



**EILANDGEBIED ST. MAARTEN  
NEDERLANDSE ANTILLEN**

AB:1996

NR.38

**ISLAND RESOLUTION ENTAILING GENERAL MEASURES**

---

of December 4, 1996 for approval of the draft-planning permit "Point Esprit Development N.V."

**THE EXECUTIVE COUNCIL OF THE ISLAND TERRITORY OF  
SINT MAARTEN**

---

**Having reviewed:** *the application of Adr ea Neuss on the behalf of Dunnet limited for approval of the draft-subdivision plan "Point Esprit", for land located in Cay Hill, Little Bay, bearing the administration number PP95020;*

the advice of the head of the department of Public Housing, Physical Planning and Environment (VROM) dated November 4, 1996, AZ#3485A-96.

**In View Of:** *the Island Regulation Netherlands Antilles (ERNA)  
the Island Zoning Ordinance (EROP, AB 1993 nr. 13)*

**Considering:** *that the application was officially received on August 30, 1995;*

*that the draft plan was placed on public review for a period of 30 days, beginning on September 4, to October 4, 1995 and was extended until November 17, 1995, due to circumstances caused by Hurricane Luis;*

*that there was one objection, submitted by the Cay Bay Residential Sites Landowners Foundation, to the draft-plan (Enclosed appendix-1);*

that the letter of objection was submitted on time;

that the objection can be summarized as follows:

Summary

1. That "Point Esprit," a new plan, which originated from the same subdivision plan (Cay Hill Associates N.V.) does not live up to the conditions of the subdivision plan set by Cay Hill Associates N.V. and put in the deeds of conveyance for the original subdivided and sold parcels. Various examples are illustrated in the letter; party claims that Developer should be made to adhere to these conditions in the new subdivision plan.

that this objection is considered unfounded. The conditions in deeds of conveyance are in no way binding for the government, but rather only between the parties to the contracts. Government has its own responsibility to set criteria, by which to guide physical development. The essence and motivation for the conditions in the original subdivision plan are however taken into consideration.

2. that the Bay Landowners Foundation question the manner in which the infrastructure will be executed referring to previous projects executed by the developer with inadequate infrastructure, etc..

that this objection should be considered partially founded, since it should be guaranteed that proper infrastructure will be put in place for all new developments. This Resolution includes conditions for the infrastructure that building construction will only be permitted related to the minimum infrastructure to be put in place, such as paving of roads within the parameters of the development.

that furthermore, the draft-plan includes parcels of land described as area "G" in the land use map-1 which have been previously subdivided and sold and that no proof of authorization from the legal owners of said parcels are included, that therefore these parcels are not included as part of this Resolution;

that it is the intention of the government to encourage development in the Little Bay area in accordance with residential and tourist destinations, where as future developments which conflict with these destinations will be discouraged by the government;

Building-stop

that the developer has objected to the alignment of the projected new road Link-1 whereon the Island government has placed a building stop and has proposed a new alignment; that based on a feasibility study prepared by GPI ( Grabowsky & Poort ) the revised alignment was accepted, that based on the above this Council will request the Island Council to revise the alignment of the building stop there by making it possible for the applicant to develop the property on the original alignment.

**RESOLVE:**

to establish the following Island Resolution entailing general measures:

**Article 1**

Planning permit with administration number PP 95020 is granted by Executive Council. The permit pertains to an area of land located in Cay Hill, Little Bay, as described in Certificate of Admeasurement number 230/1972 and remaining contiguous lands of Dunnet Ltd. including the access roads bounded and forming part of the new development. In the interest of proper physical development, the approval includes the following conditions;

**Article 2**

Land use

2.1. **The map.**

The enclosed maps, further referred to as the "location plan" showing the plan boundaries and the "Land use map" which indicates the allowable land uses and maximum density on the site, are an integral part of this Island Resolution;

2.2 **Allowable land use.**

- a. The area designated as (R1) may be used for **single family residential development**, consisting of unattached single family dwelling units with adequate yards and open space characteristic of a residential environment.
- b. The area designated as (R2) may be used for **cluster homes**, consisting of single family dwelling units grouped in clusters that may or may not be attached by common partitions, primarily horizontally, consisting of at least two but no more than ten individual units and / or vertically by a maximum of two units.
- c. The area designated as (B1) may be used for **low intensity commercial development**, consisting of commercial uses which cater to everyday shopping needs, generally mixed with residential use and situated along primary roads in lower density areas where adequate parking facilities should be provided by the merchant.

