

**AGENDA of the  
Portfolio Committee : Infrastructure and Planning  
22 March 2016  
(Also the agenda for the Mayoral Committee Meeting : 30 March 2016)**

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21.

**ERF 332, CORNER OF ARCADIA- AND ESPLANADE STREET, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA : PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, AMENDMENT OF THE OVERSTRAND MUNICIPAL WIDE SPATIAL DEVELOPMENT FRAMEWORK, REZONING AND SUBDIVISION : MESSRS NUPLAN AFRICA ON BEHALF OF ARAWEN PROPERTIES (PTY) LTD**

**Erf 332 GPB (1498)**

**SW van der Merwe**

**10 February 2016**

**(028) 313 8900**

**Hermanus Administration**

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### **1. Executive Summary**

To consider an application received on 28 May 2010 from Messrs NuPlan Africa on behalf of Arawen Properties (Pty) Ltd for the following:

- application in terms of the Removal of Restrictions Act 84 of 1967 for the removal of restrictive title deed conditions applicable to Erf 332, Pearly Beach to enable the rezoning and subdivision of the property in order to develop 14 single residential erven, 3 private open spaces and 1 private road;
- application in terms of the provisions of the Local Government Municipal Systems Act 32 of 2000 for the amendment of the Overstrand Municipal Wide Spatial Development Framework in order to change the reservation of Erf 332, Pearly Beach from commercial to single residential, open space and road usage;
- application in terms of the provisions of Section 17 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) for the rezoning of Erf 332, Pearly Beach from Central Business Zone to Subdivisional Area, in order to develop 14 single residential erven, 3 private open space erven and 1 private road erf, and
- application in terms the provisions of Section 24 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) for the subdivision of Erf 332, Pearly Beach into 18 portions (14 single residential erven with an average size of approximately 626m<sup>2</sup>, 3 private open space and 1 private road erf).

A Locality Plan of the subject property is attached as Annexure A. The proposed Subdivision- and Rezoning Plans are attached as Annexure B, while the Motivation Report in support of the proposal is attached as Annexure C.

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**2. Service Delivery and Budget Implementation Plan - IGNITE**

Infrastructure and Planning  
Town- and Spatial Planning

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance  
Promotion of tourism, economic and social development

**4. Delegated Authority**

Executive Mayor (for purposes of considering a rezoning and subdivision)

**5. Legal Requirements**

- Removal of Restrictions Act 84 of 1967
- Sections 17 and 24 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)
- Local Government Municipal Systems Act 32 of 2000

**6. Background/Discussion/Evaluation**

**Background**

The subject property is located on the corner of Esplanade- and Arcadia Streets, Pearly Beach. The property is zoned for Central Business Zone purposes. The Title Deed restricts the development to that of a hotel with associated outbuildings, whilst also containing subdivision, building line and coverage restrictions. In terms of the aforementioned, the property could be developed under its primary rights with a hotel building comprising several storeys, subject to compliance with a 10,5m height restriction, a floor factor of 2 and a 50% coverage restriction.

On 27 October 2006 Overstrand Municipality recommended a similar application comprising a rezoning, amendment of the former Greater Gansbaai Spatial Plan and removal of restrictive title conditions in order to create 14 single residential erven for approval to the Provincial Government: Western Cape (PGWC), whilst the subdivision was approved by Overstrand Municipality. The PGWC subsequently refused the application for the following reasons, namely:

*“The proposed change in the permitted use of the property is not regarded as desirable, as a hotel will have a lesser impact on the environment and the surrounding properties than residential development and a hotel will promote tourism by the provision of holiday accommodation in an environmentally sustainable manner.”*

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During 2010 a new application was submitted comprising the following:

