Box 10068.

Notice of this application was received by me in the UK on 1st March 2019. It has still not been received by anyone resident at Waters Edge (Block 12C Parcel 433). Apparently international delivery has the edge on internal postal delivery within Cayman.

First - Although the 21 day limit for objecting to this application begins on the 19th February 2019 or so soon hereafter as the Notice was posted, it cannot be in accordance with natural justice for an application to be approved when it is only received by those affected by it who happen to have addresses abroad when those affected who live adjacent to the site itself are unaware of the existence of the application due to the vagaries of the local postal system. Those who do not receive the notice are effectively deprived of the right to make their views known. On this island, surely hand delivery to local addresses would obviate postal service delays or non-delivery?

Second - The application is invalid because, although Block 12C Parcel 517 exists, it is not listed in the Department's comprehensive Zoning List. Although this Block and Parcel is said by the Planning Department to be zoned Neighbourhood Commercial, there is no record of that zoning in the Zoning List available to the public on the Department's website. What therefore is the proof that the land is zoned as alleged?

Third - A gas/petrol station already exists on West Bay Road immediately north of the new flyover/tunnel and there is no need for another so close.

Fourth - There is clear conflict between the proposed 30 foot wide road giving access to the station both from West Bay Road and from the Esterley Tibbets Highway and the route of the proposed link road BP486 as planned by the NRA to link the two major roads. The two proposals are mutually exclusive as together they will create significant traffic issues.

Fifth - The NRA road proposal BP486 may in fact create more traffic issues if it was to join West Bay Road directly opposite the entrance to Waters Edge as shown on the plans submitted."

Objection #3 – 2nd letter

"The following objections to and comments on the application are submitted by Malcolm Swift a member of the Water's Edge Condominium Executive Committee and this document explains and expands on the points previously made by Malcolm Swift in his email of 6th March 2019. The contents of this document are approved and adopted by the Executive Committee. For the avoidance of doubt, the following comments apply equally to the two linked applications dated 19th February and 7th March 2019 to which objection is taken. They will be referred to as 'the application'.

Introduction

*Surely the application is, and any decision on it would be, premature. The **Cayman Plan** is awaited with keen expectation and will outline a strategic development plan for the future of the island. It will deal with issues such as this – namely the proper location of commercial uses of land and is likely to set out detailed proposals affecting further development on and near the 7 Mile Beach Area. **The Cayman Plan website specifically states that the Zoning Map is to be reviewed.** This application cannot be permitted to interfere with that process or, worse, to clash with the strategic recommendations to be set out in the **Cayman Plan**.*

1. Service of the Application

- a) *Notice of this application was received by Mr Malcolm Swift and by Mrs Angela Swift in their personal capacities in the UK by registered post on 1st March 2019 (1) and on the 21st March (2). Malcolm Swift is a member of the Executive Committee of the Water's Edge Condominium (WEC).*
- b) *The Notice of Application is stated to have been served by registered mail posted on the 19th February 2019. Recipients have 21 days from the date of posting to respond. There must surely be a record of the dates of*

*delivery to all affected parties where registered post was used? Equally there must be a list in the possession of the Applicant of those to whom a registered letter was sent? This is particularly important because service on **all** those living up to 400 (500?) feet from the site was required.*

- c) Contrary to the experience of the Swifts, as at the expiry of the 21-day period, neither the Manager nor the other members of the 7-strong Executive Committee of the WEC had received the Notice (though one member received his Notice on the 12th March – the 21st day). Few owners resident at Water's Edge have received notices. Clearly the posting process has failed.*
- d) The application was reported in a journalistic article in the Cayman Compass within the 21-day period (but see sub-paragraph (g) below).*
- e) Although the fact of posting by registered mail satisfies the legal notice requirement, all those affected by the application should have a proper opportunity to comment/object. It was indeed a Department of Planning pre-requisite of consideration of the application that **all** owners living in the vicinity of the site should be sent a copy of the application. Clearly posting cannot be assumed in this case.*
- f) The Applicant should be required to prove that letters were posted to **the correct intended recipients** and, in these special circumstances, to produce proof of both posting and delivery.*
- g) Also see paragraph 2 (d) below. Has the Applicant complied with the notification and advertising requirements imposed by the Planning Authority? We are informed by the Planning Department that, aside from service of the application on **all** those owning land within a 400 (500?) foot radius of the site, the only other requirement was to advertise the fact of the application in the Cayman Compass. A search has revealed one notice published on the 20th February 2019 in the Compass. As commented in the next section, in the case of an application for a petrol station in a Neighbourhood/ Commercial Zone, affecting condominiums where many owners travel and have homes abroad, rather stricter and more extensive notice should be required (ie: more than a tiny newspaper notice in a small box). The Department should have insisted upon clear visible notices positioned around the site perimeter. Such notices would **always** be required in the UK and would be placed in position not by the Applicant but by the Planning Authority itself.*