- d. The area designated as (B3) may be used for **tourist oriented** development, consisting of developments that are related specifically to the tourist (commercial) industry or where the target group for use is primarily the tourist sector.
- e. The area designated as (C2) is to be considered a **protected resource**, consisting of areas considered worthy of protection or strict management to preserve the inherent natural qualities of the area, for the benefit of the social existence and sustainable development of the island. These resources are considered essential to the tourist economy of the island.
- f. The area designated as (P4) may be used as **public accessible road**, consisting of areas reserved as primary or secondary public roads, which shall remain open to the general public. Minimum setbacks for construction along the roads as well as connections should be regulated to secure the main function of the road, namely to allow ease of circulation and movement of traffic.
- g. The land use plan includes a transitional usage overlay area of approximately 5 acres at the intersection of the areas designated as (B3), (R1) and (R2), as shown on the land use map. This transitional area may be used alternately for the functions allowable for these designations, whereby the conditions in this resolution pertaining to those designations will apply.
- h. Allowable developments on the above mentioned areas are, buildings and structures, including annex structures and facilities which serve a support function to the main allowable land use.

### Article 3

#### Subdivision plan Condition

- 3.1. **Minimum lot sizes.**
  - a. The area designated as (R1a) may be subdivided into lots with a minimum size of 1800 m<sup>2</sup>.
  - b. The area designated as (R1b) may be subdivided into lots with a minimum size of 1000 m<sup>2</sup>.
  - c. The area designated as (R2) may be subdivided into lots with a minimum size of 1000 m<sup>2</sup>;
- 3.2. **Protected Sites.**

For the area designated as a protected resource (C2) along the coastal zone a general setback of fifty meters (50M) should be maintained whereas a buffer zone to a minimum of fifteen meters (15M) penetration is permitted within which a maximum of ten percent (10%) building density will be allowed.  
No building construction will be allowed within a setback of thirty five (35M) meters from the coast line.

Along the boundary of the Little Bay Pond a setback of ten meters (10M) should be maintained within which no building construction will be allowed.

Improvements or use of the area which serves as a protected resource which may be contemplated by the developer will require approval from the Executive Council;

3.3. **Existing vegetation & Planting.**

No removal of any mangrove trees along side of the pond boundary shoreline will be permitted. Proposals to revitalize the mangrove population along the pond edge will be reviewed favorably;

3.4. **Plan roads.**

- a. Access to the subdivision plan is allowed via the wegelegen road at the North East and via the Brouwers road at the North West section of the site (along the GEBE water tank). Considering the plans of government to construct the future Link-1, access will be possible from this projected road to the development as well.
- b. Beach access Public access to the beach will be guaranteed via a road on the estate ending in a car parking area with a minimum of six (6) parking spaces which should be a maximum of one hundred and fifty (150M) meters from the coast line. A minimum of nine (9) additional parking spaces will be located along the beach access road which will be designated for general public use.
- c. Link -1 is a primary public artery road with a minimum width of twelve meters (12.0 M), of which a minimum of six and a half meters (6.50 M) must be paved, and part of which will be reserved for public utilities, and surface drainage facilities (refer to map-2).
- d. The primary access roads of the plan must be a minimum of nine meters (9.0M) wide, of which a minimum of five and a half meters (5.50M) must be paved, and part of which will be reserved for public utilities, and surface drainage facilities. The location of these roads are indicated on map-2.
- e. The secondary access roads of the plan must be a minimum of seven meters (7.0M) wide, of which a minimum of four and a half meters (4.50M) must be paved, and part of which will be reserved for public utilities, and surface drainage facilities.
- f. Drive-ways must be a minimum of five meters (5.0M) wide, of which a minimum of three meters (3.0M) must be paved. A drive way may serve more than one dwelling.
- g. Secondary access roads and drive ways within the subdivision plan may vary from the existing layout pending the final layout is in accordance with the guidelines and conditions of this resolution;

Maintenance.

With the exception of the projected primary road "Link-1", the maintenance of the common areas of the subdivision plan such as access roads, drains, sewage treatment plant, parking and exterior recreation areas is the responsibility of the developer or a designated authority; this cost will not be borne by the government.

