

MINUTES OF 211th MEETING OF THE GOA TOWN & COUNTRY PLANNING BOARD HELD ON 15/01/2025 AT 10.30A.M. IN CONFERENCE HALL, VAN BHAVAN, ALTINHO, PANAJI.

Following attended the meeting:

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| 1. | Shri. Vishwajit P. Rane,
Hon'ble Minister for TCP | ... | Chairman |
| 2. | Dr. Deviya V. Rane,
Hon'ble MLA, Poriem | ... | Member |
| 3. | Shri Rajesh Faldessai,
Hon'ble MLA Cumbharjua | | Member |
| 4. | Shri Praveen Kumar Raghav,
C.C.F. | ... | Member |
| 5. | Dr. Mohanrao P. Dessai,
CMCNDC, DHS | ... | Member |
| 6. | Shri Prakash G. Raut,
Directorate of Agriculture | ... | Member |
| 7. | Shri Subhash J. Gaunkar,
DPSE | ... | Member |
| 8. | Shri PareshGaitonde | ... | Member |
| 9. | Shri Rajeev M. Sukhthanker | ... | Member |
| 10. | Ms. VertikaDagur | ... | Chief Town Planner (Admn.) |
| 11. | Shri. Rajesh J. Naik,
Chief Town Planner (Planning) | | Member Secretary |

Item No. 1: Confirmation of the Minutes of the 210th meeting of Town & Country Planning Board held on 30/12/2024.

Member Secretary informed that the Minutes of 210th meeting of TCP Board held on 30/12/2024 are prepared and the same were placed before the Board for confirmation.

Members took note of the Minutes circulated and as there were no further suggestions/comments, the same were treated as confirmed.

Item No. 2: Appeal under Section 45(1) & (2) of the TCP Act, 1974 filed by Mr. Sanjay Santu Kudchadkar against South Goa Planning and Development Authority. (File No. TP/B/APL/456/24)

Member Secretary informed the members that the Board is in receipt of an appeal filed by Mr. Sanjay Santu Kudchadkar against the Member Secretary, South Goa Planning and Development Authority. The Appellant is the owner in possession of residential building standing on the plot admeasuring an area of 1000 sq. mts, surveyed under No. 181/4A of village Ponda, Taluka Ponda, situated at Ponda, within the area of Ponda Municipal Council, District of South Goa, State of Goa. The said Plot was purchased by the Appellant vide Deed of sale dated 18/02/1988 and registered before Sub registrar Ponda and bearing Registration No. 127 at pages 165 to 172 of Book I Volume 30 dated 5/4/1991, wherein Appellant purchased the ground floor of the building and by virtue of Will dated 8/1/1993, Appellant became Owner of the First floor of the said building.

As per the Appeal memo, the said building was constructed by the father of the Appellant after the purchase of the said Plot in the year 1965 and upon completion of the construction, Ponda Municipal Council had issued Occupancy Certificate bearing No. 14 dated 5/11/1965.

Appellant states that the building consists of Ground floor and First Floor having four residential flats which are occupied by the Appellant and his family members.

Appellant further states that he being retired from job and with an intention to start business for his livelihood, made an application dated 12/10/2024 to the Respondent PDA, for change of use of part of the residential flat admeasuring 119 sq. mts. on the ground floor of the said building. Appellant has submitted all the required documents such as existing building plan showing area for change in use, Site Plan with area details, Ownership documents, Occupancy Certificate, Land Survey Plan and Survey records in Form 1 & XIV, whereas, by its letter dated 30/10/2024, Respondent i.e. Member Secretary, South Goa Planning and Development Authority informed Appellant that proposal for change of use cannot be considered as front setback is not available on the site as required under regulation 4.4.1 of the Goa Land Development and Building Construction Regulations, 2010.

Being aggrieved by the order dated 30/10/2024 aspassed by the Respondent PDA, Appellant has preferred the present appeal for setting aside the said order and to grant permission for change in use of residential flat to commercial use of part of the existing building to the extent of 119 sq. mts. on the ground floor.

