



**MEETING OF THE
MUNICIPAL PLANNING TRIBUNAL
(MPT)**

A G E N D A

DATE:	28 MARCH 2019
VENUE:	TOWN PLANNING COMMITTEE ROOM HERMANUS
TIME:	10:00

OVERSTRAND MUNICIPALITY

Office of the Chairperson: MPT
Civic Centre
HERMANUS
7200

7 March 2019

TO : THE CHAIRPERSON AND MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

CONVENING NOTICE : SESSION OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)

NOTICE IS HEREBY GIVEN that a meeting of the **Municipal Planning Tribunal (MPT)** will go into session on **Thursday, 28 March 2019 at 10:00, Town Planning Committee Room, 16 Paterson Street, Hermanus**, to consider the attached agenda.

You are kindly requested to submit any amendments/additions to Ms S Swart (sswart@overstrand.gov.za) on or before **13 March 2019**.

S MÜLLER
CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL

Distribution:

1. Mr S Müller (Chairperson)
2. Mr R Williams (Vice Chairperson)
3. Mr S Madikane (Member)
4. Ms D Arrison (Member)
5. Ms Y Mabentsela (Secundi for H Janser)
6. Mr R Kuchar (Authorised Official)
7. Mr S van der Merwe (Senior Town Planner)
8. Ms H van der Stoep (Senior Town Planner)
9. Secretariat

MUNICIPAL PLANNING TRIBUNAL (MPT)

28 March 2019

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1. OPENING

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Report attached

4.2 ERF 2129, 4 GREEB ROAD, BETTY'S BAY: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND DEPARTURE: GJ MAREE ON BEHALF OF DEON MAREE FAMILY TRUST

Report attached

4.3 ERF 39, 243 PIET RETIEF CRESCENT, ERF 41, 108 KUSWEG AND ERF 42, 241 PIET RERIEF CRESCENT, SANDBAAI, OVERSTRAND MUNICIPAL AREA: REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, CONSENT USE AND DEPARTURE: MESSRS PLANACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF LN & D WESTGARTH-TAYLOR, DA KOTZÉ AND JJ WESSELS

Report attached

4.1

**ERF 222, 1 GROENEWALD STREET, GANSBAAI, OVERSTRAND MUNICIPAL AREA:
REMOVAL OF RESTRICTIVE CONDITIONS AND REZONING: MESSRS PRINSLOO
ARGITEKTONIESE ONTWERPKANTOOR ON BEHALF OF THE STEPHEN JACKIE
FAMILY TRUST**

222 GGB (3290)

SW van der Merwe

4 February 2019

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application has been received on 12 May 2016 from Messrs Prinsloo Argitektoniese Ontwerpkantoor on behalf of the Stephen Jackie Family Trust for the following:

- ❖ Removal of restrictive title conditions with reference to Clauses 3.A(a), 3.A(b), 3.A(c) and 3.A(d) of Title Deed T59454/2015 applicable to Erf 222, Gansbaai in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 in order to develop a boutique hotel on the property.

The restrictive conditions contained in paragraph 3.A of Title Deed T59454/2015 to be removed read as follows:

- “(a) That this erf be used for residential purposes only.*
- (b) That only one dwelling together with such outbuildings as are ordinarily required to be used therewith be erected on this erf.*
- (c) That no more than one-half of the area of this erf be built upon.*
- (d) That no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf. No such building or structure shall be situated within 1,57 metres of the lateral boundary common to any adjoining erf.”*

- ❖ Rezoning in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 from Residential Zone 1: Single Residential (SR1) to Business Zone 2: General Business (B2), Bulk Zone 2 in order to develop a boutique hotel on the property

A Locality Plan of the property concerned is attached as Annexure A. The Motivation Report from the applicant in support of the proposal is attached as Annexure B, while the proposed Site Development Plan is attached as Annexure C. Title Deed T59454/2015 is attached as Annexure D.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The application property is situated in the CBD of Gansbaai. The property is zoned for Residential Zone 1 purposes and measures 793m² in extent and is accessed via

Groenewald Street. The main dwelling, except for the second dwelling unit had in the meantime been demolished.

Groenewald Street comprises an upper and lower level. The upper level, a historic lookout over the Gansbaai harbour contains a bench in the road reserve and provides vehicular access only to the subject property and public parking on the road reserve. The lower level provides vehicular access to 1 Groenewald Street and Erf 382, Gansbaai.

The surrounding area has a mixed character comprising harbour related uses to the north and north west, single residential uses adjoining to the east, south and west, including commercial, guest house and tourism accommodation to the north east and south west.

The proposed development comprises the removal of restrictive title conditions as per paragraph 1. above as well as the rezoning of the subject property from Residential Zone 1 (SR) to Business Zone 2: General Business (B2) in order to develop a boutique hotel comprising the following:

- double storey eight (8) bedroom boutique hotel following demolition of existing buildings;
- ground floor to comprise a restaurant and bar (100m²), public toilets, two (2) en-suite bedrooms;
- upper floor to comprise of six (6) en-suite bedrooms;
- access/egress from Groenewald Street, and
- provision for twenty one (21) on-site parking bays, including disabled parking, mainly under the proposed building.

The final development will be subject to the submission of a Site Development Plan (SDP) demonstrating compliance with the development parameters of the Zoning Scheme Regulations and approval conditions, should the application be successful.

4. SUMMARY OF APPLICANT'S MOTIVATION

The applicant's motivation (refer to Annexure B) is summarised as follows:

- ❖ the proposed land use will not have a negative impact;
- ❖ the proposal is in line with the relevant legislation;
- ❖ the planning principles in terms of the Land Use Planning Act (LUPA) and the Spatial Planning Land Use Management Act (SPLUMA) are not regarded to be applicable;
- ❖ removal of restrictive conditions will ensure that the proposal does not impede on the development parameters in terms of the Scheme Regulations;
- ❖ the proposal is consistent with the Spatial Development Framework (SDF) and thus deemed desirable;
- ❖ the proposal will not have a mentionable impact upon municipal service infrastructure;
- ❖ the proposal does not trigger the National Environmental Management Act (NEMA);
- ❖ the Overstrand Heritage Survey did not grade the subject property and no heritage impact assessment is required;
- ❖ creation of employment opportunities, during both construction and operational phases of the development;

- ❖ parking requirements of the Scheme Regulations are adhered to, and
- ❖ proposal will not adversely impact on traffic flows.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Press	Yes	2 March 2017	7 April 2017
Notices	Yes	2 March 2017	7 April 2017
Ward councillor	Yes	2 March 2017	7 April 2017
Total comments	EIGHT (8)		
Was public participation undertaken in accordance with Section 47 – 50 of the By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly (if no, elaborate below):			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			Yes

6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments	Recommendation
Electro Technical Services	3/03/2017	Annexure G.	Positive
Health (Overberg District Municipality)	6/03/2017	Annexure H.	Positive
Traffic	7/03/2017	Property situated at end of street. I see no reason for it to interfere with traffic flow. There are existing parking bays and ample space for parking on property. I see no reason to oppose the application.	Positive
Heritage	7/03/2017	No objection.	Positive
Waste Management Services	17/03/2017	No objection.	Positive
Telkom	3/04/2017	Annexure I.	Positive
Fire Services	7/04/2017	Annexure J.	Positive
Environmental Services	7/04/2017 and 4/09/2018	No listed activities.	Positive

Department of Transport and Public Works	10/05/2017	Annexure K.	Positive
Overstrand Heritage and Aesthetic Committee	14/09/2017	Annexure L.	Positive
Engineering Services	5/10/2017	Annexure M.	Positive
Heritage Western Cape	15/06/2018	Annexure N.	Positive

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Seven (7) letters of objection against the application for rezoning and removal of restrictive title conditions were received and one (1) letter of support. The letters of objection and support are attached per Annexure E. The applicant's response to the objections received is attached as Annexure F.

The objections can be summarized as follows:

1. JJ VAN DYK, ERF 1080, GANSBAAI

The proposal being situated in a residential area will impact negatively on the objector's property for the following reasons, namely:

The proposal will result in removal of building lines.

Applicant's response

Save for the street building line, building lines would be more restrictive. The street building line will be less restrictive and the building would be set back from both sides to allow for access and egress.

Town Planner's response

The proposed zoning would impose 3m building lines along the eastern (rear) and southern (lateral) property boundaries, which is more restrictive compared to the current 2m rear- and lateral building lines applicable to single residential properties. The street building line being 0m will be less restrictive than the current street building line. However, should the application be supported, a 2m setback would apply at first floor level.

The proposal will allow development up to four (4) storeys in height.

Applicant's response

The Zoning Scheme limits the development to three (3) storeys.

Town Planner's response

Should the application be successful, the application will be subject to approval conditions, which amongst others imposes an 8,5m and two (2) storey height

restrictions as well as a setback from the western street boundary at first floor level of 2m.

The proposed development poses a fire hazard.

Applicant's response

It is difficult to see how a new residential building could be a fire hazard.

Town Planners' response

The statement pertaining to fire risk is unsubstantiated. The development will be subject to approval of building plans demonstrating compliance with the National Building Regulations and Fire Regulations.

The proposed development will impact on privacy to the objector's whole property.

Applicant's response

Very few windows will be overlooking adjoining properties. The opinion is held that a double storey house under primary rights could have a greater impact.

Town Planner's response

The applicant's comment is noted and agreed with.

Main habitable room windows are all north and west facing, whilst windows facing the eastern-, rear- and southern lateral boundaries are secondary windows, mainly serving the kitchen, various passages and bathrooms and as such residential properties to the east and west. As such, the opinion is held that the proposal will not result in a substantial loss of privacy, sufficient to warrant refusal.

Heritage Western Cape did not permit demolition of the existing building.

Applicant's response

Heritage aspects to be considered by the Municipality and Heritage Western Cape in accordance with the applicable law and policies.

Town Planner's response

The proposal does not trigger the provisions of Section 38 of the National Heritage Resources Act. Although situated in a Heritage Overlay Zone, the subject property has not been graded. Heritage Western Cape granted a demolition permit on 15 June 2018, stating the development is not conservation worthy. The main dwelling had since been demolished.

Object to a restaurant / pub that are open to the public, selling liquor in a residential area, causing noise pollution and negatively affecting adjacent properties whilst only the developer is to benefit.

Applicant's response

The bar would be for on-site consumption and will not allow for liquor to be taken away. The restaurant will not sell take away foods. The type of hotel does not intend to sell food and liquor to intoxicated people, whilst the opinion is held that three (3) local bars in the area are adequate to serve the needs of private residents.

Town Planner's response

The proposal provides for an upmarket eight (8) bedroom boutique hotel with a restaurant providing upmarket facilities also open to the public. It is not intended to conduct a bar or tavern from the premises that would defeat the purpose of creating an upmarket hotel. The SDP indicates a 75m² restaurant with a bar counter, opposed to a bar or tavern.

Cognisance should be taken that the operation of a bar or tavern is not a primary right and will be incorporated in the conditions of approval, should the application be supported.

Further, the impact of the proposal cannot be evaluated on the basis of a property in a single residential area as per the objector's comment, but should be assessed in the context of a property that is situated in the CBD, comprising mixed land uses, namely residential, commercial, harbour use, guest houses, etc.

2. FJJ SWART, OWNER OF ERF 143 GANSBAAI

Object to a boutique hotel for the following reasons:

Gansbaai has enough places selling alcohol and object to resulting noise impact in a residential area.

Applicant's response

Refer to the comment under objector 1. above.

Town Planner's response

Refer to the comment under objector 1. above.

A hotel, selling liquor will impact negatively on the residential area, increased crime, traffic increase and increased littering.

Applicant's response

Why the presence of a boutique hotel will lead to criminality is hard to figure out.

Town Planner's response

The application is for a boutique hotel and not to conduct a bar or tavern or even a place of entertainment, which is not a primary right. Objections pertaining to alleged negative impact are not substantiated.

The opinion is held that a boutique hotel and bar/tavern cannot be considered the same. Although residential properties occur in the area, the application area is situated in the CBD where mixed land uses normally occur, and not in a single residential neighbourhood as per the objection.

The application property is a heritage property and demolition should not be allowed. A hotel monstrosity will take away the heritage architecture of the area.

Applicant's response

Refer to the comment under objector 1. above.

Town Planner's response

Refer to the comment under objector 1. above. In addition, the Overstrand Heritage and Aesthetics Committee supports the rezoning of the property, but made recommendations aimed at a more contextually appropriate design that will be incorporated in the approval conditions, should the application be supported.