- application in terms of the Removal of Restrictions Act 84 of 1967 for the removal of restrictive title conditions applicable to Erf 332, Pearly Beach to enable the rezoning and subdivision of the property in order to develop 14 single residential erven, 3 private open space erven and 1 private road erf;
- application in terms of the provisions of the Local Government Municipal Systems Act 32 of 2000 for the amendment of the Overstrand Municipal Wide Spatial Development Framework in order to change the reservation of Erf 332, Pearly Beach from commercial to single residential, open space and road usage;
- application in terms of the provisions of Section 17 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) for the rezoning of Erf 332, Pearly Beach from Central Business Zone to Subdivisional Area, in order to develop 14 single residential erven, 3 private open space erven and 1 private road erf, and
- application in terms the provisions of Section 24 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) for the subdivision of Erf 332, Pearly Beach into 17 portions (14 single residential erven with an average size of approximately 626m<sup>2</sup>, 3 private open space erven and 1 private road erf).

Environmental Authorisation (EA) was granted on 20 May 2013. Subsequently an appeal was lodged against the EA. The Ministry of Local Government, Environmental Affairs and Development Planning dismissed the appeal on 24 March 2014.

### **Discussion**

Interested and affected parties were notified of the application in the prescribed manner during January 2011 and again during October 2014. Initially 4 letters of objection were received from the Pearly Beach Conservancy, A & K Stanfliet, J & R Stonehewer and the Pearly Beach Ratepayers' Association. Following the 2014 notifications 7 letters of objection were received (Pearly Beach Conservancy, Elrina Versveld, J & R Stonehewer, R Stonehewer, Werksmans Attorneys, A & I Smith and P & V Burton-Moore). The objections are attached as Annexure D. The applicant's comment on the objections is attached as Annexure E.

The main grounds of the objections can be summarized as follows (the town planner's comment is directly below each point of objection):

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- 1. The subject property is located in the conservation network and ecological corridor. Milk wood trees to be preserved**

*The subject property is located within the urban edge and forms part of the Pearly Beach Township and is zoned for commercial purposes. It is not located within the conservation network, but adjoining thereto. According to the motivation report the existing milk wood trees will be retained.*

- 2. No development should take place within the coastal setback line or within 100m from the high water mark as per relevant national legislation**

*The current application was subject to a Basic Assessment Report (BAR) that resulted in the granting of Environmental Authorisation. The BAR was informed by various specialist studies, amongst others a Coastal Setback Line determination, which was determined as 70m from the high water mark and accepted by the competent authority. The subject property (the proposed development) is situated on the landward side (behind) the setback line which had been accepted by the Department of Environmental Affairs and Development Planning (DEA&DP).*

- 3. Development of dwellings on top of the dune should be avoided in order to protect views, prevent destabilization of the dune, wind and sand erosion that will eventually impact negatively on adjoining fauna and flora**

*The siting and placement of the dwellings were informed by specialist studies, such as the botanical survey, setback line and visual impact studies and accepted by the competent authority. The proposed development will be single storey, makes provision for limited use of the loft space opposed to the primary rights which allows for a multi storey hotel building measuring up to 10,5m in height. The proposed siting is also supported by Cape Nature. Development would be subject to an Environmental Management Plan (EMP) which during construction phase will be monitored by an Environmental Control Officer (ECO), thereby ensuring erosion and destabilization of the dune and windblown sand is prevented.*

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- 4. New planting to be restricted to indigenous and should be written into the Title Deed of the property. No mechanical plot clearing to be permitted**

*Vegetation will be restricted to indigenous vegetation and plot clearing will be done by hand. The aforementioned will be incorporated within the conditions of approval.*

- 5. A single conservancy tank would be inadequate**

*A single conservancy tank will be installed in compliance with the relevant municipal standards.*

- 6. Departures from coverage restriction of 50% should not be permitted**

*Noted. The coverage in terms of the applicable Scheme Regulations is restricted to 50% and any deviations thereof will trigger a planning application.*

- 7. Outdoor lighting should be restricted with downward shielding, whilst street lights should not be permitted**

*Noted and to be incorporated in the conditions of approval.*

- 8. No access to Esplanade Street should be permitted in order to protect the dune and green corridor**