Appellant has mentioned the following grounds for consideration:

- a) The Respondent failed to appreciate that Appellant has not applied for construction of new building but only for change of use of part of existing building, only to an extent of 119 sq. mts i.e. one residential flat to be used as commercial premises on the ground floor.
- b) The Respondent failed to appreciate that front setback was maintained by the Appellant as per the regulations applicable at the time of construction of building and accordingly having found building constructed as per the approved plan, Ponda Municipal Council had issued Occupancy Certificate in the year 1965.
- c) The Respondent failed to appreciate that front setback is already maintained i.e. 6.5 meters from the centre line of the road, which is within the stipulated requirement of the Goa land Development and building Construction Regulation,2010.
- d) The Respondent erred in its finding that Appellant can comply as regards to front set back as if the Plan for new construction of building was submitted, whereas the fact is that the building is already in existence for last 55 years.
- e) The Respondent failed to appreciate that only portion of the existing building to the extent of 119 sq. mts on the ground floor was asked to be changed to commercial use only with the intentions that the Appellant can start with business for his livelihood being retired from his service.
- f) The Respondent erred in its finding that front setback is not available on the site, wherein the building is already an old building constructed as per the approved plans and is having Occupancy Certificate issued by the Ponda Municipal Council.
- g) The impugned order is contrary to the well settled principle of law.
- h) The Appellant states that the Respondent has overlooked the provision of Law.
- i) The Impugned order is based on presumption and surmises.
- j) The Impugned order is not well balanced.
- k) The Impugned order exhibits the non application of mind and law.

Member Secretary then informed that the Appellant has prayed as under:

- a) That the impugned order dated 30/10/2024 rejecting the application for change of use of floor on the ground floor submitted on dated 12/10/2024 be set aside and application of the Appellant dated 12/10/2024 for change of use of residential flat to commercial use of the existing flat admeasuring 119 sq. mts. be allowed/considered.
- b) Appellant be issued approval of the revised plan submitted, wherein Appellant has revised the existing residential flat to commercial premises to the extent of 119 sq. mts. on the ground floor.

During the argument on the present matter, Appellant Mr. Sanjay Santu Kudchadkar was present alongwith his son Sahil Kudchadkar, whereas Adv. Anirudh B. Salkar, appeared on behalf of Respondent SGPDA.

The Appellant informed the Board that the building in which he is residing was constructed by his father after the purchase of the said Plot in the year 1965 and upon completion of the construction, Ponda Municipal Council had issued Occupancy Certificate bearing No. 14 dated 5/11/1965. He further informed that the building as existing in the plot is also reflected on the survey plan and as a matter of past commitment requested the Board to relax the front setback which is falling short by 2.5 mts.

The Appellant also brought to the notice of the Board that his request is only for change of use of part of the premises for commercial purpose, admeasuring an area of 119 sq.mts. only and the same is required by him as he is retired person and therefore intends to undertake some commercial activity and further stated that it will be very difficult for him to purchase any new premises for undertaking any commercial activity, for he having been retired. The Appellant therefore requested for relaxation of setback such that his plans submitted for revision are considered for approval by the Respondent.

Advocate Shri Salkar appearing on behalf of Respondent PDA argued that Appellant has applied for change in use of the existing building from residential to commercial, which however is restricted onlyfor part of the existing ground floor. He further stated that since the use proposed on the ground floor is commercial, the required setback from centre line of road to the building where commercial use is proposed has to be maintained as required under the regulation, which the Appellant has failed to do and informed that the setback actually available on site

is falling short by 2.5 mts. and hence was the rejection of the proposal by the PDA as informed vide Order dated 30/10/2024 by citing therein regulation 4.4.1 of the Goa Land Development and Building Construction Regulation, 2010.

The Board deliberated on the matter and genuineness of the case and was of the opinion that the request for relaxation of front setback, as sought by Appellant requires a sympathetic consideration. The Board also took note that GLDBCR-2010 provides for relaxation on merits of the case, except those regarding FAR and projections within setback line. The Board took note that the request of Appellant does not seek relaxation of these two aspects. The Board also found that the applicant is facing hardship in complying with the present regulation for change of use, as he has already completed the development prior to coming into force of the present regulations.

The Board therefore decided that the PDA grant the relaxation as regard to minimum required front setback as applied for by the Appellant, subject to the condition that the Appellant maintains minimum required parking for the use proposed. The appeal therefore is allowed.

Member Secretary was accordingly directed to communicate the decision of the Board to the parties.

Item No. 3: Appeal under Section 52(2)(b) of the TCP Act, 1974 filed by Mr. Jyotendra B. Kamat against Mormugao Planning and Development Authority. (File No. TP/B/APL/458/24)

Member Secretary informed that the appeal was filed by Mr. Jyotendra B. Kamat against Mormugao Planning and Development Authority before TCP Board. The Appellant states that vide ref no. MPDA/ILL/Vasco/167/2024-25/1250 dated 18/11/2024 issued by Respondent PDA under section 52 of the Goa Town and Country Planning Act, 1974, the Appellant has been directed to demolish his alleged illegal construction of Compound wall and Pillar having a length of 5.30 meters and height around 0.45 meters, which is within the road widening area of proposed 10.00 meters wide road as shown on the Outline Development Plan for Vasco-Da-Gama Planning Area, 2030, on the property bearing Chalta No. 84 of P.T. Sheet no. 130, in an area zoned as S-1 Zone, situated within the local jurisdiction of Vasco Municipality.