3. S SPENCE, OWNER OF ERF 157 GANSBAAI

Rezoning would impact negative on surrounding properties and take away some views, thereby resulting in devaluation of the objector's property.

Applicant's response

There are judgements available that obliteration of sea views can never be illegal and this complaint therefore cannot be entertained.

Town planner's response

The objector did not provide substantive evidence to support his claim with regards to devaluation of his property by reason of loss of views. The subject property is situated within the CBD of Gansbaai and is earmarked for commercial development. As such the view is held that development would rather contribute positively to property value, also given the location in the CBD and the fact that the surrounding area is already characterised by mixed land uses as already pointed out earlier in the report.

Traffic pollution and traffic noise will increase, whilst the road is not suitable for delivery trucks.

Applicant's response

With the nearness of the harbour and the factory it is difficult to believe that the traffic will be adversely affected by the hotel with its planned restaurant.

Town Planner's response

The property being situated in the CBD in an area with mixed land uses and adjacent to a working harbour will not result in a significant increase in traffic, sufficient to justify refusal on this basis. Further, the proposed development permits access and egress in forward gear in a street that currently does not

have a turning circle. The upper level of the road serves only two (2) properties. As such, from a traffic engineering point of view no objections were raised to the proposed development. The proposal will also be subject to the submission of engineering drawings if successful, thereby ensuring safe and practical access, egress and servicing.

The property contains a heritage house, since the building is 67 years old. Most houses in the surrounding area is 70 years or older and used by fishermen as a beacon, thus having a history of our fishing town and should thus not be demolished for a hotel that will be an eyesore in the area.

Object to a restaurant, pub or bar selling alcohol in a residential area since it will attract repulsive people into a residential area.

Increased crime due to guest houses in the area.

The objections as summarised above have already been addressed. As such, refer to the comments under objection 1. which shall be read together with each of the above objections.

4. OC VILJOEN, OWNER OF ERF 148 GANSBAAI AND AS CHAIRPERSON ON BEHALF OF THE OVERBERG LINE FISH ASSOCIATION

The points of objection can be summarized as follow:

- ❖ loss of view;
- ❖ loss of privacy;
- ❖ all building lines onto objector's property boundary will be removed, allowing a building up to four (4) storeys;
- ❖ the property contains a heritage house, since the building is 67 years old. Most houses in the surrounding area is 70 years or older and used by fishermen as a beacon, thus having a history of our fishing town and should thus not be demolished for a hotel that will be an eyesore in the area;
- ❖ object to a restaurant, pub or bar selling alcohol in a residential area since it will attract repulsive people into a residential area;
- ❖ traffic pollution and traffic noise will increase;
- ❖ increased crime due to guest houses in the area;
- ❖ access will be problematic due to the narrow roadway and would be problematic for parking and deliveries. Public parking in the road is used by people coming to sit on "Die Koppie", including fishermen.

The above points of objection have already been addressed under objection 1 and 2 above.

In addition to the above, the following points of objection should be noted, namely:

Questions whether the ground is stable enough to accommodate the proposed development

Applicant's response

The applicant did not comment on the respective point of objection.

Town Planner's response

Should the application be supported, the applicant will be required to submit a geotechnical report prior to commencement of the development demonstrating suitability for development purposes.

Gansbaai is a fishing town and tourists find the fishy smell offensive.Applicant's comment

The applicant did not comment on this point of objection.

Town Planner's Comment

The point of objection is speculative, since accommodation establishments such as Saxon Lodge and "Oom Piet" does not have a proven complaints history. Further, the operations of Gansbaai Marine are subject to compliance with Atmospheric Emissions License. As such, provided that they comply with the aforesaid, objections with regard to odours would not pose a threat to Gansbaai Marine.

The subject property is not the right spot for economic growth, near a fishing harbour within a residential area, whilst the SDF indicates that the property is reserved for future residential use.Applicant's response

The choice of place to locate the proposed hotel was done with full knowledge of the existence of the nearby factory. It cannot be presented as a factor against the application.

Town Planner's response

The subject property is situated within the CBD of Gansbaai and earmarked for commercial development as per the Spatial Development Framework (SDF), Integrated Development Framework (IDF) and Growth Management Strategy (GMS) and could be observed by the mixed land uses referred to earlier in the report. The statement of the objector is thus not agreed with.

5. EH BYRNE, OWNER OF ERF 158 GANSBAAI**Rezoning would impact negative on surrounding properties and take away some views, thereby resulting in devaluation of the objector's property.**

The property contains a heritage house, since the building is 67 years old.

Most houses in the surrounding area are 70 years or older and used by fishermen as a beacon, thus having a history of our fishing town and should thus not be demolished for a hotel that will be an eyesore in the area.

Impact on privacy.

Objects to a restaurant, pub or bar selling alcohol in a residential area since it will attract repulsive people into a residential area.

Traffic pollution and traffic noise will increase.

The points of objection have already been addressed under objection 1 and 2 above.

6. H & AA STEYN, OWNERS OF ERF 223 GANSBAAI

Rezoning to Business Zone in a residential area will remove 50% of the objector's sea views.

The proposal will result in a loss of light and overshadowing to a property that was bought specifically for harbour and sea views.

The development will result in a loss of privacy.

Fire safety will not be sufficient.

Bar in a residential area will detract unwanted people in a residential area, including criminals.

Permission from Heritage Western Cape is outstanding.

The SDF indicates that the property is reserved for future residential use.

Increased traffic congestion

The objections have already been addressed under objection 1 and 2 above.

The objector also objected on the basis of:

Impact on municipal services

Applicant's response

Municipal services are for the Municipality to sort out with the applicant.

Town Planner's response

The application will not have a significant impact upon municipal services and is supported by the Municipal Engineering Services Department, subject to conditions.

7. MESSRS WERKMANS ATTORNEYS, ON BEHALF OF GANSBAAI MARINE

Messrs Werkmans stated that they act on behalf of Gansbaai Marine (Pty) Ltd, its BEE shareholders and employees, various fishermen and boat owners who are reliant on the Gansbaai Marine facility, the neighbours and persons living in close proximity to the property and appended a list of clients and referring to them as the client or the objectors.

The objection submitted by Messrs Werkmans is regarded a valid objection although the extent of their Power of Attorney is questioned (with reference to the extent of their representation of all the neighbours and persons living in close proximity of the application and refers to them as their client or the objectors).

The objector states that the objection will demonstrate the following:

- *Their clients stand to be directly and adversely affected by the proposed land uses and associated structures.*
- *The application is technically and legally invalid.*
- *The application is undesirable.*
- *The application will have a significant negative impact on the objectors' business, including associated rights and interests.*
- *The application will present an unwanted precedent in respect of the spatial planning of the Gansbaai town and specifically the heritage core and also on the heritage and amenity of the receiving and surrounding environment.*

The main grounds of objection could be summarised as follows:

The application is misleading, contains misrepresentations, errors in law, is unlawful and in breach of NEMA and the National Heritage Resources Act and can therefore not be considered in its current form.

Applicant's response

The applicant is of view that the above represents a sweeping or opinionated statement and that it are for Council to decide whether a heritage report is required prior to decision making.

Town Planner's Response

The application is not in breach with the provisions of National Heritage Resources Act (NHRA) since it does not trigger the criteria in terms of Section 38 of the act, which would require a Notification of Intent to develop to be submitted to Heritage Western Cape.

The applicant obtained a demolition permit from Heritage Western Cape, stating that the property is not conservation worthy. The decision was also displayed on the premises and media and not appeals were submitted against the decision of the department. The main dwelling had since been demolished.

Further, it should be noted that the subject property being situated in an existing town, does not trigger listed activities in terms of NEMA (refer to the comment from Environmental Management Services) in this regard.

The application and the proposed uses and structures do not comply with Section 42 of SPLUMA, or Sections 64 and 66 of the By-law. It is incumbent on the applicant to motivate and substantiate compliance with the criteria set out in the aforementioned sections of the applicable legislation.

Applicant's comment

The applicant is of the opinion that the above represents a sweeping or opinionated statement.

Town Planner's comment

The objector incorrectly refers to Section 64 of the Overstrand Municipal Land Use Planning By-law instead of Section 35(4), relating to criteria for decision making and consideration of removal of restrictive title conditions to be considered by the decision maker.

The item template is developed to ensure that the evaluation of the application complies with the respective legislative requirements, i.e. the criteria contained in Section 42 of SPLUMA as well Section 66 and 35(4) of the Overstrand Municipal Land Use Planning By-law. The aforementioned sections also place the onus on the decision maker, and not on the applicant, to consider the application in order to ensure that the respective requirements are met.

The objector admits that he did not see the application form/application and therefore cannot express an informed opinion. Despite the aforementioned statement the objector speculates as to the purpose of the restrictive title conditions. The objector is further of the opinion that failure to include the application form and Title Deed in the notification letters is a material omission and that the application must be re-submitted and re-advertised. Section 49(a) to (i) of the By-law contains criteria to be incorporated in a public notice and do not require that application forms or application documentation be included. The notice complies with the respective criteria as per Section 49(a) to (i). The objector did not contact the Municipality in order to access the detailed planning application. The opinion is held that the objection is speculative and not based on substantiated facts and should thus not be entertained.

The application are patently undesirable and contrary to spatial planning policies, guidelines, i.e. PSDf, SDF, IDP and proposed Gansbaai Heritage Core Overlay Zone, represent incremental erosion of a landscape / streetscape with significant heritage importance.

Applicant's comment

The applicant is of view that the above represents a sweeping or opinionated statement.

Town Planner's comment

The application property is situated within the CBD with reference to the IDF (2013), an area earmarked as economic opportunity in terms of the GMS (2010), whilst the SDF (2006) promotes the integration of the CBD with the harbour. The

aforementioned policy documents were approved as part of the IDP by Council on 30 May 2018.

The subject property is situated in an area earmarked as a Heritage Overlay Zone, currently not legislated, save for the provisions of the NHRA. The proposed Heritage Overlay Zone has not been formally adopted by Council and therefore has no status. It should also be noted that since the initial public participation process significant amendments pertaining to the applicable regulations have been suggested, which still have to be subjected to a public participation process, prior to it being finalised and recommended for approval by Council.

Having had regard to the above comment, the statement that the proposal does not accord with policy is not correct.

The proposed development is contrary to the principles contained in Section 2 of NEMA.

Applicant's comment

The applicant is of view that the above represents a sweeping or opinionated statement and did not elaborate further on the applicability of the NEMA principles.

Town Planner's comment

The subject property being situated within the urban edge of an existing town, does not trigger listed activities in terms of NEMA (refer to the comment from Environmental Management Services) in this regard.

The consideration of the desirability of the proposal cannot be isolated from the existing rights, i.e. development of a three (3) storey building under the current zoning. The proposed development, if supported, would be subject to conditions to limit the scale and bulk of the development, whilst the design should be amended to respect to local vernacular and impact on the receiving environment. Thus it will not adversely impact on the cultural landscape, does not trigger listed activities in terms NEMA and complies with the planning principles, thus the social, environmental and economic impacts of the proposal are considered positive advantages rendering the proposal desirable.

The application misrepresent the legal requirements under Section 34 of the NHRA

Applicant's comment

The applicant refers to the above as a sweeping statement and that it is for Council to decide whether a heritage report is required.

Town Planner's comment

The objectors' statement is not correct. The application seeks to obtain development rights, thus Section 38 of the NHRA should be considered as opposed to Section 34 that deals with demolition. The proposal however did not trigger the requirements of Section 38 of the Act. It should also be noted that the

application property, although situated in a proposed Heritage Overlay Zone was not graded in terms of the Overstrand Heritage Survey, presumably because the property is not considered to be conservation-worthy.

The applicant, prior to demolition of the existing dwelling, obtained a Demolition Permit in accordance with the provisions of Section 34 of the Act, thus in compliance with the legislative requirement. The Demolition Permit also states that the property is not conservation-worthy.

The proposed development will have a significant impact on the heritage resources of the receiving environment and material visual impact on the sense of place.

Applicant's comment

The applicant did not provide a comment on this point of objection.

Town Planner's comment

Although the objectors' comment is noted, it should be borne in mind that none of the adjoining properties are graded in terms of the heritage survey. The existing dwelling had already been demolished, following receipt of a Demolition Permit from Heritage Western Cape. The proposed Heritage Overlay Zone is currently not regulated since it needs to be referred to Council for a final decision.

The proposed development was circulated to the Overstrand Heritage and Aesthetics Committee which did not object to the proposed rezoning, subject to revisions to the proposal to ensure a more contextually appropriate design. The aforementioned will be incorporated within the conditions of approval, should the application be supported.