*Esplanade Street is an existing gravel street. Access has already been approved in terms of the Environmental Authorisation and the road authority. A private open space buffer adjoining Esplanade Street will also serve to protect the lower rear part of the dune, where it abuts Esplanade Street, and will be maintained by the Home Owners' Association (HOA) in line with an Environmental Management Plan (EMP).*

- 9. Access to the sea across the dune to be restricted to a single access**

*Noted and to be incorporated in the conditions of approval.*

- 10. Owner's history of disregard for conservation**

*Noted. The HOA will be responsible for the management of the private open space in accordance with an Environmental Management Plan and will be incorporated in the conditions of approval.*

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- 11. Development should not be walled in but rather be provided for a ranch style fence that allows for the movement of small animals**

*The applicant agrees to the principle, but suggests palisade fencing, thereby ensuring that the balance between security and movement of small mammals is ensured and will be incorporated within the conditions of approval.*

- 12. Pearly Beach needs a hotel development more than another holiday housing projects since the long term employment benefits of a hotel outweighs the short term gain of construction benefits from a residential development utilized for 3 weeks per annum**

*Although it is agreed that a hotel development will lead to more sustainable job creation in the longer term, a hotel development is not financially viable in the current economic climate. Furthermore, it should be noted that another erf, with similar restrictions, namely Erf 162, Pearly Beach could cater for a future hotel development should the need arise.*

- 13. Proposed plots are smaller than the average plot size in Pearly Beach and would result in the loss of property value**

*Erf sizes north of Central Street and east of Charlie van Breda Street varies from 800m<sup>2</sup> and above. The proposed development would be subject to development guidelines ensuring an aesthetic uniform high quality development that is visually separated from development to the north of Central Street by public open space erven. The opinion is thus held that the proposal will not unacceptably detract from the character of the area or property values. The opinion is held that the objections based on loss of property value are speculative and not substantiated by facts.*

- 14. Pearly Beach has a large amount of vacant plots. It would be a waste to build more**

*It is acknowledged that Pearly Beach has many vacant plots, albeit in private ownership. The proposal will however be a unique development, compared to what the market currently has to offer in Pearly Beach. The subject property is also currently a developable erf, within the urban edge. The opinion is held that need and demand, or the so called lack thereof, cannot justify a refusal in the circumstances.*

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- 15. The subject property is located within the coastal setback lines, restricting new developments**

*Refer to the comment under paragraph 2 above.*

- 16. General disruption from construction activities that may take several years will create a permanent building atmosphere, disrupting surrounding residents and holiday homes**

*A condition will be imposed to ensure that the servicing of the development occurs in a single phase. It is acknowledged that construction activities may take a while to be finalized, but would not be different from building work elsewhere in Pearly Beach or the surrounding coastal towns. The EMP provides for appropriate mitigation measures which will be enforced by the ECO and HOA.*

- 17. Windblown sand and dust resulting from removal of natural vegetation and construction activities will result in health problems, property damage, etc.**

*The aforementioned issues are addressed in the EMP that caters for both the construction and operational phases of the development.*

- 18. The application is similar to the previous application that was refused by the Department of Environmental Affairs and Development Planning (DEA&DP) that stated that the proposed residential use is not desirable and would have a greater impact on the environment compared to a hotel. The application should therefore be refused for the same reasons**

*EA was granted by the Department of Environmental Affairs and Development Planning for the current development proposal. In the reasons for reaching their decision it is stated that the proposed development would be more in keeping with the character of Pearly Beach as a coastal village, generate less traffic, lower bulk and visual impact, minimum excavation and earth moving, less traffic across the dune and provides controlled access to the beach.*

- 19. Current zoning and Title Deed restriction solely allow for a hotel development that will enhance tourism and the status of the surrounding residential areas. The site is perfectly positioned for a hotel, but not for a residential development**

*Noted. Refer to the comment under paragraph 12. above.*

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- 20. Proposed development comprising double storey dwellings on top of the dunes will have a detrimental effect upon views and property value of surrounding properties compared to a hotel with less impact**

