

## **BEST media release" BEST contends Minister's appeal decision is flawed 7 December 2012**

### **Voices of BEST - Press**

The Bermuda Environmental Sustainability Taskforce (BEST) today expressed grave concern about the appeal upheld by Environment Minister Marc Bean giving in-principle approval for “new 3-Storey Group Housing (Senior Housing or Orphanage or Children’s Home), Children’s Day Care, and Farm Equipment Garaging: Retroactive Approval of 2 Storage Sheds” as reported in December 3rd edition of the Royal Gazette.

At the top of our concerns are the irregularities in the application that led to its being turned down by the Development Applications Board (DAB):

1. The application contained:

- a) insufficient information to enable a proper assessment of the proposal,
- b) insufficient information to determine traffic impacts and parking requirements,
- c) insufficient information to determine adequacy of outdoor amenity area and secured play space provision for day care students and/or orphanage or children's home residents,
- d) insufficient information to determine adequacy of water or sewer provisions.

2. The proposed building exceeds the limits for a 'Residential-scale' project, as required by the Rural zone policies for floor space and building height.

3. The proposed hard surfaced area (floor space plus pavement) is almost double that allowed for development in a rural zone and the application is for a three storied building where a two-storey maximum applies.

The DAB also commented specifically in its “Advice Note” that accompanied the refusal: “The Board wishes to express concern that the applicant has shown blatant disregard for the planning process in that the existing large storage sheds on the site have been constructed without obtaining planning or building permit approvals.”

BEST contends that this application was so flawed that it should not have been considered by the DAB, much less reached the Minister’s desk.

Additionally, BEST notes that the applicant was listed merely as Spice Hill Farm, an unidentifiable entity, when we are informed that an applicant needs to be identifiable as an individual, a Trust or a Company. Also, the location of the site was vaguely listed as “Vacant lot off Spice Hill Road”. As Spice Hill Road is over one mile long, such a vague description is unacceptable and any application advertised as such risks escaping the notice of neighbours. Even more vague is the intended use, either an orphanage, a children’s home or a senior’s residence. It would appear the applicants have no clear idea what they want to use the building for as long as they can get approval to build.

The Minister claims any of these uses rise to the level of “national interest”. We contend that a) none of these uses merit overthrowing the rules governing development on scarce rural-zoned land — especially when there are “brownfield” sites suitable for redevelopment; and b) the closure of the Sunshine League was not deemed a “national interest” issue.

We also note that the appeal was launched on 6 January 2012, but was not decided until 20 November, ten months later and in the run-up to a general election. We understand that it is parliamentary convention that no major or controversial decision be made by a Cabinet Minister after parliament has been dissolved. This decision is definitely controversial and, by convention, the Minister would have suspended a decision until after the election.

By allowing the appeal, the Minister is not only rewarding non-compliance, he is also in effect condoning the breaking of the rules. This cannot be in the National Interest. Further, the Minister

has overturned extensive reasoning by the Department of Planning, the Development Applications Board and the Independent Inspector, all of whom argued that the appeal should be denied. BEST will be further reviewing the file and is exploring avenues for challenging this decision in the public interest. We have not ruled out invoking a Judicial Review.