One (1) letter of support was received from EA & GJ van Dyk, part owners of Erf 149, Gansbaai, stating the following:

Supports the removal of restrictive title conditions and rezoning provided that the development is restricted to a boutique hotel, but reserve the right to comment and impose conditions in respect of the crumbling retaining wall adjoining Erven 1080, 148 and 149, Gansbaai.

Applicant's response

The applicant merely states that EA & GJ van Dyk does not object.

Town Planner's response

Should the application be considered favourably, it will be restricted to a boutique hotel.

Approval of building plans in terms of the National Building Regulations does not entail public participation. As such, this aspect of the comment from the adjoining owner cannot be accommodated.

The re-development of the property will adhere to the applicable development parameters in terms of the Zoning Scheme Regulations, whilst the final design

will be referred to the Overstrand Heritage and Aesthetics Committee for comment.

Internal and External Departments

The application was supported by all internal municipal departments and external provincial and semi-state institutions.

8. MUNICIPAL ASSESSMENT OF COMMENTS

N/A

9. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

N/A

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

10.1 Background

N/A

10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The applicant is of the opinion that the planning principles are not applicable, since the application is not for the creation of a new settlement or urban extension, but a rezoning of an erf in an existing town.

Section 6 of SPLUMA clearly stipulates that the planning principles are applicable to amongst other land development applications that per definition also include rezoning applications. Section 42 of SPLUMA requires the Municipal Planning Tribunal (MPT) to be guided by the development principles, including Chapter VI of LUPA and Section 66 of the Overstrand Municipal Land Use Planning By-law, 2015.

Compliance with the planning principles is motivated as follows:

Spatial Justice

The proposal is consistent with the IDP, IDF, SDF and GMS. Being situated within the CBD the proposal will not contribute to historical spatial imbalances, but will provide opportunities (i.e employment) for the previously excluded as well as the promotion of tourism and economic development.

Spatial sustainability

The application property, comprising a brownfield site is situated within the urban edge of an existing town and will not lead to urban sprawl, loss of natural habitat and will not have a negative influence on the environment.

Efficiency

The proposed land use will optimize the use of the property in terms of municipal services and infrastructure in accordance with the SDF and GMS.

Spatial Resilience

The proposed boutique hotel, being a brownfield development will ensure that an existing resource (land) is utilized to its full potential in an affordable manner and in line with the Overstrand Municipality's forward planning documents.

Good administration

The application followed the required planning procedures, including public participation.

10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

Same as 10.2 above.

10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies

The proposals map of the 2006 SDF reserves the application property for residential use. The applicable land use proposals seek to retain business, commercial, retail and office uses in the CBD area and promotes the western extension towards the harbour in terms of improved linkages. The proposal is therefore consistent with the SDF.

The application property is situated in Planning Unit 12 as per the 2010 GMS and earmarked as an economic opportunity and Heritage Overlay Zone and situated within the CBD as per the 2013 IDF. The proposal is therefore consistent with the aforementioned strategic planning documents.

10.5 (In)consistency with guidelines prepared by the Provincial Minister

N/A

10.6 Impact on Municipal engineering services

No objections were raised by the Municipal Engineering Services Department on the basis of availability and capacity of services, subject to conditions that amongst others, the payment of bulk services levies.

10.7 Outcomes of investigations/applications i.t.o other legislation

Environmental Management Services confirmed that the proposal does not trigger NEMA.

The proposed rezoning does not trigger the requirements of Section 38 of the National Heritage Resources Act.

Heritage Western Cape granted a demolition permit. As such, the requirements of Section 34 of the NHRA were adhered to.

The existing house has not been graded in the heritage survey.

10.8 Existing and proposed zoning comparisons and considerations

The proposed boutique hotel accords with the zoning applied, namely Business Zone 2: General Business. In addition the final development, should the application be successful, will be subject to conditions to limit the height and number of storeys as well as the submission of a final Site Development Plan.

10.9. Additional Planning Motivation for Removal of Restrictions**The financial or other value of the rights**

The owner will benefit financially due to the income generated through the proposed development of the property in terms of the Zoning Scheme, which is less restrictive than the Title Deed. Adjoining properties will also benefit in terms of increased property value.

The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal

Financial benefit will accrue.

The social benefit of the restrictive condition remaining in place, and/or being removed / amended

There is no social benefit for the applicant should the conditions remain in place. Community benefit is the employment possibilities and a choice of accommodation, promotion of tourism and economic development.

Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights

Only certain of the rights will be removed, since the no-subdivision clause imposed by the administrator will remain.

11. THE DESIRABILITY OF THE PROPOSAL**Existing forward planning for the area**

The application property is situated in the CBD of Gansbaai (as per the 2013 IDF), adjacent to the Gansbaai Harbour. The 2006 SDF promotes the extension of the CBD in a westerly direction toward the harbour. Further, the GMS earmarks the application property as an economic opportunity. The aforementioned forward planning documents were approved as part of the IDP. The proposal is thus consistent with the IDP, IDF, GMS and SDF, hence the rezoning to Business Zone 2: General Business to develop a boutique hotel is considered desirable.

Impact on Gansbaai Marine

Having had regard to the forward planning and policy documents above, the objection from Messrs Werkmans Attorney stating the development is contextually inappropriate is not agreed with.

The objectors state that the town of Gansbaai is developed around the fishing industry. The fishing industry at the time did not include the fish factory, which was only established in 1962, whilst the town of Gansbaai was developed in accordance with General Plan 5276/1920 dating back to 1920. The application property is situated in Gansbaai Extension 1, which extension was developed in accordance with General Plan 1610/41 approved by the Surveyor General on 27 August 1941. Extension 5 of Gansbaai dates back to a 1954 General Plan.

The opinion is held that it cannot be argued that the development will interfere with the operations of Gansbaai Marine, provided that the operations comply with their historic development approvals and the applicable legislation. In this regard, Gansbaai Marine is bound amongst others by the conditions of an Atmospheric Emissions License. The opinion is therefore held that the development proposal cannot be regarded as undesirable, due to the potential of complaints based on odours. The objector thus failed to demonstrate how the proposed development will pose a significant negative impact onto the operations of Gansbaai Marine.

The opposite is true that the local economy that includes Gansbaai Marine and their operations also benefit from tourism and the hospitality industry. In this regard, the proposal will contribute to tourism and economic development through the creation of employment opportunities, both during the construction and operational phases of the development, whilst it will also promote tourism that will be beneficial for Gansbaai as well as the Greater Overstrand area.

Character of the area

The application property is situated within the CBD of Gansbaai and not in a residential area as per the letters of objection. The surrounding area has a mixed character, comprising the Gansbaai Harbour to the north and west, abalone farm, residential and commercial uses which also includes guest houses such as Saxon Lodge, "Oom Piet" and Gansbaai Town Lodge, etc. The opinion is thus held that the proposed boutique hotel would not unacceptably detract from the character of the area.

The application property is situated in a prominent position above Gansbaai Harbour affording views across Walkerbay to the north and west. The property abuts Groenewald Street, which is an historic lookout point over the harbour, known as "Die Koppie" by local residents and fishermen and contains a bench on the road reserve of the upper level from where these views can be enjoyed.

The subject property is situated within an identified Heritage Overlay Zone that does not contain management provisions. The application does not trigger the requirements of Section 38 of the National Heritage Resources Act, relating to the submission of a Notification of Intent to Develop. Further, in accordance with Section 34 of the said act, the applicant obtained a demolition permit from the competent authority. The permit furthermore states that the property is not conservation- worthy.

The application was circulated to the Overstrand Heritage and Aesthetic Committee (OHAC) for comment. OHAC supports the proposal subject to a more simple contextually appropriate approach incorporating the following:

- introducing simpler elements;

- rectangular forms;
- less fractured building with larger scale, simpler roofs;
- introduction of curved elements be reconsidered, and
- does not support the proposed towers

The opinion is held that the proposed development would not unacceptably detract from the heritage character of the area, subject to the proposed boutique hotel being re-designed to be more sympathetic with the local vernacular, demonstrating adherence with the comments referred to above. Should the application be successful the height of the development will be limited to 8,5m, whilst the applicant will also be required to set the second floor back by 2m from the street boundary, thereby creating a view corridor and preserving the amenity of the street scene.

Amenity of the area

A boutique hotel in terms of the Cambridge Dictionary is defined as follows:

“a small, stylish and fashionable hotel that is not part of a chain (group of hotels belonging to one company).”

It is thus clear that a boutique hotel has certain characteristics, namely being small, stylish and fashionable. The application for a boutique hotel with eight (8) bedrooms and associated facilities is not considered to unacceptably detract from the residential amenity of the area by reasons of noise and disturbance. In this regard it should be noted that five (5) bedroom guest houses are commonly situated in low density single residential areas and are being conducted without negative impact on the amenity of the adjoining properties.

The application property is situated in the CBD, in an area with mixed land uses and more activity compared to a low density single residential neighbourhood. The predominant use will still be residential accommodation, with an ancillary restaurant of 77m². Although it incorporates a bar of 10m² the operation cannot be classified as a bar or tavern. The bar forms part of the restaurant and will be managed such as to prevent noise and disturbance to paying guests.

The opinion is held that an upmarket hotel and restaurant cannot be considered in the same way as a bar or tavern that generally serves a different clientele. The proposal would not unacceptably detract from the residential amenity of the area, since the major component of the development will be the provision of overnight accommodation with an associated restaurant.

The SDP indicates that the main windows will be north and west facing with only secondary windows in the eastern and southern elevations serving bathrooms, linen rooms, kitchen and passages. The opinion is thus held that the proposal will not result in a significant impact in terms of overlooking / loss of privacy such to warrant refusal of planning permission.

Access

Groenewald Street has an upper level with a 7,5m road reserve, only serving the application property. It also contains a public bench / lookout and three (3) public parking bays. The lower section of Groenewald Street serves only two (2) properties.

The application property will be accessed via the upper level of Groenewald Street with a right access onto the property along the southern boundary. Parking will mainly be provided in a part basement and allows for turning and manoeuvring on the premises. Egress will occur along the northern property boundary onto the lower section of Groenewald Street. The applicant, should the application be supported, will be required to submit detailed engineering drawings demonstrating practical access / egress and manoeuvring on site, whilst any upgrading of the road required as a result will be of parking. The SDP submitted with the application indicates that parking could be provided in accordance with the provisions of the Scheme Regulations, whilst the layout is supported by the Engineering Services.

Municipal Services

The opinion is held that the proposal will not have a significant impact on municipal services and is supported by the Municipal Engineering Services Department, subject to conditions that amongst others relates to the payment of a bulk services levies.

Removal of Restrictive Title Conditions

The removal of the restrictive conditions pertains to the land use restrictions imposed on the erf with the township establishment of Gansbaai, Extension 1, and comprises thirteen (13) erven, numbered 212 to 224 in accordance with GP 1640/41. From the seven (7) objection letters, only one (1) objector is situated within Gansbaai Extension 1 and thus affected by the proposed removal of restrictive title conditions. In accordance with the provisions of the By-Law this objector, as well as the adjoining interested and affected parties, were notified of the proposed development.

The relevant conditions that will be removed as per Title Deed T59454/2015 are as follows:

3.A(a) that this erf be used for residential purposes only

The proposed development will comprise a boutique hotel with a restaurant, situated in the CBD of Gansbaai which represents an area with mixed land uses. The proposed development is consistent with the applicable forward planning documents and therefore the condition may be removed.

3.A(b) that only one dwelling together with such outbuildings as are ordinarily required to be used therewith be erected on this erf

The application property is situated in the CBD and earmarked for commercial use. The proposal comprising overnight accommodation will promote tourism and economic development, which has been accepted by the public at large in terms of the existing strategic policy documents. The condition may be removed.

3.A(c) that no more than one-half of the area of this erf be built upon

This condition is catered for in the Scheme Regulations and may be removed.

3.A(d) that no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres to the street line

which forms a boundary of this erf. No such building or structure shall be situated within 1,57 metres of the lateral boundary common to any adjoining erf.”

This condition is in conflict with the Scheme Regulations that allow a 0m street building line and a southern lateral and a rear building line of 3m which is evident in the proposed SDP.

Despite the above, properties along the upper section of Groenewald Street were allowed to developed across the street building line in terms of the Title Deed up to 1,5m of the street boundary. The proposed SDP indicates more restrictive building lines adjacent single residential properties, whilst the street building line on some residential properties has not been adhered to. This condition may be removed.