The Appellant submits the following details:

The Appellant is the owner of the properties surveyed under Chalta No. 84 & 85 of P.T. Sheet No. 130, including the area indicated as an easement of City Vasco, totally admeasuring 858 square meters which originally belonged to appellant's deceased father namely Late. Shri. Balaji Kamat and upon whose demise, the said property is in exclusive possession and enjoyment of the Appellant.

The Appellant states that the subject matter of the present appeal is the property surveyed under Chalta No. 84 of P.T. Sheet no. 130 admeasuring 363 square meters including the area indicated as an easement zoned as S-1 Zone, situated within the local jurisdiction of City Vasco.

The Appellant states that in the said property, there exists a garden belonging to him and the said property is fenced on all sides by a compound wall of laterite stones which also exists since the time the house has been built by the appellant in the property under chalta No. 85 of P.T Sheet No. 130 of City Vasco.

The Appellant further states that at the entry point of the said property, the compound wall has a gate on the Northern side and beyond the gate there is compound wall extension only on the right hand side of the said gate if one is facing towards the gate commencing the pillar of the said gate towards the border of the said property, wherein the said extension is further connected to a bigger pillar.

The Appellant states that he was shocked to be in receipt of a Show Cause Notice dated 27/05/2024 issued by the Respondent vide ref no. MPDA/ILL/Vasco/167/2024-25/217, under Section 53 of the Goa Town and Country Planning Act, 1974 received by him on 1/06/2024, which stated as under:

“The Site Inspection carried out on 27/05/2024 at 11:30 a.m. by the official of this Authority revealed that you have carried out illegal development on Chalta No. 84 of P.T. Sheet No. 130 in the area zoned as S-1 in Outline Development Plan for Vasco-Da-Gama Planning Area-2030 without prior permission of this Authority as required under section 44 of the Town and Country Planning Act, 1974 and which illegal development consists of: Construction of Compound wall and Pillar having length of 5.30 meters and height around 0.45 meters, which is within the road

widening area of proposed 10.00 meters wide road as per the Outline Development Plan for Vasco-Da-Gama Planning Area, 2030”.

The Appellant states that it is pertinent to note that the alleged site inspection mentioned to have been carried out on 27/05/2024 at 11:30 a.m. in the said Show Cause Notice was neither annexed to the Show Cause Notice nor the sketch prepared by the officials of the Authority, as the Authority is very well aware of the fact that the same would amount to arbitrary exercise of the jurisdiction vested in it and would also amount to a clear trespass of the property belonging to the Appellant without due notice under law.

The Appellant states that he replied to the said Show Cause Notice dated 27/05/2024 vide his detailed reply dated 15/06/2024 inwarded on 18/06/2024 before the Respondent, thereby refuting the allegations levelled in the Show Cause Notice and clearly explaining therein that the said wall existed since time immemorial and that the said Show Cause Notice is completely arbitrary and bad in law and has been issued with a malafide intentions and hence deserves to be revoked and set aside.

The Appellant further states that it is also pertinent to mention that the Respondent had also in the past issued to him a Show Cause Notice dtd. 25/08/2015 vide ref No. MPDA/ILL/Vasco/167/14-15/699 under Section 17A of Town and Country Planning Act, 1974, thereby stating that the Appellant has carried out illegal development in the said property and the nature of development mentioned therein was, “Construction of Compound wall and Pillar having a length of 3.15 meters and height around 00.45 meters, which is within the road widening area of proposed 10.00 meters wide road as per the ODP”.

The Appellant states that he had replied to the above said Show Cause Notice vide his reply dated 17/09/2015, once again refusing the contents of the said Show Cause Notice and that the Respondent had not taken the said Show Cause Notice to its logical conclusion.

The Appellant states that vide his reply dated 15/06/2024 to the Show Cause Notice dated 27/05/2024, he had clearly denied the contents of the Show Cause Notice vis-à-vis had pleaded in the said reply certain clarifications concerning the said Show Cause Notice, the relevant portions of which is as reproduced below:-

“Your earlier Show Cause Notice dated 25/08/2015 referred to Section 17A whereas this Show Cause Notice dated 27/05/2024 refers to Section 44. This use of different Sections for the same alleged illegality at different points of time (9 years apart with no action if really there was an illegality), itself shows that your above referred ‘Show Cause Notice’ has been served with some malafide intention and bad in law.