*The proposed development will be restricted to single storey dwellings, permitting limited use of the loft space and be subject to a 7,5m height restriction. Given the primary development rights that will have a greater visual impact compared to the current proposal, this is supported by the visual Impact Assessment. The claim with regard to loss of property value is speculative.*

- 21. No mitigation measures is stipulated with regard to the proposed double storey houses and the visual impact they might have**

*Double storey dwellings will not be permitted. Mitigation measures are incorporated in the visual impact assessment that form part of the specialist reports, informing the development proposal.*

- 22. No restrictions and little proposals in the EIA pertaining to dust suppression, noise pollution and harmonizing the development with the surrounding sensitive vegetation**

*The aforementioned is addressed in the EMP that was submitted together with the BAR.*

- 23. The timing of the development is worrisome as it might prolong for many years impacting on the environment and surrounding properties**

*Refer to the comment under paragraph 16.*

- 24. Architectural guidelines to be amended to permit single storey dwellings only. No objection to the 30% of the loft space being utilized as a mezzanine floor**

*The applicant states that the development will be single storey, with restricted use of the loft space with mezzanine floors and will be incorporated in the conditions of approval.*

- 25. Development should be subject to a 6m height restriction, whilst the loft space may not be utilized at all**

*The loss of floor space will result in an increase in coverage, which in turn will impact negatively on the natural vegetation and environment. In terms of the Visual Impact Assessment (VIA) the proposed development will have a lesser visual impact compared to a hotel development*

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*utilizing the applicable primary development rights. Whilst it is acknowledged that the proposed development will have some impact, when balanced against the primary development rights currently enjoyed by the property owner, a 6m height restriction and prohibition on limited use of the roof space cannot be justified.*

- 26. No objection to garages/carports that encroach lateral building lines as per the proposed architectural guidelines. A clause should however be inserted restricting the encroachment of the front and rear building lines of the properties**

*Noted. Development, except for the aforementioned exceptions should comply with the applicable building lines since the proposed development does not provide for building line departures.*

- 27. Development should not detract from the character of Pearly Beach as a small coastal village, or from the character of the conservation area**

*The opinion is held that a residential development accords with the character of Pearly Beach as a small coastal village opposed to a major hotel development as per the applicable primary rights. Therefore, the opinion is held that the development will not unacceptably detract from the character of Pearly Beach or the conservation area.*

- 28. Controlled access to the sea is not possible**

*The development provides for a single controlled access to the sea. The HOA will be responsible for the management thereof, since it is a private development.*

- 29. The subject property should be made available as a conservation area to the Pearly Beach Conservancy**

*The subject property is a developable erf, inside the urban edge, forming part of the existing Pearly Beach Township. The erf is in private ownership but nothing prevents the conservancy to make an offer to the owner, should they wish to acquire the property for conservation purposes at a market related value.*

The applicant's comment is attached as Annexure E.

### **Evaluation**

Erf 332, Pearly Beach is located towards the north western end of Pearly Beach. The erf is part of a vegetated sandy dune (secondary dune) running roughly in a north western to south eastern direction. The erf is bordered in the

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south by Arcadia Street and Esplanade Street to the north east side. The property measures 1,34 ha in extent and is currently vacant. It is zoned for central business purposes, restricted to the development of a hotel. The indigenous vegetation on the subject property is classified as Overberg Dune Strandveld, which is classified as least threatened.

The surrounding area comprises mainly low density single residential development with some vacant residential erven. To the north east of the site, is an undeveloped business node and service station erf currently allowing residential properties to the rear unprotected sea views. To the north, south and west are municipal public open space erven abutting the coast.

The proposed development will consist of 14 single residential erven with an average erf size of 628m<sup>2</sup>. Provision is made for 1 private road erf with an 8m road reserve and 3 private open space erven which will be maintained by the HOA. A single controlled pedestrian access to the beach will be provided to the western side of the development. The existing milk wood trees that are protected will be retained. The HOA will be responsible for the maintenance and upkeep of the private roads and private open space erven and to ensure adherence with the conditions of approval.

The relevant government departments and institutions, including the relevant municipal departments were provided the opportunity to comment on the application. No objections were received.