Conclusion

Having had regard to the evaluation above, the proposal is considered desirable in the context of its location within the CBD, consistent with existing policy and forward planning documents, the planning principles and will not adversely impact on the natural or built environment. The proposed development will promote tourism and economic development, create employment opportunities (direct and indirect) during both the construction and operational phases. Potential impacts could be mitigated in terms of conditions of approval. The proposed development is considered to be desirable and is therefore recommended for approval, subject to conditions.

12. RECOMMENDATION

1. that the objections be noted;
2. that the application in terms of Section 16(2)(f) of the Overstrand Municipal Land Use Planning By-Law, 2015 for the removal of restrictive conditions 3.A(a), 3.A(b), 3.A(c) and 3.A(d) of Title Deed T59454/2015 applicable to Erf 222, Gansbaai in order to develop a boutique hotel, **be approved**;
3. that the application in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 from Residential Zone 1: Single Residential (SR1) to Business Zone 2: General Business (B2), Bulk Zone 2 in order to develop a boutique hotel on the property, **be approved**;
4. that the approval in paragraph 2. above be subject to the following conditions:
 - (a) that the development be restricted to a boutique hotel and restaurant;
 - (b) that prior to commencement of the development a detailed Site Development Plan be submitted in accordance with the requirements of the Zoning Scheme Regulations for approval by the Authorised Official;
 - (c) that the development be re-designed to be sympathetic to the local vernacular in accordance with a revised Site Development Plan demonstrating compliance with the requirements of the Overstrand Heritage and Aesthetics Committee;

- (d) that the development of the subject property be limited to two (2) storeys, subject to a 8,5m height restriction and 2m set back from the street building line applicable to the second floor;
- (e) that the Site Development Plan shall be accompanied by a Geotechnical Report demonstrating that the ground conditions is suitable for the proposed development;
- (f) that the operation of a place of entertainment, a bar or tavern is not permitted;
- (g) that provision be made for on-site parking in accordance with the provisions of the Scheme Regulations, in accordance with a detailed parking layout to be submitted for approval by the Authorised Official;
- (h) that the display of signage shall comply with the Municipal By-Law Relating to Outdoor Advertising and Signage;
- (i) that the selling or serving of liquor be subject to a valid liquor license;
- (j) that applicable rates and service tariffs, as determined by the annual budget be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
- (k) that the boutique hotel complies with Health and Safety Legislation and that this approval will be subject to regular inspections by the Fire Control Co-ordinator and the Health Inspector;
- (l) that no self-catering rooms will be permitted;
- (m) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
- (n) that all the conditions in the Services Report (attached as Annexure E), be complied with;
- (o) that the requirements of Electro-Technical Services, District Health, Telkom, Fire Services, Overstrand Heritage and Aesthetics Committee, Engineering Services and Heritage Western Cape (attached as Annexures G-J, M-O), be adhered to;
- (p) that the operation of the boutique hotel be subject to a valid Business License;
- (q) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
- (r) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.

5. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decisions and conditions of approval.

12. REASONS FOR RECOMMENDATION OF APPROVAL

- ❖ The application is consistent with applicable forward planning and policy documents.
- ❖ The application is consistent with the planning principles.
- ❖ The proposed development will not adversely impact upon the character of the area, or amenity of adjoining properties.
- ❖ The proposed development is desirable.
- ❖ The proposal will contribute to the promotion of tourism, economic development, including employment opportunities.
- ❖ The application has followed due procedure.
- ❖ None of the internal or external departments have any objection.
- ❖ It will not impact negatively upon municipal services

13. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Title Deed T59454/2015
Annexure E:	Objections received
Annexure F:	Comment on objections
Annexure G:	Comment: Electro Technical Services
Annexure H:	Comment: District Health
Annexure I:	Telkom
Annexure J:	Comment: Fire Services
Annexure K:	Comment: Environmental Services
Annexure L:	Department of Transport and Public Works
Annexure M:	Comment: Overstrand Heritage and Aesthetic Committee
Annexure N:	Services Report
Annexure O:	Heritage Western Cape

SIGNATURES

REGISTERED PLANNER

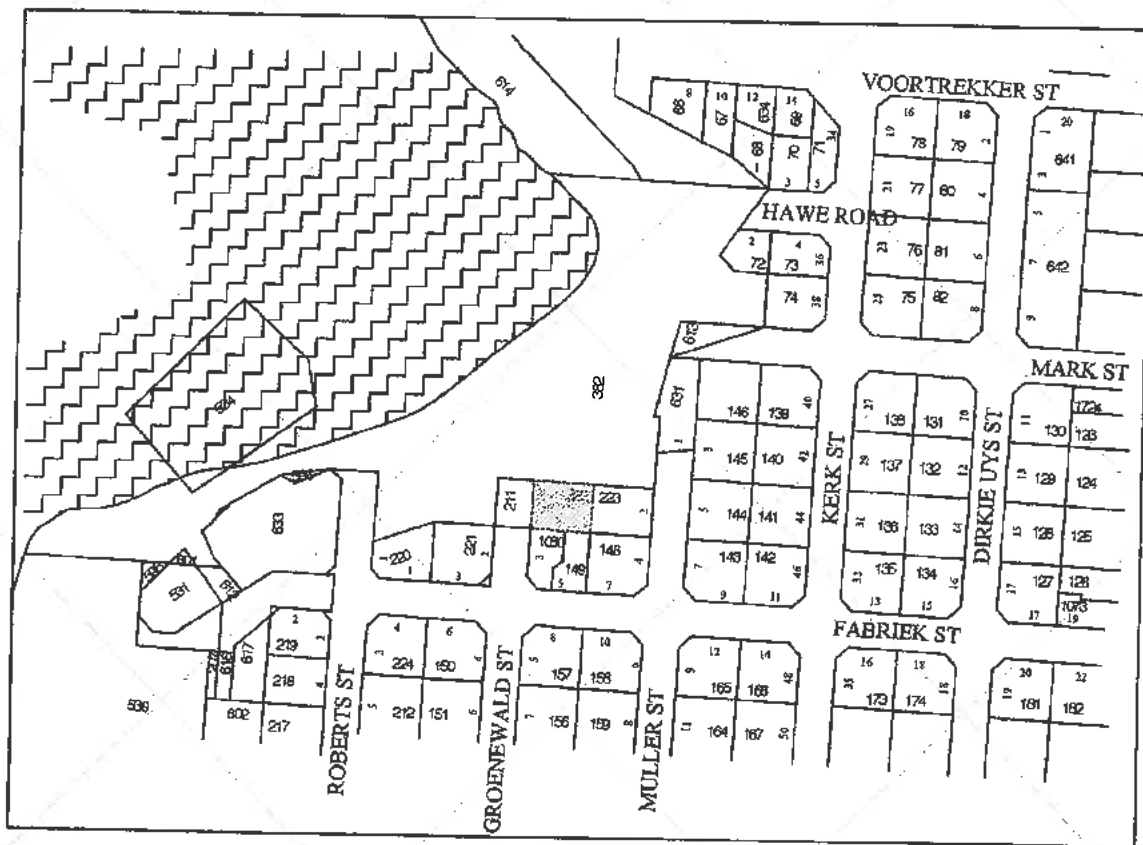
Name : **SW VAN DER MERWE**

SACPLAN Reg No: **A/1850/2014**

Signature : _____

Date: _____

LOCATION PLAN FOR ERF 222, GANSBAAI



LOCATION PLAN

SCALE: N.T.S.

PRINSLOO
ARGITEKTONIESE
ONTWERPKANTOOR

GR 95 / 31284 / 22

MARTIN PRINSLOO
N.D. ARGITEKTOUR L.D. VAN S.A.A.P.

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**ERF 222, GANSBAAI, 1 GROENEWALD STREET: REMOVAL OF RESTRICTIONS,
AMENDMENT OF THE OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK,
AND REZONING**

1. SUMMARY OF LEGISLATION PERTAINING TO THE APPLICATION

- 1.1 **Application** for the Removal of Restrictive Title Deed Conditions (refer to Section C of the application form) in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, here forth the By-law.
- 1.2 **Application** for the Amendment of the Overstrand Municipal Spatial Development Framework (SDF) in terms of the Municipal Systems Act, read with Section 3 of the By-Law in order to change the reservation of the property from single residential usage to boutique Hotel purposes.
- 1.3 **Application** in terms of Section 16(2)(a) of the By-Law for the Rezoning of the property from Residential Zone 1 to Business Zone (Bulk Zone 2) in order to develop the property for boutique Hotel purposes.
- 1.4 **Application** in terms of Regulation 16.3 of the Overstrand Municipality Zoning Scheme Regulations (Scheme Regulations) for the approval of the Site Development Plan.

2. GENERAL INFORMATION

2.1 Title Deed and Property Description

In terms of its Title Deed, the property is described as Erf 222, Gansbaai in the Overstrand Municipality, Caledon Division, Western Cape Province and 793m² in size.

The property is registered in the name of "STEPHEN JACKIE FAMILIE TRUST".

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2.2 Bond/s

The property is not encumbered by any bond/s.

2.3 Current Zoning Status

Erf 222, 1 Groenewald Street, Gansbaai is zoned for Residential Zone 1 purposes.

2.4 Existing Development on the Property

The property is currently developed with a Single Residential Dwelling Unit and a Granny Flat. No records could be found that indicate when these structures were developed on the property. It can be presumed that it was not developed in recent times (see photos).

BELOW: VIEW OF EXISTING DWELLING FROM NORTHERN BOUNDARY OF GANSBAAI HARBOUR AND LOWER SECTION OF GROENEWALD STREET



MOTIVATION REPORT: ERF 222, GANSBAAI (2016)**Page 3.****BELOW: VIEW OF EXISTING DWELLING FROM UPPER LEVEL OF GROENEWALD STREET****BELOW: VIEW OF EXISTING GRANNY FLAT/ADDITION DWELLING UNIT**

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3. PROPOSED DEVELOPMENT

- 3.1 It is the intension of the owners to demolish the above buildings and to redevelop the property for boutique Hotel purposes. From the development plans attached to the application it can be observed that, from an architectural point of view, the proposed building will not be detrimental to the surrounding developed area.

Refer to the proposed Site Development Plan attached to the application. The development will mainly consist of a double storey Hotel building. The upper floor of the said structure will consist of 6 en-suite bedrooms, whilst the lower floor will, amongst others, consist of 2 en-suite bedrooms, a restaurant area that includes a small bar, a kitchen and public toilets. The total restaurant area will not exceed 100m² in size.

4. EXISTING CHARACTER OF SURROUNDING BUILD ENVIRONMENT**4.1 Background**

Gansbaai is a coastal township within the Greater Gansbaai area with breathtaking views across Walker Bay and is a very popular holiday destination. Tourist attractions include, amongst others, the nearby Kleinbaai Harbour area where Great White Shark Cage Diving and Whale watching tours are hosted. It also includes various accommodation establishments for tourists. Beautiful hiking trails along the coastlines, and sand beaches at Franskraal further contributes to the popularity of the greater Gansbaai area.

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4.2 Existing Urban Development

See photos below: The area surrounding Erf 222, Gansbaai consists of mixed land uses that include; accommodation establishments such as Oom Piet Accommodation and Saxon Lodge; restaurants such as the Boat House Restaurant & Pub, Oppidek Pub & Bistro, Sharky's Pizzeria, B-Blondes Restaurant; a House Shop at 8 Groenewald Street; the Gansbaai Harbor Area; and Residential dwelling units.

BELOW: VIEW FROM NORTHERN SIDE OF GANSBAAI HARBOR



BELOW: VIEW FROM NORTHERN SIDE OF GANSBAAI HARBOR



MOTIVATION REPORT: ERF 222, GANSBAAI (2016)**Page 6.****BELOW: VIEW FROM APPLICATION PROPERTY TOWARDS RESTAURANT WITHIN HARBOR AREA****BELOW: EXISTING HOUSE SHOP, ERF 152 (8 GROENEWALD STREET)**

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BELOW: VIEW FROM APPLICATION PROPERTY ACROSS GANSBAAI HARBOR AND WALKER BAY



5. GENERAL POINTS OF MOTIVATION

5.1 Biophysical Characteristics

The application property does not contain any mentionable biophysical characteristics that would impact on the demolition of the existing structures nor any redevelopment of the property.

5.2 Topography

The application property has no mentionable slopes, and hence bares no confines for the proposed development.

MOTIVATION REPORT: ERF 222, GANSBAAI (2016)**Page 8.****5.3 Geology and Soil**

Being located close to the coastline, it is likely that the existing underlying materials of the property are that of the typical known coastal material of the broader area. Since no erosion previously occurred on the developed property, no erosion is thus foreseen with the redevelopment of the property.