3.5. Roads ownership

- a. In accordance with art.26 of the EROP, the land which is presently used as a public road and intended as the revised alignment of the projected new road Link-1 forming part of the subdivision plan "Point Esprit", should be transferred to the Island government free of cost. The construction of the primary artery Link-1 will be at the expense of government. Said transfer and construction will be covered under a separate agreement between the government and developer.
- b. Exemption is granted from the requirement to have the land for the remaining access roads of the subdivision plan transferred to the government. The exemption is granted on the condition that the construction and maintenance of these roads are at the expense of the Developer or designated authority.
- c. The developer or designated authority may install security measures for the roads, to provide for safety and security of the development and its residence, subject to the approval of the Executive Council.

3.6. Drains.

The road surface drainage channels should be sized adequately such as not to obstruct proper flow of surface drainage. These should be constructed such as to minimize erosion and should be directed to the fresh water pond, taking into consideration the following environmental criteria:

- Minimize unnecessary disruption of existing topography by reducing cut and fill requirements and erosion and sedimentation problems.
- Minimize unnecessary disruption of natural overland and subsurface water flows.
- Minimize unnecessary disruption of existing vegetation and animal life.
- Avoid positive drainage along roadways (rainwater drainage) where such system directly fall into water bodies and cause pollution. Systems of swales along the roadway help to filter nutrients from roadway surface before entering natural water bodies, thereby minimizing water pollution;

**3.7. Sewage.**

As far as it is not connected to a sewage system, each building must be connected to a septic tank, and must include a drainage filter, all of which should be located entirely on the parcel, within two meters (2.0M) from the boundary and should not cause any hindrance to adjacent properties;

The Resort Development must be connected to a sewage treatment plan constructed entirely on the property and shall be of such design that all sewage discharge lines will be connected.

All drainage pipes of effluent water shall be connected to the effluent water lines or septic tank;

**3.8. Garbage.**

Adequate garbage collection facilities should be provided for the development located along side the access roads. Garbage should not be visible from the public road and should be properly fenced in and maintained in compliance with public health standards;

**3.9. Fences.**

For fences built between the property boundaries and public areas the height of the boundary fence facing the projected roads should not exceed two and one-half meters (2.50M) in total height from the existing grade, consisting of maximum one one-half (1.5M) meters of solid construction and up to an additional one meter (1.0) of transparent construction.

along the common boundaries the height of the fence should not exceed two and one-half meters (2.50M) in the case of transparent construction and two meters (2.0M) meters in case of solid construction;

**3.10. Parking.**

- a. for the areas designated for residential as (R1,R2), each lot should contain the minimum of one (1) parking space per two bedroom per dwelling on the property, with a minimum of two (2) car parking spaces on the lot;
- b. for the area designated as (B1), each lot should contain a minimum of one (1) car parking space per 25 m<sup>2</sup> of commercial space;
- c. for the area designated as (B3), a minimum of one (1) parking space per quest unit plus additional parking for all support and service personnel are required;

#### Article 4

##### Building conditions

##### 4.1. **Building density.**

The calculated building density consist of the percentage of the total covered occupancy building foot print area of the building lot.

- a. The maximum allowable building density in the area designated as **(R1a)** is 18 % of the size of the subject lot, only one (1) main building is allowed on the lot, and one (1) auxiliary building.
- b. The maximum allowable building density in the area designated as **(R1b)** is 20 % of the size of the subject lot, only one (1) main building is allowed on the lot, and one auxiliary building.
- c. The maximum allowable building density in the area designated as **(R2)** is 20 % of the subject lot.
- d. The maximum allowable building density in the area designated as **(B1)** is 50 % of the subject lot.
- e. The maximum allowable building density in the area designated as **(B3)** is 25 % of the subject lot;

##### 4.2. **Residential buildings**

for the area designated as **(R1,R2)**, the maximum allowable height of the main buildings is limited to two (2) floor levels from the existing grade of which the maximum floor level height is three meters (3.0 M) excluding height required for roof slopes and proper foundation;

##### 4.3. **Commercial buildings**

for the area designated as **(B1)**, the maximum allowable height of the main building is limited to three (3) floor levels from the existing grade of which the maximum floor height is three (3.0 M) excluding height required for roof slopes and proper foundation.

the maximum allowable height of an auxiliary building is limited to one (1) floor of which the maximum floor height is (3.0M).

##### 4.4. **Tourist oriented buildings (B3)**

##### a. **Resort Buildings**

the maximum building height is limited to nineteen (19.0M) meters from the existing grade. Any building with a total height in excess of fifteen (15.0 M) meters from existing grade shall take into consideration preserving existing ocean views and added value to the ground floor (lobby) of the building.