### **Forward Planning**

The subject property is located within the existing urban edge of Pearly Beach and is not situated within the conservation buffer, but adjacent thereto. The Overstrand SDF (2006) reserves the subject property for commercial purposes. The 2010 Growth Management Strategy (GMS) earmarked the subject property for residential densification in the 20–30 du/ha range, whilst also referring to the area as an economic opportunity.

The proposed residential development is in line with the existing forward planning for the area as per the 2010 GMS, but requires the amendment of the Spatial Development Framework, 2006. Being located within the urban edge the proposal will contribute to strategic principles of densification, the provision of a balanced land use mix in that a total of 14 additional residential opportunities will be provided at a gross density of 10 du/ha, whilst maintaining an acceptable balance in terms of its impact on the receiving natural and built environment.

Although the subject property is located in a densification zone earmarked for residential densification between 20-30 du/ha, the sensitive location of the subject property abutting the coastal edge resulted in the granting of an EA for a lower density development, which is considered more acceptable in terms of

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its impact on the natural and built environment compared to a higher impact hotel development utilizing the primary development rights.

**Environmental**

Environmental Authorisation (EA) was granted, having had regard to inputs from various government departments, interested and affected parties as well as an Archaeological, Botanical, Coastal Setback and Visual Impact Assessments. The applicant/developer and subsequently the HOA will be responsible to ensure that the development occur in accordance with the approved Environmental Management Plan (EMP).

The previous application for rezoning, subdivision, removal of restrictions and SDF amendment was refused since DEA&DP believed that the proposed development was not desirable as a hotel development would have less impact on the environment and surrounding properties than residential development and due to the fact that a hotel will promote tourism by the provision of holiday accommodation in an environmentally-sustainable manner.

The Basic Assessment Report (BAR) that accompanied the current application resulting in an EA states that a hotel development will have a negative impact on the receiving environment (natural and built environment), that a low density residential development will be in keeping with the character of a coastal village, whilst also incorporates mitigation measures in the design to conserve milk wood trees, adhere to setback lines, have a low frequency of pedestrian movements to the beach, low bulk, height and traffic impact.

The aforementioned is also concurred with from a planning point of view, since a hotel development together with its normal associated uses/facilities (restaurants, conferencing, venue, spa/beauty treatment) will result in a level of activity with a far greater impact on the character and appearance of the surrounding area and the natural environment compared to the proposed development.

**Environmental setback**

The setback line falls on the western coastal boundary of Erf 332 and does not encroach onto the development site. According to the specialist report the dune system is stable and noted that the vegetation line actually increased seawards. The conclusion is drawn that the bay in front of the subject property was not subject to long term erosion. Access to the beach would be provided via a single controlled boardwalk. The opinion is thus held that the development will not unacceptably impact on the environment, subject to compliance with the EMP.

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### **Visual impact**

A Visual Impact Assessment (VIA) was conducted and incorporated in the BAR. The VIA determined that the proposed development, although visible, will have a lower visual impact opposed to a hotel development. The existing property, although vacant, already has development rights that are likely to result in a development with a greater visual impact compared to the proposed low density residential development. It should also be borne in mind that the adjacent local business node and service station erf is undeveloped, thus providing residential properties further to the north, east and south east unprotected coastal views, which is not deemed to be a right. Accordingly the proposed mitigation measures in the form of a 7,5m height restriction, single storey development, combined with limited use of the roof space (30% in the form of a mezzanine) that will be incorporated in the conditions of approval will serve to acceptably protect the character of the area and visual amenity of the locality.

### **Archaeology**

The survey indicated that the development will impact on archaeological remains and recommends mitigation measures that will be incorporated in the conditions of approval, namely archaeological sampling prior to the commencement of the development, that the development be monitored by a professional archaeologist and should human remains be discovered it should be brought to the attention of Heritage Western Cape.