5.4 Climate

The region has a typical Mediterranean type of climate with wet and cold winters, and warm and windy summers.

5.5 Heritage

In terms of the Overstrand Heritage Survey, the structures on the property are not listed under any category of the South African Heritage Resources Act or its Regulations. It is believed that, because these structures have over the years been altered in such a manner that it was not deemed necessary to be listed as of any heritage value/significance when the said heritage survey was compiled. The Act is hence regarded as not being applicable to the application and therefore no heritage assessment is required.

5.6 Environmental Legislation

Refer to development plans attached to the application. Cut-and-fill activities will occur on the application property once construction of the new structure commences. The Regulations in terms of the National Environmental Management Act previously listed various development activities that need environmental approval prior to the commencement thereof. However, these Regulations were amended during 2014 to the extent that properties in general that fall within the boundaries of approved townships, are excluded from certain previous requirements of the Act. The amended Regulations were in any event thoroughly consulted and no activities could be found that trigger any environmental approval/s.

MOTIVATION REPORT: ERF 222, GANSBAAI (2016)**Page 9.****5.7 Coastal Zone Policy for the Western Cape**

The aim of the Policy is to give guidance regarding the sustainable development and management of the Western Cape coastline with specific reference to the creation of environments for investment opportunities, which would lead to economic development and consequent sustainability of the economic growth of its coastal towns. According to the Policy the area falls within its specific Spatial Planning Category, in that tourist related enterprises within coastal towns must be encouraged. It is therefore given that the proposed development is consistent with the principles of the Policy.

5.8 Applicable Forward Planning Documents, and Impact on the Character of the Surrounding Build Environment, as well as Desirability of the Proposed Development

The following forward planning Documents were consulted:

Provincial Spatial Development Framework;
Overstrand Spatial Development Framework;

Except for the Overstrand Spatial Development Framework (SDF), the proposal could not be found to be inconsistent with any other forward planning documents. The physical spatial plan of the Gansbaai area as contained in the SDF, indicates that the property is to be reserved for future single residential usage. The text contained within the SDF that relates to the spatial planning of Gansbaai, on the other hand indicates that the property falls within the node for the future extension of commercial related developments/activities. It further encourages the development of a balanced mix of land uses within the urban edges of Gansbaai.

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The amendment of the spatial plan for the area itself thus only needs to be amended from a technical point of view in order to accommodate the proposed development. The proposal is therefore not seen as being inconsistent with the actual overall spatial proposals for the area.

In view of the above, it is the opinion that the proposal cannot have any detrimental impact on the existing mixed land use character of the surrounding developed area, and can only contribute positively towards the existing and future character thereof.

Because of the property's location within an already developed area, and the fact that no subdivision or densification per say is applied for, it is evident that the overall redevelopment of the property will be consistent with the character of the existing surrounding developed area with its already mixed land uses.

In view of the above, the proposed development is regarded as being Desirable from a planning point of view.

5.9 Services Infrastructure and Municipal Engineering Services

The property is located within an existing developed area together with Municipal infrastructure networks being in place (roads, electricity, sewerage and water). A 3-phase electricity connection will be required for the proposed development, and the upgrading of the bulk electricity supply may at some stage in future be required when more and more commercial activities within the commercial node are approved by the Municipality.

The future impact on existing Municipal infrastructure within Gansbaai's commercial node has been taken into account prior to the formal approval of the Spatial Development Framework by the Municipality. Due to the relative small scale of the development, it is not foreseen that it will have any mentionable impacts on the existing Municipal infrastructure within the specific commercial node. An Engineering Report will however follow as soon as it is finalized by the relevant company.

MOTIVATION REPORT: ERF 222, GANSBAAI (2016)**Page 11.****5.10 Accessibility of the Property from the surrounding Area and possible Traffic Impacts thereon**

General access to the property will route mainly from Main Street, Gansbaai, then via Korporasie Street and eventually Groenewald Street in which the application property is situated. These are existing roads with tarred surfaces that are in very good condition and have ample width to carry any additional traffic that will be generated by the development. In the latter regard it is reiterated that due to the relevant small scale of the development, no mentionable generation of additional traffic is envisaged, and no upgrading of these roads are therefore deemed necessary. No negative impact on the existing surrounding roads infrastructure is envisaged, and subsequently no traffic impact assessment for the proposed development are regarded as necessary.

5.11 Access to the Property and provision of Off-Street Parking

See images below this section. It should be noted that the application property is situated at the end of Groenewald Street. At this section of Groenewald Street the road splits into an upper -and lower level, still being one road from a technical point of view. It is evident that due to the steep slope at this section of Groenewald Street, it was split into two in order to ensure practical vehicle access to the properties alongside the road (only 3 properties in total). The application property is situated at the upper level of Groenewald Street.

Refer to the Parking Layout Plan attached to the application: The requirements of the Overstrand Zoning Scheme Regulations with regard to off-street parking will be met in that ample and practical parking can be provided on the property for the overall development.

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The physical flow of vehicles will transpire via the upper level of Groenewald Street with an access point to the property at the southern boundary thereof. A one-way flow is then provided through the property with the exit point at the western boundary of the property towards the lower section of Groenewald Street. Vehicle flow then transpire from the lower section of Groenewald Street to the roads network of Gansbaai.

It should be noted that 4 public parking bays occur at the upper level of this section of Groenewald Street. The width of this upper level is approximately 7,5m. Taking the standard 2,5m width of the parking bays into consideration, there will still be ample road width left for vehicles to move with ease at this section of the street. The lower section of Groenewald Street is approximately 6,5 in width with no obstacles such as parking bays. No problems are thus foreseen with vehicle flow at the upper- and lower sections of the Groenewald Street.

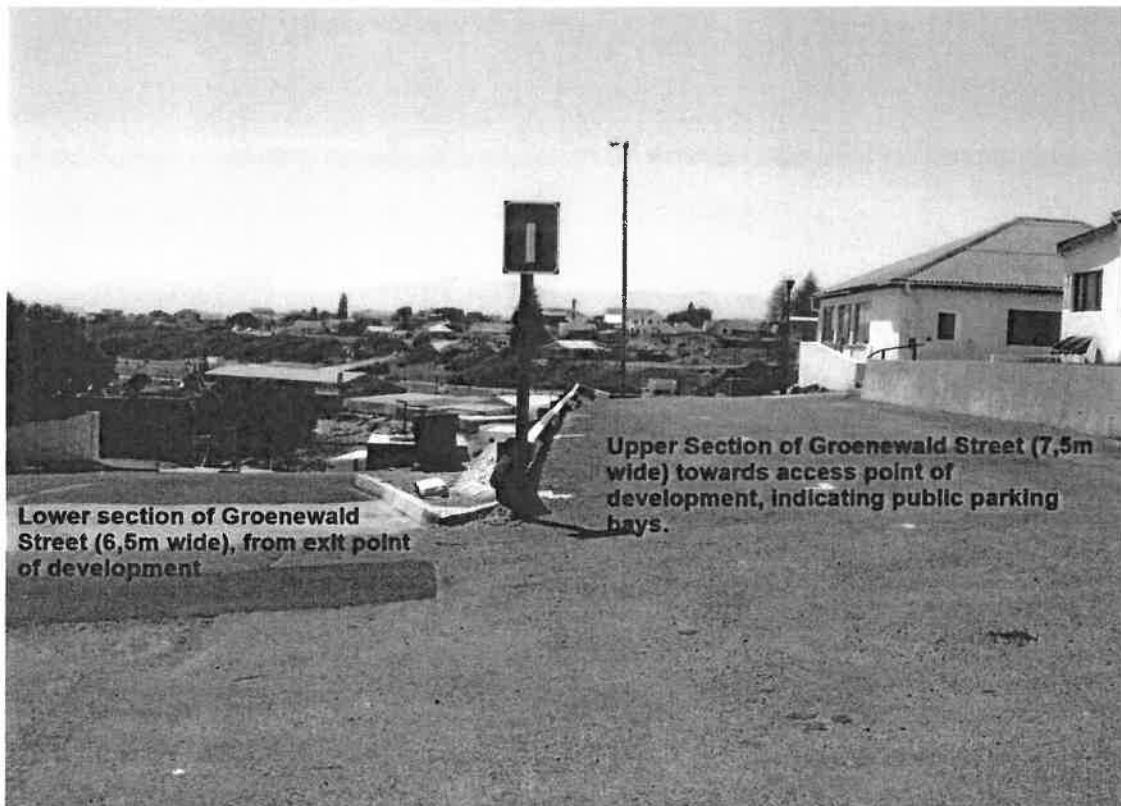
The existing public parking bays are however very unpractical for usage by the public mainly due to the location thereof at the dead end of the street. This is also the reason why these bays are hardly ever used by the public. Taking the proposed development of traffic flow into consideration, the current unpractical public parking situation will automatically be solved.

In view of the above it is the considered opinion that proposed flow of traffic will not result in any traffic impacts in general for the immediate surrounding area, as it is regarded as the most practical approach for vehicle flow. It is reiterated that only two properties gain vehicle access from the upper section of Groenewald Street, being Erf 1080, Gansbaai and the application property. Further, only one property occur at the lower section of Groenewald Street, being Erf 221, Gansbaai. Traffic signs indicating access only at the southern boundary of the application property, and exit only at the western boundary of the property will be affixed by the developer in conjunction with the Municipality.

MOTIVATION REPORT: ERF 222, GANSBAAI (2016)

Page 13.

BELOW: UPPER- AND LOWER SECTIONS OF GROENEWALD STREET (ALSO INDICATING PUBLIC PARKINGS)



5.12 PLANNING PRINCIPLES (as referred to in Motivational Report Guidelines of the Municipality)

Spatial Justice

Application is not made for the creation of any settlements or urban extensions. Application is mainly made for the change of land use of a single property within an existing township. The overall principles and planning development norms and criteria, as set out in Section 42 of Spatial Planning and Land Use Management Act of 2013 and Chapter VI of the Land Use Management Act of 2014 are thus not regarded as being applicable in this case.

MOTIVATION REPORT: ERF 222, GANSBAAI (2016)

Page 14.

Spatial Sustainability

Not regarded as being applicable in view of comment under "Spatial Justice" above.

Efficiency

Not regarded as being applicable in view of comment under "Spatial Justice" above.

Spatial Resilience

Not regarded as being applicable in view of comment under "Spatial Justice" above.

Good Administration

Not regarded as being applicable in view of comment under "Spatial Justice" above.

5.13 Removal of Restrictive Title Deed Conditions

The restrictive title deed conditions referred to in the application form, requires the removal thereof from the title deed in order to ensure that it does not impede on the development parameters of the proposed new zoning as prescribed in the Overstrand Zoning Scheme Regulations.

5.14 Creation of Employment

Although no thorough assessment were undertaken with regard to job creation yet, it is anticipated that at least 15 – 20 jobs will be created during the construction phase of the development, and at least 10 permanent job opportunities once the development applied for are approved and up and running.

MOTIVATION REPORT: ERF 222, GANSBAAI (2016)

Page 15.