It’s to be noted that your earlier Show Cause Notice dated 25/08/2015 itself smacked of coercion since it was issued just after my Suggestions (addition/alteration as well as suggested rectification) to the ODP 2011 on 11.8.2015. Therefore now this Show Cause Notice dated 27/05/2024 again after a delay of 9 years itself shows that it’s been served with some malafide intention and coercion in mind.

Your earlier Show Cause Notice dated 25/08/2015, site inspection on 30/7/2015 at 11.30 am, discloses measurement having length of 3.15 mtrs and height of 00.45mtrs. Whereas, this Show Cause Notice dated 27/05/2024, site inspection on 27/5/2024 at 11.30 am, discloses measurement having length of 5.30 mtrs and height of 0.45 mtrs. This different Lengths (with Height remaining same) at different points of time (9 years apart), though no repairs to the wall have been done to it by me leave aside doing a newer construction, alleging a new construction of 2.15 mtrs. more length done by me over the past 9 years seems an intentional manipulation to justify that illegality is still in process.

Moreover, I was not informed and so was not present for the 2 Site Inspections at different points of time (9 years apart). Your both Notices (Old + Current) itself says that there’s an alleged Pillar, and this alleged Pillar is at one end of the alleged Wall, but at the other end of this alleged Wall is a different Pillar which supports and is part of the Compound Wall & Gate. Therefore, logically for more 2.15 mtrs. length to be increased, the alleged Pillar should have increased by 2.15 mtrs., which is not a fact at the site. Therefore, your Site Inspections in my absence seems to be a sham, and this itself shows that your above referred ‘Show Cause Notice’ has been served with some malafide intention and bad in law.

At First when you issued me a Clarification Seeking Letter Ref. No. MPDA/Gen-Tech/2014-15/496 dated 18th September 2014 on the Subject “Complaint against Compound Wall”; towards which I replied on 10.10.2014,

asking for which is the Compound Wall that you are referring to, and also asking for a complete certified copy of the referred 'complaint against compound wall', in order to enable me to render proper clarifications on the referred subject. Your later Show Cause Notice dated 25/08/2015 has probably identified which is the compound wall. However, till date you have failed to furnish me the required complete certified copy of the referred 'complaint against compound wall', especially when your later Show Cause Notices could have attached it. Therefore, your failure to submit me the complete certified copy of the referred 'complaint against compound wall' and thus curtail transparency, prejudices me to the cause of natural justice, and thus smacks of a malafide intention.

Your this Show Cause Notice dated 27/05/2024 states that the Construction of Compound Wall and Pillar is within the road widening area of proposed 10.00 mtrs wide road as per the Outline Development Plan for Vasco da Gama Planning Area 2030, which is the same as that stated in your 9 years earlier Show Cause Notice dated 25/08/2015. However, you have not specified which this proposed Road is”.

That Section 52 (1) of the TCP, Act 1974 provides that, “(1) Where any development or change of use of land has been carried out in any manner specified in clauses (a) to (f) of sub-section (1) of section 51, the Planning and Development Authority may, within four years of such development or change, serve on the owner a notice requiring him, within such period, being not less than one month from the date of service of such notice as may be specified therein”. A bare reading of the said provision makes it amply clear that the authority has powers to act on illegal development within four years of such development or change, thus it is very clear from the Show Cause Notice issued by the respondent themselves in the year 2015, that the said wall in dispute has been existing, and for the sake of arguments assuming the same to be in existence since 2015, the compound wall has completed the period of four years and therefore the respondent lacked powers to initiate action against the appellant, and therefore the respondent has malafidely and without conducting any site inspection as alleged has manipulated the length of the compound wall only to create a fresh cause of action in the year 2024, with an intention to harass the appellant.

The Appellant states that the Respondent has not applied its mind nor considered the reply filed by him and therefore the Respondent on 18/11/2024, issued a demolition notice under section 52 of TCP Act, 1974 vide ref No. MPDA/ILL/Vasco/167/2024-25/1250, thereby directing him to demolish the illegal compound wall and pillar within a period of 30 days from receipt of the demolition notice.