### **Service provision**

The Engineering Services Department accepted the recommendations contained in the Engineering Services Report compiled by KV3 (now Worley Parsons) and Messrs. CES subject to conditions. The development will be subject to the completion of a Services Agreement and payment of bulk services levies thereby ensuring that the provisions and recommendations pertaining to infrastructure services and upgrades required are adhered to. As such it is evident that the provision of services has been adequately addressed.

### **General**

In terms of the SDF the Overstrand Municipal Area, which includes the Greater Gansbaai Area is earmarked as an area with high growth potential. The area also serves as a tourist destination, retirement/holiday town. The opinion is held that the development will provide residential opportunity in the form of a gated/access controlled development in a unique location.

The opinion is held that the density of the development will not detract from the character and appearance of the surrounding area. In order to limit the impact

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of the proposed development on the receiving environment the density of the proposed development is less than that prescribed in the Growth Management Strategy (GMS), but deemed to be acceptable due to the sensitive location of the subject property.

A HOA will be established for the development with compulsory membership for individual property owner(s). The HOA will be responsible for the maintenance and upkeep of communal property - private road and private open space and the boardwalk across the front dune as well as the aesthetics of the development. Accordingly a constitution and development rules should be submitted for approval by the Senior Manager: Town- and Spatial Planning. The HOA will also be responsible to ensure compliance with the provisions of the EMP and ongoing monitoring of the impact of the development.

It is believed that the proposed development will have very little or no significant negative impact on the safety and wellbeing of the local community. Increased rates and income from the proposed development will be to the benefit of the whole community.

Section 36 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) *inter alia* stipulates that a rezoning/subdivision application may only be refused if it lacks desirability or if it impacts negatively on existing rights. Having had regard to the evaluation above it should be noted that a hotel development will have a greater impact on the natural and built environment, with more frequent and greater intensity of activities, whilst a well-managed residential development in accordance with the conditions of approval will have a lesser impact on the natural and built environment, visually and environmentally for the following reasons, namely:

- lower frequency of pedestrian traffic across the dune;
- controlled access to the beach;
- minimum earth moving and excavation;
- low visual impact due to low bulk and height;
- more in keeping with the residential character of Pearly Beach;
- low trip generation and traffic impact;
- development will accommodate existing milk wood trees, and
- development will adhere to a setback line.

**Removal of restrictive title deed conditions**

For the reasons outlined above, the proposed development is deemed desirable and the application for the removal of restrictive Title Deed conditions is recommended for approval to the Provincial Government: Western Cape.

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**Conclusion**

The application is considered desirable and is recommended for approval as per the recommendation below.

**7. Financial Implications**

None

**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations**

**Building Department**

*"No objection".*

**Fire Service**

Annexure M.

**Services Report**

Annexure N.

**10. Annexures**

- Annexure A: Locality Plan
- Annexure B: Proposed subdivision- rezoning plans
- Annexure C: Motivation Report
- Annexure D: Objections
- Annexure E: Applicant's comment on the objections
- Annexure F: Heritage Western Cape
- Annexure G: Department of Transport & Public Works
- Annexure H: Eskom
- Annexure I: Department of Environmental Affairs and Development Planning (EA)
- Annexure J: Environmental Management Plan
- Annexure K: CapeNature
- Annexure L: Breede-Gouritz Management Catchment Area
- Annexure M: Comment Fire Services
- Annexure N: Services Report

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**RECOMMENDATION TO THE EXECUTIVE MAYOR:**