6. **CONCLUSION**

From the content of this report it is apparent that the proposed land use will have no negative impacts in general and that every effort has been made to mitigate any possible impacts. The proposed development will be in line with the requirements of all relevant legislation, and it is thus recommended that the Municipality approves the:

Application for the Removal of the Restrictive Title Deed Conditions;

Application for the Amendment of the Overstrand Municipal Spatial Development Framework;

Application for the Rezoning of the property from Residential Zone 1 to Business Zone (Bulk Zone 2); and the

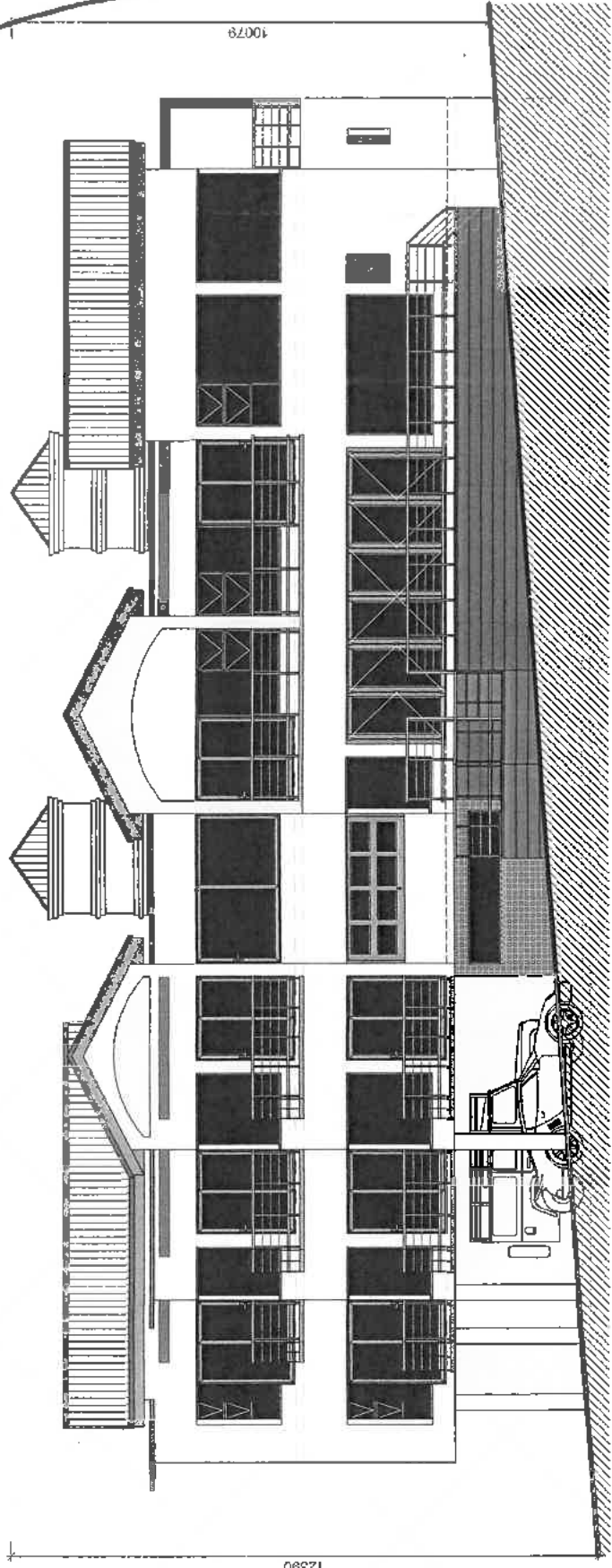
Application for the approval of the Site Development Plan.

END OF MOTIVATION REPORT

ANNEX: G 1/4

ANNEX: H

NOTE:
 1. THE ARCHITECTURE AND INTERIOR DESIGN SHALL BE IN ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS AND THE NATIONAL FIRE SAFETY REGULATIONS.
 2. THE ARCHITECTURE SHALL BE IN ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS AND THE NATIONAL FIRE SAFETY REGULATIONS.
 3. THE ARCHITECTURE SHALL BE IN ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS AND THE NATIONAL FIRE SAFETY REGULATIONS.
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 10. THE ARCHITECTURE SHALL BE IN ACCORDANCE WITH THE NATIONAL BUILDING REGULATIONS AND THE NATIONAL FIRE SAFETY REGULATIONS.



10079

12390

PRINSLOO
 ARGITEKTONIESE
 ONTWERPKANTOOR
 48, N. 3125A, D.

MARTIN PRINSLOO
 ARGITEKTONIESE
 ONTWERPKANTOOR
 48, N. 3125A, D.

PROPOSED NEW BUILDING
 FOR MOSTERT FAMILY
 ON ERV 22,

GANSBAAI
 FRONT ELEVATION

OFFICE NO. 1
 48, N. 3125A, D.

DATE: 04/12/2015
 AS SHOWN

FRONT ELEVATION
 SCALE 1:100

EN genoemde Komparant het verklaar dat

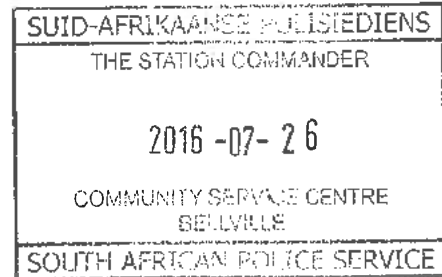
NADEMAAL in die saak waarin

Signature
2016-07-26 Sgt

ABSA BANK LIMITED
REGISTRASIENOMMER 1986/004794/06

die Eiser was en

ANETSTRAAT 7 CC
REGISTRASIENOMMER 2004/068175/23



die Verweerder was en die eiendom hierna beskryf geregistreer is in die naam van die genoemde

ANETSTRAAT 7 CC

en die genoemde Balju van Hooggeregshof van Suid-Afrika, Wes-Kaap Afdeling, Kaapstad, vir die distrik van Hermanus, Provinsie Wes-Kaap kragtens 'n Lasbrief vir Eksekusie uitgereik deur die Griffier van die Hooggeregshof van Suid-Afrika, Wes-Kaap Afdeling, Kaapstad op 25 Februarie 2015 kragtens saak nommer 18339/2014 beslag gelê het op die hierinvermelde eiendom en dit op 29 Julie 2015 in eksekusie verkoop het aan die transportnemer/s hieronder beskryf vir die bedrag van R756 000,00 (SEWE HONDERD SES EN VYFTIG DUISEND RAND)

EN DAT hy, die komparant, in sy voorgenoemde hoedanigheid hiermee sedeer en transporteer aan en ten gunste van

Die Trustees indertyd van STEPHEN JACKIE FAMILIETRUST
REGISTRASIENOMMER IT 2495/99

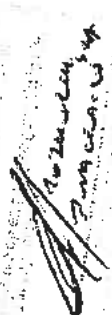
Die se Opvolgers in Amp of Regverkrygendes, in volkome en vrye eiendom

ERF 222 GANSBAAI, IN DIE OVERSTRAND MUNISIPALITEIT,
AFDELING CALEDON, PROVINSIE WES-KAAP;

GROOT 793 (SEWE HONDERD DRIE EN NEGENTIG) VIERKANTE METER

EERSTE GETRANSPORTEER KRAGTENS Transportakte nr T 9864/1943 met kaart daaraan geheg en GEHOU kragtens Transportakte nr T 82181/2007.

ONDERHEWIG

- 
1. Aan die voorwaardes waarna verwys word in gesegde Transportakte nr T 9864/1943;
 2. **NIE ONDERHEWIG** aan voorwaarde 2 op bladsy 2 van Transportakte nr T 82181/2007 kragtens Artikel 53 van die Mining Title Registration Amendment Act 24 of 2003.
 3. Aan die volgende spesiale voorwaardes genoem in die gesegde Transportakte nr T 9864/1943 opgelê deur die Administrateur van die Kaapprovinsie toe die genoemde Dorp goedgekeur is:-


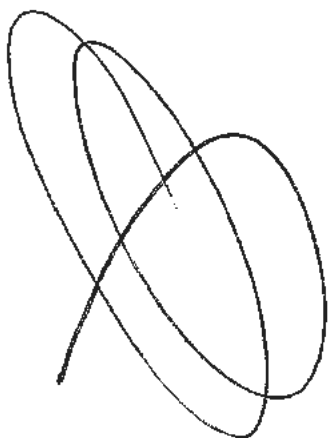
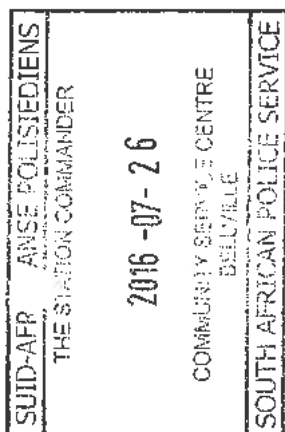
A. As synde ten gunste van die geregistreerde eienaar van enige erf in die Dorp en onderhewig aan wysiging of verandering deur die Administrateur kragtens die voordele van Artikel 18(3) van Ordonnansie nr 33 van 1934:-

- (a) That this erf be used for residential purposes only.
- (b) That only one dwelling together with such outbuildings as are ordinarily required to be used therewith, be erected on this erf.
- (c) That no more than one-half of the area of this erf be built upon.
- (d) That no building or structure or any portion thereof, except boundary walls and fences, shall be erected nearer than 4,72 metres to the street line which forms a boundary of this erf. No such building or structure shall be situated within 1,57 metres of the lateral boundary common to any adjoining erf.

B. As synde ten gunste van die Administrateur:-

- (e) That this erf be not subdivided except with the consent in writing of the Administrator.

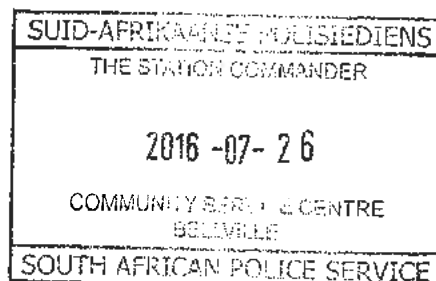
C. As synde ten gunste van die Dorpsbestuursraad (Nou Munisipaliteit) van Gansbaai:-

(f) That the owner of this erf shall be obliged to allow the drainage or sewerage of any other erf to be conveyed over this erf if deemed necessary by the Village Management Board of Gansbaai, and in such manner and in such position as may from time to time be reasonable required by the said Village Management Board.

4. Aan die volgende spesiale voorwaardes, vervat in Transportakte nr T 9864/1943, opgelê deur die Dorpsbestuur (nou Munisipaliteit) van Gansbaai vir eie voordeel as eienaars van die restant van Erf 222 Gansbaai ('n gedeelte van Erf 207) nou bekend as die Dorp Gansbaai Uitbreiding nr 1, geleê soos hierbo kragtens Sertifikaat van Geregistreerde Title nr T 11318/1941, viz:

1. "The Transferor reserves to itself and its successors in title the right at any time hereafter to the free and undisturbed passage of electric, telegraph or telephone wires over and upon any portion of this erf with the further right of causing them to be affixed to any building or erection thereof, not less than 3,05 metres from the ground, with the right of access at any time to such wires for the purpose of removal, replacement or maintenance.
2. The Transferor reserved to itself and its successors in title the right at any time hereafter to lay and maintain piping under any portion of this erf, at all times to have access thereto for removal, maintenance extension or any other purpose and to do all such acts and things as shall be required for the convenience of the inhabitants of the Township in connection with the supply of water.
3. The Transferor reserves to itself and its successors in title the sole right of all water arising on or flowing over this erf or any water whereupon the property of the said Transferor has the riparian rights either by Servitude or agreement and the Transferee or his successors in title will not be entitled to any such water nor shall any Transferee have any riparian rights."



Handwritten signature and date: 2016-07-26

WESHALWE die komparant afstand doen van al die regte en titel wat

ANETSTRAAT 7 CC

voorheen op genoemde eiendom gehad het, en gevolglik ook erken het dat dit geheel en al van die besit daarvan onthef en nie meer daartoe geregtig is nie en dat, kragtens hierdie akte, bogenoemde

**Die Trustees indertyd van STEPHEN JACKIE FAMILIETRUST
REGISTRASIENOMMER IT 2495/99**

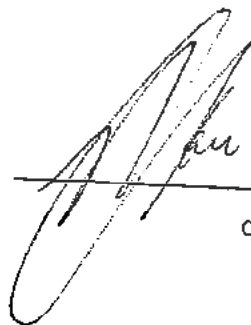
Die se Opvolgers in titel of Regverkrygendes, tans en voortaan daartoe geregtig is, ooreenkomstig plaaslike gebruik, behoudens die regte van die Staat en ten slotte erken hulle dat die verkoopprys die bedrag van **R756 000,00 (SEWE HONDERD SES EN VYFTIG DUISEND RAND)** beloop en dat hereregte betaal is op die bedrag van **R756 000,00 (SEWE HONDERD SES EN VYFTIG DUISEND RAND)** plus agterstallige eiendomsbelasting van **R1 285,85 (EEN DUISEND TWEE HONDERD VYF EN TAGTIG RAND EN VYF EN TAGTIG SENT)**.

TEN BEWYSE WAARVAN ek, genoemde Registrateur, tesame met die Komparant hierdie Akte onderteken en dit met die Ampseël bekragtig het.

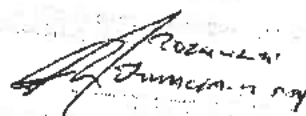
ALDUS GEDOEN EN VERLY op die Kantoor van die REGISTRATEUR VAN AKTES te KAAPSTAD op hede die *21 ste Oktober* 2015.

In my teenwoordigheid

REGISTRATEUR VAN AKTES


q.q.

SUID-AFRIKAANSE POLISIEDIENS
THE STATION COMMANDER
2016 -07- 26
COMMUNITY SERVICE CENTRE BESSELVILLE
SOUTH AFRICAN POLICE SERVICE


2024-12-21
J. J. J. J. J.

