



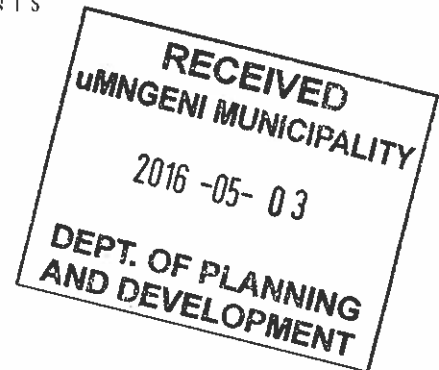
CHRISTOPHER, WALTON & TATHAM

ATTORNEYS, NOTARIES, CONVEYANCERS
ADMINISTRATORS OF ESTATES
AND LABOUR LAW CONSULTANTS

Ref.: Ours W A Christopher/mm
Yours

3 May 2016

The Municipal Planning Registrar
Umngeni Municipality
HOWICK
3290



BY HAND

Dear Sirs

PLANNING APPLICATION BY MOUNT VERDE (PTY) LTD IN RESPECT OF CERTAIN PORTIONS OF THE FARM MOUNT VERDE NO. 18081

We act on behalf of the Mount Verde Farmers Association within the jurisdiction of which the land which is the subject of this application is located. Mr Owen Greene or Greene Land acts on behalf of the Garlington Homeowners Association, the body which is charged with the administration of Garlington Estate.

Please find attached preliminary submissions concerning the application.

Yours faithfully

CHRISTOPHER, WALTON & TATHAM INC.

133 MURCHISON STREET, P.O. BOX 126 & 332
LADYSMITH, KWAZULU-NATAL 3370
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PROPRIETOR: CHRISTOPHER, WALTON & TATHAM INCORPORATED
REG. NO. 2000 021630/21
DIRECTORS: ANTHONY CHRISTOPHER: B.A.LL.B. CERT. DEP. EWAN CAMERON: B.PROC. LL.M. CERT. DEP.
IAN GRACIE: B.PROC. LL.M. CERT. ACSL. CERT. TAX PRACTICE WILLEM VENTER: B.A. LL.B. LL.M.
ALSO AT UMHLANGA ROCKS

**MEMORANDUM SUBMITTED BY THE
GARLINGTON HOMEOWNERS ASSOCIATION ("GHOA") AND THE
MOUNT VERDE FARMERS ASSOCIATION ("MVFA"), JOINTLY REFERRED
TO AS THE OBJECTORS, IN CONNECTION WITH AN APPLICATION IN
TERMS OF CHAPTER 3 OF THE KWAZULU NATAL PLANNING AND
DEVELOPMENT ACT, IN RESPECT OF CERTAIN PORTIONS OF THE FARM
MOUNT VERDE NO. 18081 ("THE LAND") BY MOUNT VERDE (PTY) LTD
("APPLICANT")**

1.

Both Objectors have a direct and substantial interest in this Application. Neither received notice thereof, and as far as can be ascertained, nor have landowners adjacent to the land within Mount Verde Estate, Garlington Estate, and in the neighbouring suburb of Hilton Gardens. The Objectors require to be given proper notice of the Application, to be served with a full copy thereof together with copies of all other submissions and relevant correspondence which have been exchanged since the inception of this matter.

2.

It appears that Applicant has, without permitting the Objectors an opportunity to comment, obtained consent to subdivide the land in terms of Act 70/70. The GHOA has lodged an appeal against the grant of such a consent to subdivide. Until this issue has been finalized it is submitted that this matter cannot be further considered.

3.

Garlington Estate, Mount Verde Estate and indeed the whole of Hilton Gardens will be affected by access issues and traffic flows in the area. Applicant's submission at Para 4.5

"Road Access and Internal Roads" is manifestly incorrect. Account should be taken of the following:

- All traffic entering and exiting Mount Verde Estate (apart from some exceptional traffic using the Claridge gate) uses the Weir Drive gate. There are about 50 subdivisions. All present and future construction traffic uses the same entrance.
- It is anticipated that some if not all the new Westhaven traffic (23/30 residential units generating 60 peak hour trips daily) may also use the same entrance when it is completed.
- The proposed 90 subdivisions will also use the Weir Drive gate.
- Even if another entrance (from Fairview Crescent) is created to the Mount Verde Estate, the Hilton Gardens area will experience a peak hour traffic increase of more than 150 vehicles.
- In terms of the Manual for Traffic Impact Studies (RR93/635) a Traffic Impact Study is therefore required.

This should be completed before this matter proceeds.

4.

Water supply issues in the area are problematic. Applicant's averments at Para 4.1 are in the respectful submission of the Objectors hopelessly deficient. It does not appear that any Services Agreement has been concluded with the local water authority for the provision of water and the suggestion that in the absence of municipal water, streams and boreholes will be sufficient is viewed by the Objectors of considerable alarm. Applicant must deal with this issue properly prior to this matter proceeding by seeking the comments of relevant government and municipal departments and if necessary commissioning a hydrologist's investigation.

5.

Although it is stated at Para 6 of the Application that no approval is required in terms of the National Environmental Management Act Regulations, it is submitted that this is necessary. An Environmental Impact Assessment must be undertaken prior to this matter being further considered and it is understood that one has now been requested. The Objectors are Interested and Affected parties and will seek to participate in the consultative process that will precede an adjudication of this matter.

6.

The land falls under the jurisdiction of the MVFA and as Applicant is a member of the MVFA it must comply with its Constitution and Rules. Although the MVFA has agreed in principle that Applicant may withdraw from the MVFA, it may only do so under certain conditions either agreed with, or imposed by the MVFA. As no conclusion of this process has been reached, Applicant must at all times be in compliance with the said Constitution and Rules. These lay down that the land can only be used for agricultural purposes. As the present application contemplates a residential development, it is submitted that the MVFA's prior consent to what is intended must be given. This has neither been requested nor provided. It should also be recorded that the MVFA intends to impose other conditions upon a withdrawal including, but not limited to resolution of access and traffic issues internally and externally, provision of water to the proposed development in a manner which will not adversely affect existing water usage within the Mount Verde Estate, mitigation of environmental impacts, reorganization of the security arrangements within and on the perimeter of the Estate and other matters. It is submitted that these issues must be resolved prior to the any tribunal adjudication on the application itself.

Objectors reserve the right to amplify this Memorandum once all relevant documentation including the application itself have been properly served. The Objectors' addresses are as follows:

1. Garlington Homeowners Association:

The General Manager
Garlington Homeowners Association
Garlington Estate
Seeking Drive
Hilton Gardens
Hilton-Kwazulu-Natal
(ATT: Mrs Karin Earle)

Mount Verde Farmers Association:

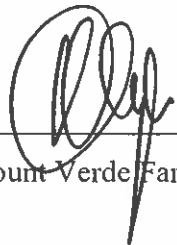
The General Manager
Mount Verde Farmers Association
3 Weir Drive
Hilton Gardens
Hilton-Kwazulu-Natal
(ATT: Mrs Lindy Collier)

Upon production of a list of landowners falling along the boundaries or adjacent to the proposed development, the Objectors will provide addresses and/or means by which service can take place upon such persons.

Dated at HILTON this 3 day of MAY 2016



For Garlington Homeowners Association



For Mount Verde Farmers Association