1. that the objections, **be noted**;
2. that the application for the rezoning of Erf 332, Pearly Beach from Central Business Zone to Subdivisional Area, in order to develop 14 single residential erven, 3 private open spaces and 1 private road erf in terms of the provisions of Sections 16 and 25 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), **be approved**;
3. that the application for the removal of restrictive title conditions, namely conditions C4.(a), (b), (c) and (d) contained in Title Deed T87274/2006, **be recommended for approval** to the Provincial Government: Western Cape;
4. that the approvals in paragraphs 2. and 3. above be subject to the following conditions:
  - (a) that a Subdivisional Plan be submitted for endorsement in terms of Section 25 of the Land Use Planning Ordinance, which plan shall indicate the corresponding zonings in terms of the Overstrand Zoning Scheme Regulations;
  - (b) that the development occurs in accordance with the development parameters of the corresponding zonings in terms of the Overstrand Zoning Scheme Regulations;
  - (c) that all the conditions in the Municipal Services Report (attached as Annexure N), **be complied** with;
  - (d) that all the conditions imposed by the Department of Transport and Public Works; Department of Agriculture, Eskom, Department of Education, Department of Environmental Affairs and Development Planning (EA), Department of Agriculture, Forestry and Fisheries, CapeNature, Breede-Gouritz Management Catchment Area and the Department of Health (Annexures F-M), **be complied** with;
  - (e) that this approval does not absolve the applicant from compliance with any other relevant legislation;
  - (f) that a Home Owners' Association (HOA) be established with compulsory membership for all property owners of single residential erven and written into the Title Deeds of the erven;

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- (g) that the HOA assumes responsibility (including costs) for the provision, maintenance, management and upkeep of the communal property, including private open space and private road erven and the boardwalk across the dune;
- (h) that the applicant/developer/HOA will be responsible to ensure that the development occur and the subject property be maintained in accordance with the approved Environmental Management Plan;
- (i) that the constitution of the HOA be submitted for approval by the Senior Manager: Town- and Spatial Planning (which reserves the right to impose additional conditions in this regard), and that the constitution *inter alia* clarifies at what stage the responsibility for the provision/maintenance of internal services/facilities and the transfer of the communal property from the land owner/developer to the HOA will take place;
- (j) that the existing milk wood trees be retained on site and may not be removed without the prior written approval of the Municipality;
- (k) that vegetation is restricted to indigenous vegetation in accordance with a planting list which planting list shall be incorporated within the constitution of the development. The planting list shall be submitted for approval by Council's Environmental Management Services Department and the developer/HOA will be responsible for the enforcement thereof;
- (l) that plot clearing shall be done by hand only. No mechanical plot clearing will be permitted;
- (m) that outdoor lighting shall be restricted to the minimum and be provided with downward shielding. No street lights will be permitted;
- (n) that access to the sea shall be restricted to a single access to be covered with a board walk, the details of which (siting, elevation details and construction method) shall be submitted for approval by the Environmental Management Services Department;
- (o) that details of fencing shall be submitted for prior approval by the Municipality, which shall allow for the movement of small animals;
- (p) that the development will be restricted to single storey development, whilst mezzanines designed as an integral part of the building, not exceeding 30% of the floor space of the building will be permitted and not deemed as a second storey;

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- (q) that a 7,5m height restriction measured from natural ground level directly adjacent to the building be applicable; and
  - (r) that architectural guidelines be submitted for approval by the Senior Manager: Town- and Spatial Planning.
5. that the applicant be notified of its right of appeal in terms of Section 62 of the Local Government: Municipal Systems Act No 32 of 2000 with regard to the above decision and conditions of approval.

**RECOMMENDATION TO THE COUNCIL:**

that the application for Amendment of the Overstrand Municipal Wide Spatial Development Framework, 2006 to change the reservation of Erf 332, Pearly Beach from commercial to single residential, open space and road usage, **be approved.**

<b>RESPONSIBLE OFFICIAL :</b>	<b>SW VAN DER MERWE</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>13 APRIL 2016</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>13 APRIL 2016</b>
<b>TARGET DATE TO INFORM OBJECTORS :</b>	<b>13 APRIL 2016</b>

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
22 March 2016  
(Also the agenda for the Mayoral Committee Meeting : 30 March 2016)**

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21.