##### b. **Hillside Terrace Units**

the maximum building height is limited to three (3) floor levels of which the third floor is limited to seventy five percent (75%) of the covered building area. The maximum height of a floor level is three (3.0 M) excluding height required for roof slopes and proper foundation;



4.5. **Setbacks.**

- a. For the area designated as (R1,R2), the minimum distance between the facade of a building (excluding open structure carports) and the axis of the secondary access road should be eight (8.0 M) meters;
- b. For the area designated as (B1), the minimum distance between the facade of a building and the axis of an access road should be fifteen (15M) meters;
- d. For the area designated as (B3), the minimum distance between the facade of a building and the axis of an access road should be fifteen (15 M) meters;

Hill side Terrace units

the minimum distance between the facade of a main building and the axis of an access road should be eight (8.0 M) meters;  
The above mentioned areas should have a minimum building separation between individual buildings of five (5.0 M) meters, unless site specific exemption is granted by the Executive Council;

4.6. **Roof slope.**

The primary roof of the buildings should have a West Indian style sloped roof construction. The roof slopes shall be a minimum of twenty degrees ( $20^{\circ}$ ) and maximum forty five degrees ( $45^{\circ}$ ) from the eaves. An area of 10% of the primary roof may vary from the this requirement;

4.7. **Foundation.**

Footing or foundation built upon natural solid grounds with slopes less than twenty degrees ( $\leq 20^{\circ}$ ) shall be designed with an average height of 1.20 M providing that the area where the natural slope drops below the floor level should remain non-occupied. The height may be increased with the approval of Department of Building Inspections if the site conditions warrant such an increase.

Footing or foundation built upon natural solid grounds with slopes less than twenty degrees ( $\geq 20^{\circ}$ ) shall be designed with an average height of 1.80 M providing that the area where the natural slope drops below the floor level should remain non-occupied. The height may be increased with the approval of Department of Building Inspections if the site conditions warrant such an increase.

4.8. **Excavation.**

Excavation must be done in such away to minimize grading to prevent erosion. All natural exposed rock formations protruding with a height greater than (1.50 M) requires written approval of Department of Public Works prior to excavation.

Temporary run-off control should be installed prior to any grading activities to prevent any potential excessive silt run-off as a result of grading activities.

Excavations that result in manufactured slopes shall be contoured to simulate natural terrain. Slopes greater than 45° will require retaining walls. Exposed terrace excavations that exceed a height of one and a half (1.50 M) meters in elevation will require retaining walls, subject to discretion of the department of building inspections.

#### Article 5

##### Other Conditions

- 5.1. **Construction Period.**  
No construction of building(s) may commence at any time on the property before primary and secondary access roads within the parameters of the project (as shown on map 2); such may be done with site specific phasing subject to the discretion of the Department of Public Works.
- 5.2. **Infrastructure.**  
All infrastructure must be executed in accordance with the specifications set by the Government.  
*No infrastructure or civil works should be carried out without Prior approval of the Department of Public Works;*
- 5.3. **Other Permits.**  
The preceding conditions do not absolve the applicant from any other required permits (such as building permits) to realize the plans;
- 5.4. **Developer's Conditions.**  
Enforcement of the conditions between the developer and the home owners of the development are not the responsibility of government in so far as *these are not in this resolution;*
- 5.5. **Deviation.**  
Deviation from conditions set in this resolution are only allowed with approval of the Executive Council. A decision to deviate from these conditions should be properly motivated, where the interest served by the deviation will be weighed against the potential impact to the general interest which these guidelines are intended to serve;

**Article 6**

This resolution will be placed on public review for a period of thirty (30) days, during which time the applicant may appeal the decision. If no appeals are submitted during the review period, this resolution will become irrevocable;

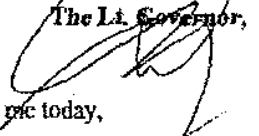
As established in the meeting of  
December 4, 1996