2. Zoning

- a) The challenge to the validity of the application on the basis that Block 12C Parcel 517 is not in the Zoning List is no longer pursued. The WEC Manager received an assurance from the Planning Department (confirmed on the 25th March to Mr Swift by Ms Stoetzel) that Parcel 517 is in a Neighbourhood/ Commercial Zone and, of course, this assurance is accepted.*

- b) ***The question raised by the zone location of Parcel 517 is whether a Petrol Station is permitted development within a Neighbourhood/ Commercial Zone?***
- c) *A Petrol Station is a development whose primary use is included within a General Commercial Zone as defined by Regulation 13(1)(a) of the Development and Planning Regulations 2017 Revision (“DPR”) and is specifically included in Regulation 13(1)(a) under paragraph (vii) – ‘petrol stations’.*
- d) *It is significant that the list of permissible (not ‘primary’) uses in the Graphic Guide to the 2017 Revision includes ‘gas stations’ but requires additional notification and advertising of any application for a petrol/gas station in a General Commercial Zone. Such requirements, you might think, would apply with far greater force to an application in a Neighbourhood/ Commercial Zone for reasons of increased sensitivity. Hence why the adequacy of the notification and advertising required in this instance should be revisited?*
- e) *A Petrol Station would ordinarily be excluded from a Neighbourhood/ Commercial Zone under Regulation 13(1)(b) DPR because it would fail to satisfy the statutory criteria (‘...zones in which the primary use is a less intense form of development of that permitted in a General Commercial Zone and which cater principally for the needs of persons resident in, or in the vicinity of, the zone’). The key components are ‘a less intense form of development’ and ‘needs’.*
- f) *The Graphic Guide to the DPR 2017 Revision lists as Permissible Uses in a Neighbourhood/ Commercial Zone only the following:*
- *Offices*
 - *Retail Shops*
 - *Medical Clinics*
 - *Restaurants/Bars*
 - *Child Care*
 - *Shops and other enterprises that meet the daily needs of a community, and*
 - *Residential (if not on ground floor of building).*
- a) *It is significant that a petrol or gas station is not included and is therefore excluded from that list unless it can be argued to be an enterprise (similar to a shop) that meets (and here ‘meets’ means ‘catering principally for the needs of persons resident in or in the vicinity of the zone’) the daily needs of a community.*
- b) *It is difficult, if not impossible, to see how an EcoFuel Petrol Station can be said to cater principally for the needs of persons resident in or in the vicinity of this Neighbourhood/ Commercial Zone. On the contrary, in order to be commercially viable, this Ecofuel Petrol Station must cater principally for the needs of passing motorists not living locally who simply want to buy cheaper petrol. In an obvious attempt to meet the criteria, the*

*Applicant has positioned the petrol station adjacent to West Bay Road with entrances/exits on both West Bay Road and on a new access road leading only onto West Bay Road – however the plans submitted show that the clear intention of the developer is to apply later to install a further access from the main Highway, recognising the **real** need to attract other than localised custom in order for the business to be viable.*