**ERF 332, CORNER OF ARCADIA- AND ESPLANADE STREET, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA : PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, AMENDMENT OF THE OVERSTRAND MUNICIPAL WIDE SPATIAL DEVELOPMENT FRAMEWORK, REZONING AND SUBDIVISION : MESSRS NUPLAN AFRICA ON BEHALF OF ARAWEN PROPERTIES (PTY) LTD**

**Erf 332 GPB (1498)**

**SW van der Merwe**

**10 February 2016**

**(028) 313 8900**

**Hermanus Administration**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 22 MARCH 2016, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION TO THE EXECUTIVE MAYOR:**

1. that the objections, **be noted**;
2. that the application for the rezoning of Erf 332, Pearly Beach from Central Business Zone to Subdivisional Area, in order to develop 14 single residential erven, 3 private opens space erven and 1 private road erf in terms of the provisions of Sections 16 and 25 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), **be approved**;
3. that the application for the removal of restrictive title conditions, namely conditions C4.(a), (b), (c) and (d) contained in Title Deed T87274/2006, **be recommended for approval** to the Provincial Government: Western Cape;
4. that the approvals in paragraphs 2. and 3. above be subject to the following conditions:
  - (a) that a Subdivisional Plan be submitted for endorsement in terms of Section 25 of the Land Use Planning Ordinance, which plan shall indicate the corresponding zonings in terms of the Overstrand Zoning Scheme Regulations;
  - (b) that the development occurs in accordance with the development parameters of the corresponding zonings in terms of the Overstrand Zoning Scheme Regulations;
  - (c) that all the conditions in the Municipal Services Report **be complied** with;

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- (d) that all the conditions imposed by the Department of Transport and Public Works; Department of Agriculture, Eskom, Department of Education, Department of Environmental Affairs and Development Planning (EA), Department of Agriculture, Forestry and Fisheries, CapeNature, Breede-Gouritz Management Catchment Area and the Department of Health, **be complied with;**
- (e) that this approval does not absolve the applicant from compliance with any other relevant legislation;
- (f) that a Home Owners' Association (HOA) be established with compulsory membership for all property owners of single residential erven and written into the Title Deeds of the erven;
- (g) that the HOA assumes responsibility (including costs) for the provision, maintenance, management and upkeep of the communal property, including private open space and private road erven and the boardwalk across the dune;
- (h) that the applicant/developer/HOA will be responsible to ensure that the development occur and the subject property be maintained in accordance with the approved Environmental Management Plan;
- (i) that the constitution of the HOA be submitted for approval by the Senior Manager: Town- and Spatial Planning (which reserves the right to impose additional conditions in this regard), and that the constitution *inter alia* clarifies at what stage the responsibility for the provision/maintenance of internal services/facilities and the transfer of the communal property from the land owner/developer to the HOA will take place;
- (j) that the existing milk wood trees be retained on site and may not be removed without the prior written approval of the Municipality;
- (k) that vegetation is restricted to indigenous vegetation in accordance with a planting list which planting list shall be incorporated within the constitution of the development. The planting list shall be submitted for approval by Council's Environmental Management Services Department and the developer/HOA will be responsible for the enforcement thereof;
- (l) that plot clearing shall be done by hand only. No mechanical plot clearing will be permitted;
- (m) that outdoor lighting shall be restricted to the minimum and be provided with downward shielding. No street lights will be permitted;

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- (n) that access to the sea shall be restricted to a single access to be covered with a board walk, the details of which (siting, elevation details and construction method) shall be submitted for approval by the Environmental Management Services Department;
  - (o) that details of fencing shall be submitted for prior approval by the Municipality, which shall allow for the movement of small animals;
  - (p) that the development will be restricted to single storey development, whilst mezzanines designed as an integral part of the building, not exceeding 30% of the floor space of the building will be permitted and not deemed as a second storey;
  - (q) that a 7,5m height restriction measured from natural ground level directly adjacent to the building be applicable; and
  - (r) that architectural guidelines be submitted for approval by the Senior Manager: Town- and Spatial Planning.
5. that the applicant be notified of its right of appeal in terms of Section 62 of the Local Government: Municipal Systems Act No 32 of 2000 with regard to the above decision and conditions of approval.

**RECOMMENDATION TO THE COUNCIL:**

that the application for Amendment of the Overstrand Municipal Wide Spatial Development Framework, 2006 to change the reservation of Erf 332, Pearly Beach from commercial to single residential, open space and road usage, **be approved**.

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