DIE MUNISIPALE BESTUURDER
 OVERSTRAND MUNISIPALITEIT
 POSBUS 20
 HERMANUS
 7200



TP-A Theart
 (Suid Merke)

I/S Munisipale Kennisgewing Nr33/2017 Erf 222, Groenewaldstraat 1, Gansbaai Aansoek om opheffing van Beperkende voorwaardes & Hersonerig

Ons G.J. van Dyk ID 3703145030082 en E. A. van Dyk ID3708120017004 medeeinaars van Erf 149 Gansbaai, gee hiermee toestemming vir die opheffing van die beperkende titel voorwaardes en die hersonerig van Erf 222 Gansbaai om die eienaars in staat te stel om n Botique Hotel op die betrokke eiendom op te rig as die hersonerig beperk word tot n Botique Hotel alleenlik soos aangedui op die konsepplanne aan ons voorgele.

Aangesien geen planne van die Suidelike Aansig aan ons beskikbaar gestel is nie, behou ons die reg voor om kommentaar te lewer en voorwaardes te stel op die beplande ontwikkeling voor die planne finaal goedgekeur word. Hier verwys ons spesifiek die herbou van die verkrummelde stutmuur aangrensende Erwe 1080 ,149 &148 inagenome die bestaande heinings in strukture.

Erken assblief ontvangs

Email. gerrit@adslweb.co.za.

0219133772

E,A. van Dyk

G,J. van Dyk

26/03/2017

SKAAMROSIESRAAT 22

PROTEAVALLEI

BELLVILLE

7530

FILE NO: EL 222-GB ✓
SCAN NO:
COLLABORATOR NO: 1008517

Date: 30 March 2017

Dear Sir/Madam,

LETTER OF OBJECTION: Removal of restrictive condition and rezoning of ERF 222 (1 Groenewald Street) Gansbaai

With reference to:

- E-mail Received 08 March 2017 dated 02 March 2017 (Annexure 1)
- Title Deeds Received 29 March 2017 (Annexure 2)
- E-mail Correspondence received 29 March 2017 (Annexure 3)
- Municipal Notice Nr33/2017 (Annexure 4)

We would like to formally object to the **Removal of restrictive condition and rezoning of ERF 222 GANSBAAI** on the following grounds:

1. Rezoning of ERF 222 situated in a residential area to Business Zone Bulk Zone 2 would impact our property negatively in the following way:
 - a. Zone 2 would remove all building lines thus allowing the building to be built on our boundary line up to 4 storeys high. This is a fire hazard for us; will impact our privacy throughout our whole property; having no front building line will reduce our Sea view. All of the above matters will devalue our property.
 - b. The area is currently zones as residential and infrastructured accordingly. Rezoning will increase traffic congestion and municipal services i.e. drainage, parking, fire safety will not be sufficient and would have to be upgraded.
2. No permission has been received for the demolition of the building from Western Cape Heritage Association
3. We are against a Restaurant/Public pub, that we've been informed will be open to the public, and selling of alcohol in a residential area. A restaurant and Pub will also cause noise pollution, negatively affecting all the adjacent properties

This proposed application would result in the devaluation of our property. It will negatively impact all property owners around Erf 222 and the only ones to derive benefit from this project would be the developers.

Based on the above, we object to the re-zoning and removal of restrictive conditions on the title deeds.

We reserve the right to raise further matters and objections at a future date.

Yours faithfully,

JJ van Dyk
SUBMITTED BY NAME

JJ van Dyk


SUBMITTER SIGNATURE

3 Groenewald Street, Gansbaai, 7220, (Erf 1080 Adjacent to Erf 222)
SUBMITTER ADDRESS

ANNEXURE E 3/60
 TR A Theent
 (Svd Merwe)

31/3 2017

Mev.F.J.J.Swart

Senior stadsbeplanner

10 APR 2017

Fabriekstraat 9

Mnr S. Van Der Merwe

Gansbaai

DEAR SIR/MADAM



I AM THE OWNER OF THE ABOVEMENTIONED ADRESS , ERF 143.TELNR. 028 384 0962 ,

LETTER OF OBJECTION:

YOUR LETTER : APLICATION FOR REMOVAL OF RESTRICTIVE TITLE CONDITIONS AND REZONING ERF 222, (1 GROENEWALDSTRAAT) GANSBAAI.

With this letter I want to let you know that I don't want a Bouttique Hotell in our single residential area and some of the reasons as follow.

Gansbaai has enough places that sells alcohol to the publick in town and we don't want places in our living area who does that.

There is enough places making a lot of noise all hours day or night and they aren't even close to us. Since the two quest houses opened here in our area our crime rate went sky high .

Such a Hotell would impact negatively on our residential area, selling booze to publick ,crime rate climbing, so much more vehicles passing by(day and night), people throwing empty booze bottels and takeaway holders(not even always empty) on pavements(it is already happening with our guesthouses).

The said erf 222 is a heritage house and heritage should not give permission that the house may be demolished , the house is build on a "koppie" and always were and shall be a beacon to the fisherman of Gansbaai.

I don't want a hotel monstrosity between our residential houses as it will take away the Herritage architecture of our area.

I reserve the right to raise further matters and objections at a later stadium if it seems necessary.

Yours faithfully,

F.J.J.SWART:

F.J.J. Swart

SIGNATURE:

F.J.J. Swart

FILE NO:	EL 222-9B
SCAN NO:	03
COLLABORATOR NO:	1011267

ANNEXURE 14/60
TR 4 (Suld Merwe)

1/4/2017

06 APR 17

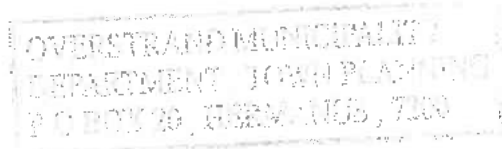
MEV.S.SPENCE

SENIOR STADSBEPLANNER.

FABRIEKSTRAAT 8

MNR.S.VAN DER MERWE.

ERF 157



GANSBAAI

TEL NR.028 384 0380

DEAR SIR

Letter of objection against the removal of the restrictive conditions and rezoning of erf 222 at 1 Groenewald street, Gansbaai

Rezoning erf 222 that is situated in a single residential zone 1 to business zone bulk zone 2 would impact negatively to all the surrounding properties and will take away some of my view and will also devalue my property.

The building on erf 222 is also a heritage house as it is 67 years old and is situated in an area where most houses is 70 years and older and is used as a beacon to the fisherman of Gansbaai and have a history in our fishing town and should not be demolished for a boutique hotel for that would be a sore eye between the houses in this area.

I am also against a restaurant and pub/bar that is selling alcohol to the public in our residential area . It will attract more repulsive people to our residential area. Traffic pollution and traffic noises will increase as delivery trucks (that road is not even suitable for a truck) and bakkies to of load their cargo. Crime rate went up with our geusthouses in our area ,now what will happen when there is still yet another attraction for thieves in this area (five of our nearby houses is widows in this residential area and we would not feel safe with more repulsive people, thieves and robbers here).

Based on the above , I object to the removal of the restrictive conditions and rezoning of erf 222 at1 Groenewald street ,Gansbaai.

I reserve the right to raise further objections in the future if necessary.

S.SPENCE A.D. Spence SIGNATURE Spence

FILE NO: EL 222-GR
SCAN NO: 04
COLLABORATOR NO: 1011270

FILE NO:	53
	EL 222 9 B
SCAN NO:	05
	1011271
COLLABORATOR NO:	O.C.VILJOEN
	MULLER STRAAT 4

ANNEXURE E 5/60



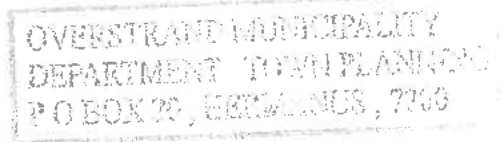
SENIOR STADSBEPLANNER
MNR.S.VAN DER MERWE

COLLABORATOR NO: O.C.VILJOEN

MULLER STRAAT 4

3/4/2017

ERF 148



GANSBAAI

TEL NR. 082 669 4260

*TR A Theart
(S Jd Merwe)*

I AM WRITING THIS LETTER ON BEHALF OF ME AND MY WIFE AND ALSO AS CHAIRPERSON ON THE BEHALF OF THE OVERBERG LINEFISH ASSOCIATION

LETTER OF OBJECTION AGAINST THE REMOVAL OF THE RESTRICTIVE CONDITIONS AND REZONING OF ERF 222 AT 1 GROENEWALD STREET ,GANSBAAI.

Erf 222 is situated in a single residential zone 1 and to rezone to business zone bulk zone 2 will take away some of the seaview that I have and will definitely take all of my privacy on my erf away from us. Business zone bulk zone 2 remove all building lines allowing the building to be built on our boundary line up to four storeys high and is definitely not acceptable to me and my wife.

We are also against the restaurant and bar that will be selling alcohol in our residential area ,it will attract repulsive people to our area. It will bring more traffic pollution and noises to a area wich are suppose to be a silent area . The crime rate in our area skyrocketed with the geusthouses that is already here , we don't need anymore attractoins for thieves and robbers in our residential area .

All of the properties next to and near erf 222 wil definitely be devalued by such an action.

The house on erf 222 was build in 1950 and is 67 years old , it is situated between houses that is 70 years old and older so it fits in very well with the houses around it and has a history amongst the fishermen of Gansbaai , the lookout or koppie , as it is known , was in the earlier years of Gansbaai used to warn the fisherman (with a fire and smoke) when mist was coming or when the wind came unexpectedly and the people on shore wanted them to come home. The house should be protected as a heritage house because it sure is one and is situated in a heritage area that should be respected as such.

The house was build on a sanddune and sandstone , I don't know what such a buildings weight is (business zone Bulk zone 2 , four storeys high if rezoned , without boundaries) would the ground be stable enough .there is homes three ways around erf 222. Then there is also a slope on the northern boundary of erf 222.

Gansbaai is a coastal fishing town and as the erf 222 is right on top of the harbour there will always be a fishy smell that I know that tourists don't like . Linefish as well as sharks (caught with lines) are ofloaded right under erf 222 . Most tourists are not used to seeing this and are mostly shocked to see this dead fish and sharks that is all covered with blood (It is done legaly by fishermen). Tourists find this and the fish smell (including the fish smell of Gansbaai Marine) utterly disgusting. I don't think that erf 222 is the right spot for economic growth near our fishing harbour or in our residential area. Even the spatial plan of Gansbaai area as contained in the SDF , indicates that the property is to be reserved for future single residential usage only.

The accessibility to erf 222 is also going to be a nightmare as the road is so narrow that it really should have been a one-way and the owner south of erf 222 will have no parking in front of his home and can only be reached by one road alone (cul de sack) and there is not enough space for a delivery truck to turn around. The people using the parkings in the upper level of Groenewald street is people (also fishermen) coming to sit at the bench on the lookout or koppie as it is known and visitors visiting at erf south of erf 222.

Based on the above, I object to the removal of the restrictive conditions and rezoning of erf 222 at Groenewald street 1, Gansbaai.

I reserve the right to raise further objections in the future when more information is available or when necessary.

O.C.VILJOEN

O.C. VILJOEN

SIGNATURE



CHAIRPERSON OF THE OVERBERG LINEFISH ASSOCIATION

TRATHAERT
(Sudmerwe)

3/4/2017

MEV.E.J.BYRNE

SENIOR STADSBEPLANNER.

MULLERSTRAAT 6

MNR.S.VAN DER MERWE.

OVERSTRAND MUNICIPALITY GANSBAAI
DEPARTMENT TOWN PLANNING
10000, KROONHUIS, ERF.158



06 APR 17

TEL. 028 384 0239

DEAR SIR/MADAM

With this letter I formally object against the removal of the restrictive conditions and rezoning of erf 222 at 1 Groenewald street Gansbaai.

Rezoning of erf 222 from single residential zone 1 to business bulk zone2 would have a very big negative effect to all the (nearby) adjacent erven .

The selling of alcohol to the publick wil bring more repulsive people into a residential area (our crime rate went very high with the lodges already in our area) it will also bring more waste to this area (dumping of empty wine and beer bottles and take away holders) and the noise pollution is also not something that we want in our residential area and traffic pollution will also increase , now who want that in a residential area , not me.

None of the nearby/ adjacent properties will have any privacy to themselves.

I believe that even the Western Cape Heritage should not give permission to demolish a house that is 67 years old , is situated in a residential area ,is a beacon to fisherman, have a history in a fishing town, is in an area where most houses is 70 years and older, and the house fit in between the rest of the houses surrounding it.

Every nearby house would be affected negatively meaning our property value will decrease negatively and I don't want that to happen.