The Appellant states that he being aggrieved by the said impugned Notice dated 18/11/2024, is constrained to file the appeal on the following grounds:-

- a) The impugned demolition Notice dated 18/11/2024, ought to be set aside as the same is issued on the basis of incorrect facts and more specifically on the ground of being beyond limitation as well as suppression of material facts, more so as the said wall has been standing therein for last five decades without any objections.
- b) The Respondent No. 1 i.e. MPDA has grossly erred in not considering the reply filed by the appellant which discloses that the wall in question was an old existing wall and does not affect the traffic in any manner.
- c) Section 52 (1) of the TCP, Act 1974 provides that, “(1) Where any development or change of use of land has been carried out in any manner specified in clauses (a) to (f) of sub-section (1) of section 51, the Planning and Development Authority may, within four years of such development or change, serve on the owner a notice requiring him, within such period, being not less than one month from the date of service of such notice as may be specified therein”. A bare reading of the said provision makes it amply clear that the authority has powers to act on illegal development within four years of such development or change, thus it is very clear from the Show Cause Notice issued by the respondent themselves in the year 2015, that the said wall in dispute has been existing, and has issued the present Show Cause Notice on 27/05/2024 without a fresh cause of action, with an intention to harass the appellant.
- d) The Show Cause Notice dated 27/05/2024 & the Impugned demolition order dated 18/11/2024, is not maintainable in terms of law and hence deserves to be quashed and set aside.
- e) The discrepancies in the two Show Cause Notices dated 25/08/2015 & 27/05/2024 issued by the respondent, clearly shows that the respondent has

been only selectively targeting the appellant with a malafide intention of targeting the appellant for reasons well known to the respondent.

- f) The Respondent herein has failed to consider that there are residential structures existing on both the sides of the said proposed 10 meters wide road, which are built with due permissions granted by the respondent, and therefore the proposed 10 meters wide road as reflected on the ODP Plan, 2030 for city Vasco, cannot be in reality implemented as the Respondent will have to issue demolition orders with regard to the compound walls of all the existing residential structures and then proceed with road widening, which would result in reduction of the setbacks maintained by the respective owners and which would consequently result in violation of the Building Regulations, 2010 as applicable to the state of Goa.
- g) The Respondent has also deliberately ignored the fact that the said proposed road of 10 meters wide was shown on the ODP Plan, 2030 only to facilitate some builder lobby to carry out development in the properties situated in the neighbourhood in the absence of even a 6 meter wide tarred road at site.
- h) The respondent therefore has not taken into consideration the reply to the Show Cause Notice, the impugned demolition notice has therefore been issued in complete undue haste and without proper application of mind.
- i) The said wall of the Appellant is not on the road widening property, it is in the appellant's private property and does not affect the rights of any of the adjoining owners.
- j) The Respondent has completely ignored the fact that the said existing wall is situated in the private property of the appellant, and that the respondent has not acquired the said portion of land for the purpose of completing the work of expansion of the existing 7 to 8 meters wide road approximately into the proposed 10 meters wide road as reflected on the ODP Plan, 2030.
- k) The demolition notice is completely arbitrary and violative of the Appellants rights under Article 14.

The Appellant states that the impugned demolition Notice dated 18/11/2024 will cause miscarriage of justice if allowed to stand and has therefore prayed as under:-

- a) For an order thereby allowing the appeal and quashing and setting aside the impugned demolition notice dated 18/11/2024 issued by the respondent MPDA vide ref No. MPDA/ILL/Vasco/167/2024-25/1250.
- b) That pending the hearing and final disposal of this appeal the operation, implementation and execution of the impugned demolition notice dated 18/11/2024 be stayed.
- c) For ex parte ad interim relief in terms of prayer clause (b).

During the arguments on the present matter, Advocate Shri Vishal Sawanta appeared on behalf of Appellant, whereas Adv. Meghana Kamat appeared on behalf of Respondent MPDA.

While arguing in the matter on behalf of Appellant, Adv. Vishal Sawant informed that earlier, Show Cause Notice was issued by MPDA dated 27/05/2024 citing reasons as under:

“The Site Inspection carried out on 27/05/2024 at 11:30 a.m. by the official of this Authority revealed that you have carried out illegal development on Chalta No. 84 of P.T. Sheet No. 130 in the area zoned as S-1 in Outline Development Plan for Vasco-Da-Gama Planning Area-2030 without prior permission of this Authority as required under section 44 of the Town and Country Planning Act, 1974 and which illegal development consists of: Construction of Compound wall and Pillar having length of 5.30 meters and height around 0.45 meters, which is within the road widening area of proposed 10.00 meters wide road as per the Outline Development Plan for Vasco-Da-Gama Planning Area, 2030”.

Further, vide Show Cause Notice issued by Respondent MPDA dated 18/11/2024, the Appellant has been directed to demolish his alleged illegal construction of compound wall and pillar having a length of 5.30 meters and height around 0.45 meters, which is within the road widening area of proposed 10.00 meters wide road as shown on the Outline Development Plan for Vasco-Da-Gama Planning Area, 2030, on the property bearing Chalta No. 84 of P.T. Sheet No. 130, in an area zoned as S-1 Zone, situated within the local jurisdiction of Vasco Municipality.