**The Island Secretary,**

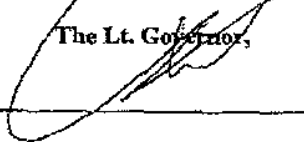


This Island Resolution is proclaimed by me today,  
January 9, 1997

**The Lt. Governor,**



**The Lt. Governor,**

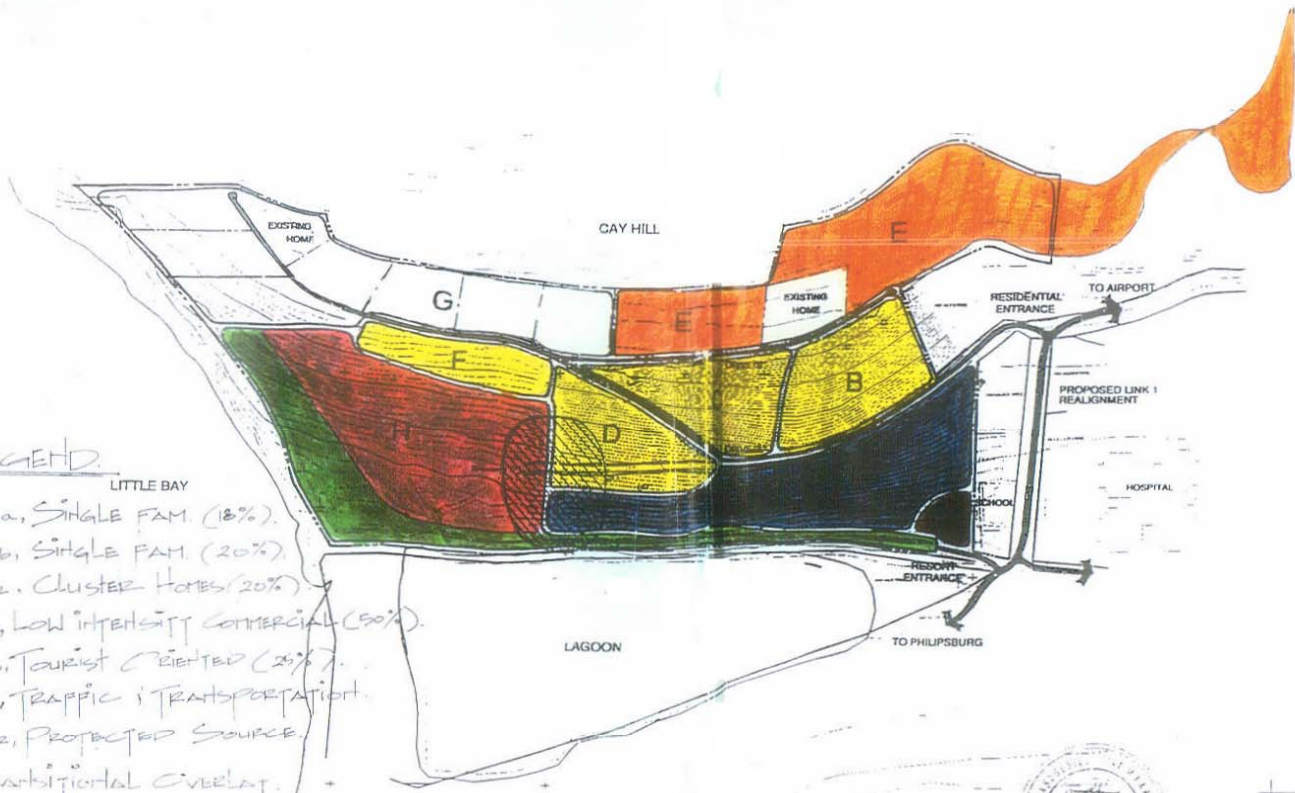


9

This resolution was placed on public review from January 17, 1997, to February 15, 1997, during which period no appeals were submitted. Therefore, this resolution is considered irrevocable.

**The Island Secretary,**





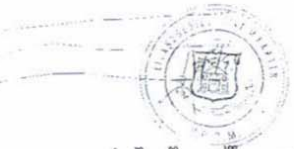
**LEGEND**

LITTLE BAY

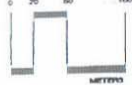
- R1a, SINGLE FAM. (10%)
- R1b, SINGLE FAM. (20%)
- R2, CLUSTER HOMES (20%)
- D1, LOW INTENSITY COMMERCIAL (50%)
- B3, TOURIST ORIENTED (20%)
- P4, TRAFFIC & TRANSPORTATION
- C2, PROTECTED SOURCE
- TRANSITIONAL OVERLAP

EXHIBIT 5  
AND USE PLAN

POINTE  ESPRIT ST. MAARTEN, NETHERLANDS ANTILLES



Map-1.



ADL Planning Associates