- c) Typically, a Neighbourhood/ Commercial Zone development will provide 2/3 storey structures with retail or similar businesses on the ground/first floor and residential accommodation or mixed uses on the upper floors. This is so throughout the Neighbourhood/ Commercial Zone stretching north from the junction with Eastern Avenue.*
- d) We are informed (subject to confirmation) that the 3 petrol stations on West Bay Road between Georgetown and the site were in existence before 1997 (the year of the previous Development Plan) and were therefore not subject to present-day zoning requirements. We venture to suggest that the 2 petrol stations to the north of Eastern Avenue would not be permitted if they had to apply for planning permission in 2019.*

3. Need

- a) A gas/petrol station already exists on West Bay Road immediately north of the new flyover/tunnel and there is no need for another so close. There are already 3 petrol stations on West Bay Road between Georgetown and the site.*
- b) We appreciate that ‘need’ is not invariably a planning issue but may be taken into account.*

4. Traffic and Road Safety Issues and the NRA Road proposal BP486

- a) These issues are linked.*
- b) There is clear conflict between the proposed 30-foot wide road giving access to the proposed petrol station both from West Bay Road and from the Esterley Tibbetts Highway and the route of the proposed link road BP486 as planned by the NRA to link the two major roads. The two proposals are mutually exclusive as together they will create significant traffic issues.*
- c) The NRA road proposal BP486 may in fact create more traffic issues if it was to join West Bay Road directly opposite the entrance to Waters Edge as shown on the plans submitted.*
- d) It is accepted that the relevant land, over which the proposed roads run, is in a Neighbourhood/ Commercial Zone.*
- e) The relevant Government agencies will make an informed decision on the roads to be built ancillary to this application and we can add nothing further aside from raising road safety as an issue to be considered.*
- f) It is however disturbing that the NRA has (according to information supplied by the Planning Department) made no comment on the*

application. Surely the decision whether the application should be approved must be an informed decision, based at least in part on knowledge of whether significant roads are to be constructed in close proximity and the possibility of road safety issues.

5. Impact in the surrounding area

- a) The impact of the proposed development on the amenity value of the adjacent properties affected by it will be significant.*
- b) Parcel 517 is adjacent to prestigious residences and will juxtapose such high value properties with a filling station open 24/7, attracting sources of noise, atmospheric and light pollution and smells, in an area which is predominantly residential. The area is in fact exclusively residential on both sides of West Bay Road from the North of Park Place as far as Cayman Falls to the North of the Ritz-Carlton. A petrol station would be completely out of place in that entirely residential area.*

6. Position of Proposed Development within Parcel 517

- a) If this Parcel has to be used for the purpose stated, why could the development not be sited more suitably on the side of the Parcel nearer to the Esterley Tibbetts Highway, thereby improving access for traffic leaving the Highway and so reducing the visual and amenity impact of the development on the residential properties on West Bay Road?*

Sixth - There also seems to be no listed zoning designation for the land over which the NRA link road runs giving no information of what type of development can be expected on either side of the link road or indeed on the undeveloped remainder of Parcel 517.

Seventh - No thought appears to have been given to the impact of the proposed development on the amenity value of the adjacent properties affected by it. Parcel 517 is adjacent to some of the most prestigious residences in these Islands and will juxtapose such high value properties with what at the end of the day is a filling station open 24/7 and attracting sources of noise, atmospheric and light pollution and smells, in an area predominantly residential.

Eighth - if this Parcel has to be used for the purpose stated, why could the development not be sited more suitably on the Highway side of the Parcel, thereby improving access for traffic leaving the Highway and so reducing the visual and amenity impact of the development from the residential properties on West Bay Road? I trust you will take these comments and objections into account in the application process.

PLANNING DEPARTMENT ANALYSIS

General

The applicant is requesting planning permission for a fuel station with convenient store and canopy, generator and five (5) underground fuel tanks.

Zoning

The property is zoned Neighbourhood Commercial.

Specific Issues

a) Suitability

The surrounding land uses in the immediate area are vacant land to the south, apartments to the west, the Ritz-Carlton hotel to the north, and Esterley Tibbetts Highway to the east.

The nearest existing gas station with access from West Bay Road is on Block 12E Parcel 62, approximately $\frac{3}{4}$ miles south of the site. To the north, the nearest fuel station is in West Bay at Town Hall Road.