Adv. Shri Sawant therefore impressed upon the Board that the Respondent Authority at a different times have changed its own findings and sections applicable and further, without deciding on one Show Cause Notice has issued another one, that too after about nine years which itself is something very wrong on the part of Respondent.

Adv. Meghana Kamat while arguing on behalf of Respondent PDA informed that the Respondent MPDA shall give its written submission to the Board in due course of time over the reply given by the Appellant to the Board, and therefore requested for additional time to place such a reply before the Board.

The Board considered the request as made by Advocate on behalf of Respondent PDA and decided to adjourn the matter with direction to MPDA to also serve one copy of the said reply to the Appellant.

The matter therefore stands adjourned.

Item No. 4: Cases considered by the Committee constituted as per Notification No. 36/1/TCP/503/2023/3349 dated 31/10/2023 for granting additional FAR.

Member Secretary informed that the Government vide Notification No. 21/1/TCP/2021-23/Steering Committee/107 dtd. 9/8/2023, published in Official Gazette, Series I, No. 18 dtd. 09/08/2023 had notified the amendment to GLDBCR-2010, which provided for following:

“(2) The Government on recommendation of the Town and Country Planning Board shall grant additional height and FAR to the proposals on case to case basis in consideration of the locational aspect, nature of development, use proposed, information available and on any such other criteria, if required. Such relaxation shall however not be relaxed for more than 20% permitted in the prevailing Regulations.”

It was then informed that a Corrigendum vide Notification No. 21/1/TCP/2021-23/Steering Committee/119 dtd. 21/8/2023 was thereafter published in Official Gazette, Series I, No. 21 dtd. 24/08/2023 stating that the regulation as referred above shall be read as under:

“The Government on recommendation of the Town and Country Planning Board shall grant additional height and FAR to the proposals on case to case basis

in consideration of the locational aspect, nature of development, use proposed, information available and on any such other criteria, if required.”.

The Board was then informed that 19th meeting of the Committee, as constituted in this regard vide Notification No. 36/1/TCP/503/2023/3349 dated 31/10/2023 was held on 13/01/2025 in the office of the Chief Town Planner, TCP Dept., Panaji, during which, the proposals as forwarded by Taluka Offices/PDAs were considered by the Committee and the decisions taken were placed before the Board as required under the amended regulation.

The Board deliberated in detail on the proposals submitted and conformity of the same in terms of notified regulations regarding the same. The Board took note of the proposals as recommended by the Committee constituted for the purpose and further deliberated on each of the same and considered the same for approval as per the decisions recorded at Table ‘A’, which forms part of these minutes.

Item No. 5: Applications received under Section 39A of the TCP Act for the consideration of the Board for change of zone in the Regional Plan/Outline Development Plan for approval/recommendation/decision under sub-rule (1) of Rule 4 of the Goa Town & Country Planning (change of zone of land in the Regional Plan or the Outline Development Plan) Rules, 2024.

Member Secretary informed that the Government has introduced new section, Section 39A for change of zone vide Notification Series I No. 47 dated 22/02/2024 which reads as under:

“39A. Change of Zone.— (1) Notwithstanding anything contained in this Act, the Chief Town Planner (Planning) upon direction of the Government or on receipt of an application in this regard and with approval of the Board, may, from time to time, alter or modify the Regional Plan and/ or the Outline Development Plan to the extent as specified in sub-section (2) for carrying out change of zone of any land therein, in such manner as prescribed, after giving notice of 30 days inviting suggestions from the public, provided the change of zone shall not be in respect if any eco sensitive land as may be prescribed.

(2) The alteration or modification carried out under sub-section (1) shall not alter the overall character of the existing Regional Plan and/or the Outline Development Plan.”

The Government has also framed the Rules for considering application under Section 39A of the TCP Act as notified in the Official Gazette (Supplementary) vide Series I No. 49 dated 07/03/2024 and as amended vide Notification No. 21/1/TCP/GTCPACT/2024/824 dated 24/05/2024 published in the Official Gazette, Series I, No. 10 dated 06/06/2024.

Rules provides for procedure to be adopted, objection suggestion period, scrutiny of application and rates of processing fees and change of zone. As per the said rules, application received under Section 39A of the TCP Act shall be placed before the TCP Board after carrying out necessary scrutiny for its recommendation/approval/decision and the same to be subsequently notified for objection/suggestion.

The applications received by the Department with scrutiny details were placed before the 211th Town & Country Planning Board meeting under sub-rule (1) of Rule 4 of the Goa Town & Country Planning (change of zone of land in the Regional Plan or the Outline Development Plan) Rules, 2024 for its recommendation/approval/decision and the cases as listed at Table 'B' are approved by the Board. The Member Secretary, TCP Board was accordingly directed to initiate further course of action in this matter sub-rule (2) of Rule 4 of the Goa Town & Country Planning (change of zone of land in the Regional Plan or the Outline Development Plan) Rules, 2024.

Details of applications as placed before the Board under Section 39A and decision of the Board on the same is as per Table 'B', which forms part of this minutes.

Item No. 6: Applications received under Section 39A of the TCP Act for the consideration of the Board for change of zone in the Regional Plan/Outline Development Plan for approval/recommendation/decision under sub-rule (3) of Rule 4 of the Goa Town & Country Planning (change of zone of land in the Regional Plan or the Outline Development Plan) Rules, 2024.

Member Secretary informed that the Government has introduced new section, Section 39A for change of zone vide Notification Series I No. 47 dated 22/02/2024 which reads as under:

“39A. Change of Zone.— (1) Notwithstanding anything contained in this Act, the Chief Town Planner (Planning) upon direction of the Government or on receipt of an application in this regard and with approval of the Board, may, from time to

time, alter or modify the Regional Plan and/ or the Outline Development Plan to the extent as specified in sub-section (2) for carrying out change of zone of any land therein, in such manner as prescribed, after giving notice of 30 days inviting suggestions from the public, provided the change of zone shall not be in respect of any eco sensitive land as may be prescribed.

(2) The alteration or modification carried out under sub-section (1) shall not alter the overall character of the existing Regional Plan and/or the Outline Development Plan.”

The Government has also framed the Rules for considering application under Section 39A of the TCP Act as notified in the Official Gazette (Supplementary) vide Series I No. 49 dated 07/03/2024 and as amended vide Notification No. 21/1/TCP/GTCPACT/2024/824 dated 24/05/2024 published on the Official Gazette Series I No. 10 dated 06/06/2024.

Rules provides for procedure to be adopted, objection suggestion period, scrutiny of application and rates of processing fees and change of zone. As per the said rules, application received under Section 39A of the TCP Act shall be placed before the TCP Board after carrying out necessary scrutiny for its recommendation/approval/decision and the same to be subsequently notified for objection/suggestion.

The applications received by the Department with scrutiny details were placed before the 211th Town & Country Planning Board meeting sub-rule (3) of Rule 4 of the Goa Town & Country Planning (change of zone of land in the Regional Plan or the Outline Development Plan) Rules, 2024 for its recommendation/approval/decision and the cases as listed at Table ‘C’ are approved by the Board. The Member Secretary, TCP Board was accordingly directed to initiate further course of action in this matter sub-rule (4) of Rule 4 of the Goa Town & Country Planning (change of zone of land in the Regional Plan or the Outline Development Plan) Rules, 2024.

Details of applications as placed before the Board under Section 39A and decision of the Board on the same is as per Table ‘C’, which forms part of this minutes.

Item No. 7: Decision on proposals considered in 40th meeting of the 16-A Committee, constituted under sub-rule 4 of Rule 3 of the Goa Town & Country Planning (Public Projects/Schemes/Development work by the Government) Rules - 2008 held on 05/03/2024.

Member Secretary submitted that proposals as referred in Annexure 'D' were considered by the Committee constituted under sub rule 4 of Rule 3 of the Goa Town & Country Planning (Public Projects/Schemes/Development work by the Government) Rules – 2008 in its 40th meeting held on 17/12/2024. The same proposals were placed before the Board for its consideration.

The Board after deliberation recommended the proposals as listed in Annexure 'D'.

Item No. 8: Any other item with permission of the chair.

Representation made by Mr. Aditya Prabhakar Ambole and Mrs. Suvarna Ravindra Ambole for relaxation of fees against the new Amendment under Section 17(2) of the TCP Act.

Member Secretary informed that the Department has been considering the proposals as received under Section 17(2) of the TCP Act for rectification of inadvertent errors and correction of inconsistent/incoherent zoning proposals, in the Regional Plan for Goa -2021 by following the procedure and the rules as prescribed under the said Act.

It was informed further that on consideration of the Government of the application made for this purpose, the fees payable were prescribed and were notified vide Official Gazette (Supplement), Series I, No. 50 dtd. 16/3/2023. It was further informed that the said fees were enhanced vide Notification published in Official Gazette (Supplement), Series I, No. 52 dtd. 28/3/2024.