Development & Planning Regulation 13(b) allows for commercial uses that are a less intense form of development of that found in the General Commercial zone and cater principally for the needs for person resident in, or in the vicinity, of the zone.

A similar application for fuel station was approved by the Authority in May 2016 (CPA/12/16; Item 2.2) on Block 11D Parcel 106 (previously Parcel 16). That site is located approximately $\frac{3}{4}$ mile north of current subject site (Parcel 517) with frontage on Esterley Tibbetts Highway and is also zoned Neighbourhood Commercial.

The Authority decided in favour of that application for the following reasons:

- *The proposed use is consistent with the objectives of Section 3.02 (b) of The Development Plan 1997. Further to Section 3.02 of the Plan, the Authority is satisfied that the design and construction of the proposed development reflects the local architectural heritage and a landscape plan will be required as a condition of approval which also must reflect the local architectural heritage.*
- *Pursuant to Regulation 13(b) of the Development and Planning Regulations (2015 Revision), the Authority is satisfied that the proposed development is a less intensive form of development than what would typically be found in the General Commercial zone. More specifically, the proposed development is a one storey building, approximately 4,000 square feet in size. This size development is far less intense than the 5 to 7 storey buildings with tens of thousands of square footage that can be found in the General Commercial zones.*
- *Pursuant to Regulation 13(b) of the Development and Planning Regulations (2015 Revision), the Authority is satisfied that the proposed development will cater principally for the needs of persons resident in, or in the vicinity of, the zone. More specifically, the neighbourhood commercial zone in this area stretches about two thousand feet to the north of the subject site and several thousands of feet to the south of the site. In the vicinity of this area are many residential and commercial*

developments and the proposed development will principally serve the needs of the persons in those areas.

- *Having outlined the consistency with Regulation 13, the Authority also notes that the proposed development complies with other provisions of the Development and Planning Regulations (2015 Revision).*
- *The surrounding area includes residential, commercial and industrial uses and the Authority is of the view that the proposed development is consistent with the established character of the area in terms of use, height and mass and scale.*
- *The Authority has taken into account the comments of the various agencies and notes:*
 - *The Department of Environment report contains reference to the need for another gas station on Grand Cayman and this matter is outside of that agency's remit. A stormwater management plan will be required as a condition of approval; the Petroleum Inspectorate was contacted and their comments have been received and their requirements will be addressed through the building permitting process; Consolidated Water was notified of the application and no comments were received.*
 - *The comments from Environmental Health, the Fire Department, Water Authority, the Chief Petroleum Inspector and the National Roads Authority will be addressed through the building permitting process. It is also noted that the applicant submitted revised plans depicting the deceleration and acceleration lanes required by the NRA.*
- *The Authority took into account the comments from the various objectors and determined that they did not raise grounds for refusing permission. More specifically:*
 - *There is no evidence that the proposed development will negatively affect public health.*
 - *The Authority does not agree that the proposed development will cause light pollution. The Authority is unaware of any complaints due to the light from the numerous other gas stations on the Island. Further, the subject site is adjacent to a four lane highway which already has street lighting.*
 - *The Authority does not agree that there will be noise pollution. All development, including residential, will have a certain level of associated noise. As the site is zoned Neighbourhood Commercial, one has to expect that the site will be developed for commercial purposes with its associated pedestrian and vehicular activities. This is typical of all developments and the Authority cannot consider this to be pollution.*

- *There is no evidence that the proposed development will cause soil contamination. It is also noted that the fuel tank design and installation must comply with the requirements of the Petroleum Inspectorate and the Water Authority.*
- *Any noise or behaviour that is outside of the scope of the law is a matter for the RCIP.*
- *The comments regarding traffic flow are unclear and unconvincing.*
- *The potential for future development in the area is not a material planning matter in the review and consideration of the subject application.*
- *There is no evidence that the proposed development will decrease property values in the area.”*

The CPA’s decision was appealed and the Planning Appeals Tribunal (PAT) upheld the CPA’s decision. The PAT’s decision is included in **Appendix ‘B’**.

b) Response to Objectors

The Department confirms that notifications were mailed to the registered property owners within a 300’ radius of the site. Proof of mailing and the owner address list were submitted as part of the application.