It was then informed that under the said provision of TCP Act, and application dtd. 6/2/2024 of Mr. Aditya Prabhakar Ambole and Mrs. Suvarna Ravindra Ambole was considered for correction of zone by the Government with respect to his property surveyed under 153/1 of village Torxem, Pernem Taluka and accordingly the fees payable as prescribed under Notification published in Official Gazette (Supplement), Series I, No. 52 dtd. 28/3/2024 were communicated to the applicant. However the applicant Mr. Aditya Prabhakar Ambole and Mrs. Suvarna Ravindra Ambole has now made a representation dtd. 14/1/2025 that the fees as intimated are not applicable to him, as he had applied for the correction of zone with respect to the property surveyed under survey No.153/1, of village

Torxem, Pernem, Taluka, Goa and the said application was filed before the Department on 06/02/2024, against the entry No. 1238 and that the Department has considered his request for correction of Zone for an area of 10190 square meters, out of total area of 16239 square meters and accordingly assessment order for fees for correction / rectification of zone u/s 17(2) of TCP Act for an area of 10190 m² has been issued to him.

In the representation, Mrs. and Mr. Aditya Prabhakar Ambole has stated that the fees which are calculated are as per the new Official Notification dtd. 28/3/2024 issued by the Government, whereas the request as made by him for correction of zone was much earlier to this date.

Vide his representation, the applicant has therefore requested the Department to refer the matter to the Government for relaxation of the fees as per the old Notification dtd. 16/3/2023 issued by the Department.

Member Secretary then explained the procedure involved for consideration of application u/s 17(2) and the fees prescribed for the same.

The Board was further informed that as per interpretation of the Department, the applications which were received prior to the Notification dtd. 28/3/2024, the assessment of fees was done as per the fees prescribed under Notification dtd. 16/3/2023 and for all those applications which were received on or after 28/3/2024, the assessment of fees was done as per the fees prescribed under Notification dtd. 28/3/2024.

The Board was further informed that a letter dtd. 01/08/2024 was however received from Under Secretary Finance (R&C) whereby it was informed that despite the fees mentioned in the Notification regarding change of zone coming into force w.e.f. 28/03/2024, the same is not being reflected in the receipts of the Department and therefore vide the same letter, the Department was requested to collect these fees as per the Notification published in the Official Gazette dtd. 28/3/2024 for all the proposals approved after this date.

Member Secretary further informed that the Department has however mentioned about this issue in various meetings including one meeting chaired by Hon'ble Chief Minister, against which a letter dtd. 24/09/2024 is again received from Under Secretary Finance (R&C), which state as under:

“As per the clarification sought by you in various meetings including the meeting chaired by the Hon’ble Chief Minister, it is to clarify that all the applications for conversion under Section 17(2) of the Goa Town and Country Planning Act, 1974 approved after the date of the Notification No. 21/1/TCP/GTCPACT/2023/579 dtd. 28th March 2024 published in the Official Gazette Series I No. 52 dated 28th March 2024 are to be charged as per the rates prescribed in the said Notification as was also mentioned in the letter referred above.”

Member Secretary therefore said that all those applications which were considered for approval by the Government post 28/3/2024, the fees are to be levied as per the Notification dated 28th March 2024 and the same were accordingly assessed for the application of Mr. Aditya Prabhakar Ambole and Mrs. Suvarna Ravindra Ambole as the said application was considered for approval after 28/3/2024.

Member Secretary therefore brought to the notice of the Board that the request of Mrs. & Mr. Aditya Prabhakar Ambole for applicability of old rates therefore does not meet this requirement and therefore the fees assessed as per notification dtd. 28/3/2024 need to be retained and any consideration of the request as made by Mrs. and Mr. Aditya Ravindra Ambole shall go against the directions mentioned by Department of Finance(Revenue & Control) in its letters dtd. 01/8/2024 and 24/9/2024.

The issue was deliberated at length and the Board was of the opinion that for all those applications, which were received prior to Notification dtd. 28/3/2024, the fees applicable should have actually been assessed as per old Notification dtd. 16/3/2023 and hence found some merit in the representation made by Mrs. & Mr. Aditya Ravindra Ambole and therefore recommended that the request as made by Mrs. and Mr. Aditya Ravindra Ambole need to be considered favourably by the Government.

Accordingly, it was decided that the recommendation of the Board for consideration of request of Mrs. & Mr. Aditya Ravindra Ambole for assessment of fees as per Notification dtd. 16/3/2023 shall be forwarded to the Government for necessary consideration.

Member Secretary was accordingly directed to undertake further procedure in this regard.

Meeting ended with thanks to the Chair.