Based on the above, I object to the removal of the restrictive conditions and rezoning of erf 222 at 1 Groenewald street, Gansbaai.

I reserve the right to raise further objections in the future if necessary.

MEVR. E.J.BYRNE E.J. BYRNE SIGNATURE EJ Byrne

FILE NO: EL 2229B
SCAN NO: 01
COLLABORATOR NO: 1011265

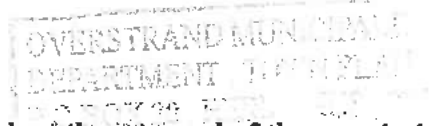
Sel:- 082 839 7694.



ANNEXURE 8/60
TR - A Theart
(Suid Merwe)

H.en A.A. Steyn
Mullerstraat 2
Erf 223
Gansbaai.
2017/04/04

Die Senior Stadsbeplanner
Mnr. S. van der Merwe



Objection against the removal of the restrictive conditions and rezoning of erf 222 at 1 Groeneveld street Gansbaai.

Dear Sir,

We are against the removal of the restrictive conditions and rezoning of erf 222 at 1 Groenewald street Gansbaai.

Erf 222 is situated in a singel residential zone 1 and to rezone to business zone bulk 2 will take away about 50% of our sea view and will take away all building lines up to our boundary and this is definitely not acceptable to me and my wife.

We specily bought this house for the view to the harbour and sea. It will reduce sunset and will let us in shadow early in the afternoon, therefor our property will stay wet in the winter.

We are against the "Hotel, restaurant and bar " concept it will definitely all our privacy away from us and will increase traffic congestion and municipal services i.e. drainage, parking on the border, fire safety will not be sufficient and would have to be upgrade.

We are also against the bar selling alcohol in our residential area, it will attract undesired people to our area and also dont need anymore attractions for thieves and robbers in our residential area.

So far known no permission has been received for the demolishment of the building from the Western Cape Heritage Association. I phoned the Association and they confemred that the bulding on erf 222 is regesrted as an heritage building.

The Granny flat on erf 222 are the same as the flat on erf 223 and was build befor the bigger houses were build on the erwe.

The future physisical plan of the Gansbaai area as contained in the S.D.F.indicates that the property is to be reserved for future singel resedential usage.

We reserve the right to raise further matters and objections at a future date.

Yours Faithfully.

H.en A.A. Steyn. *Henk & Alta Steyn* Signature: *[Handwritten Signature]*

FILE NO:	EL 222 GBV
SCAN NO:	
COLLABORATOR NO:	1011227



DELIVERED BY EMAIL

THE OVERSTRAND MUNICIPALITY
LAND USE PLANNING DEPARTMENT

FOR ATTENTION: MR S. VAN DER MERWE

Per e-mail: C/O ailda@overstrand.gov.za

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(S. van der Merwe)

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OUR REFERENCE: Mr JJ Truter/sj/Planning Objection: Erf 222, Gansbaai
DIRECT PHONE: +27 21 8096143
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EMAIL ADDRESS: jtruter@werksmans.com

6 April 2017

Dear Sir

FILE NO: EL222-9B
SCAN NO: 46
COLLABORATOR NO: 1011434

OBJECTION TO APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS IN TERMS OF SECTION 16(2)(f) AND REZONING FROM SINGLE RESIDENTIAL ZONE 1 TO BUSINESS ZONE II IN TERMS OF SECTION 16(2)(a) OF THE OVERSTRAND MUNICIPALITY BY-LAW ON MUNICIPAL LAND USE PLANNING, 2016 ("the By-Law") TO ENABLE THE CONSTRUCTION AND OPERATION OF A BOUTIQUE HOTEL ON ERF 222, GANSBAAI ("the property")

1. We refer to the above application and confirm that we act for Gansbaai Marine (Pty) Ltd, its BEE Shareholders and employees, various fisherman and boat owners who are reliant on the Gansbaai Marine facility, the neighbours and persons living in close proximity to the property. A list of our clients is annexed as Annexure "A" hereto (interchangeably "*our clients*" or "*the objectors*").

Werksmans Inc. Reg. No. 1990/007215/21 Registered Office 155 5th Street Sandton 2196 South Africa
Directors: D Hertz (Chairman) AL Armstrong BA Aronoff DA Arteiro T Bata LM Becker JD Behr AR Berman MNM Bhengu Z Blieden HGB Boshoff GT Bossr TJ Boswell MC Brönn W Brown PF Burger PG Cleland JG Cloete PPJ Coetser C Cole-Morgan JN de Villiers R Driman LJ du Preez S Fodor SJ Gardiner D Gewer JA Gobetz R Gootkin ID Gouws GF Griessel J Hollesen MGH Honiball VR Hoslosky BB Hotz HC Jacobs TL Janse van Rensburg N Harduth G Johannes S July J Kallmeyer SLG Kayana A Kenny BM Kew R Killoran N Kirby HA Kotze S Krige PJ Krusche P le Roux MM Lessing E Levenstein JS Lochner K Louw JS Lubbe BS Mabasa PK Mabaso MPC Manaka H Masondo SM Moerane C Moraitis PM Mosebo KO Motshwane L Naidoo J Nickig JJ Niemand BPF Olivier WE Oosthuizen S Padayachy M Pansegrouw S Passmoor AV Pillay D Pisanti T Potter BC Price AA Pyzikowski RJ Raath A Ramdhan L Rood BR Roothman W Rosenberg NL Scott TA Sibidla LK Silberman JA Smit JS Smit BM Sono CI Stevens PO Steyn J Stockwell W Strachan JG Theron JJ Truter KJ Trudgeon DN van den Berg AA van der Merwe HA van Niekerk FJ van Tonder JP van Wyk A Vatalidis RN Wakefield DC Walker L Watson D Wegierski G Wickins M Wiehahn DC Wilians DG Williams E Wood BW Workman-Davies

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2. Our clients stand to be directly and adversely affected by the proposed land uses and associated structures which are the subject of this application for reasons which are motivated in detail below. They have a self-evident and direct interest in the application.
3. Our clients are all firmly of the view that the application is technically and legally invalid for reasons motivated in detail below, let alone *undesirable* and will have significant negative impacts on their business and associated rights and interests, will present an unwanted precedent in respect of the spatial planning of the Gansbaai town and specifically the heritage core and also on the heritage and amenity of the receiving and surrounding environment.
4. Our clients act herein in their own interest as well as in the interest of the environment and in the public interest.
5. The format which this objection letter will adopt is as follows:
 - 5.1 At the outset we will set out the relevant background and chronology.
 - 5.2 We will then discuss the proposed development and associated use rights.
 - 5.3 We will then deal substantively with the merits of the application and the grounds of objection which are motivated in greater detail below, but which may be summarised as follows:
 - 5.3.1 The application is misleading and contains numerous material misrepresentations, errors in law and in fact, is unlawful and in breach of the National Environmental Management



Act, 1998 ("**NEMA**") and the National Heritage Resources Act, 1999 ("**NHRA**") and cannot be considered in its current form;

5.3.2 The application and the proposed uses and associated structures do not comply with section 42 of SPLUMA or sections 64 and 66 of the By-Law and are patently *undesirable*; let alone contrary to the relevant spatial planning policies and guidelines, including but not limited to the Western Cape Provincial Spatial Development Framework, 2009 ("**WCPSDF**"), Overstrand SDF and IDP and proposed Gansbaai Heritage Core Overlay Zone and represent the incremental erosion of a landscape/streetscape with significant heritage importance.

5.3.3 The proposed development is contrary to the principles contained in section 2 of NEMA.

The Background and Chronology:

6. The town of Gansbaai has developed over the years around the fishing industry and related industries. Gansbaai had already been identified in 1959/1960 as a potential site for a fishmeal and canning facility/factory in the report entitled "***Verslag van Komitee van Onderzoek insake Vismeel Fabriek***". A copy of this report is attached as Annexure "**B**".
7. At the time, the authors of the report already foresaw that, in the light of the impacts created by such a factory, proper town planning was essential. Furthermore, the authors of the report recorded that "*Terselfdertyd sal daar besef word dat Gansbaai hoofsaaklik 'n vissersdorp is; vir hul bestaan is die gemeenskap uitsluitend van die visvang afhanklik...*" and further that "*Sulke fabriek behoort derhalwe nie in die nabyheid van woongebiede of vakansieoorde toegelaat te word nie. Die uitsondering is eeter waar die omliggende woongebied feitlik 'n integreernde deel van die visnywerheid is, bv. Saldanha, St. Helenabaai en **Gansbaai**.*"



8. The Report had already identified the spatial planning implications in respect of the location of a fishmeal/cannery for tourist facilities in 1959 and the following extracts of the report are apposite for the present purposes:

*"Dit sou klaarblyklik onverstandelik wees om alle moontlike steun aan die ontwikkeling van die toeristebedryf te verleen en terselfdertyd die stigting van hinderlike bedrywe toe te laat. **Dit is hier waar daar aanduidings is van regstreekse botsing tussen hierdie twee waardevolle bates. Dit is vanselfsprekend dat, as die toeristebedryf aangemoedig moet word, die verwerking van vis nie op plekke moet geskied waar dit die toeris aanstoot sal gee of sal wegja nie. Buitendien sal dit eweseer dwaas wees om 'n hinderlike bedryf te plaas waar dit 'n nadelige uitwerking op bestaande of geodagekeurde woongebiede kan he behalwe waar sodanige woongebiede 'n integrerende deel van erkende visbedrywe uitmaak.**"*

(Own emphasis)

9. Gansbaai was identified as one of the preferred locations for the establishment and operation of a fishmeal/cannery facility in 1959 with due regard to the implications this would have for the tourism industry and residential areas. At the time, the authors of the Report noted that any fishmeal factory in Gansbaai would need to be in the near vicinity of the town but that Gansbaai was exclusively a "vissersdorp" in which the community was exclusively dependent on fishing. In the circumstances, the Report argued, the community would become accustomed to the odours from the factory in a similar manner to the inhabitants of Saldanha particularly if modern odour emissions mitigation measures were put in place.
10. The Report recommended furthermore that all fishmeal / cannery facilities obtain the prior approval of the Administrator.



11. Our client's fishmeal and canning factory was, according to our information, established in 1962, pursuant to the necessary consent from the Administrator and at a time when there were very few other businesses in the area and no residential development other than for those involved in the fishmeal and canning factory or the fishing industry.
12. Our client has all the necessary statutory permits in place and is compliant with the conditions contained in such permits. This includes a permit in terms of the Atmospheric Pollution Prevention Act ("**APPA**") and any permits that may be required in terms of local municipal by-laws, if any. Furthermore, our client holds the necessary Atmospheric Emissions Licence granted by the Overberg District municipality in terms of Section 40 (1) (a) of the National Environmental Management: Air Quality Act, 2004 (Act No. 34 of 2004) in respect of Listed Activity Category 10: Animal Matter Processing and subsequent audits, which included inspections of the facility confirm that no current non-compliances are noted or experienced.
13. It is clear therefore that the town of Gansbaai has been established around the fishing industry and our client's facility has, over the past 55 years, played a significant role in the socio-economic advancement of the community in the town and made valuable contributions to the Municipality's rates and taxes. Gansbaai Marine directly employs in the order of 430 people and creates numerous, sustainable upstream and downstream job opportunities in an area where unemployment is rife.
14. Regrettably, the necessary spatial and town planning guidelines and constraints, as contemplated in the Report in 1959, have not been implemented by the Municipality over the years to ensure that land uses which are irreconcilable with our clients operations and interests are not approved in proximity to our clients' property so as to avert any nuisance complaints. Such spatial and town planning measures should have included buffer zones



around the Gansbaai Marine facility and any other similar facilities to limit the potential for impacts and conflicting land use rights, specifically in respect of odour. We ask that this be taken up by the Municipality in future iterations of their zoning scheme, SDF and Overlay Zones.

15. The proposed boutique hotel in near proximity to our client's facility is fundamentally irreconcilable with our client's land uses and associated impacts, notwithstanding any technology or mitigation measures which our client implements and despite strict compliance with the conditions of its AEL. It is only a matter of time before the owners or guests in a boutique hotel, should it be approved, would complain of the odour which is irremediable in certain wind conditions. This is precisely the type of scenario which astute forward planning should pre-empt and avoid or mitigate.
16. We note that the Overstrand Municipality has more recently acknowledged the need to impose Overlay Zones that apply over and above the zoning parameters and that these have been published for comment. Regrettably, the current iteration of the Gansbaai Overlay Zone does not make provision for a buffer zone around our client's facility as we submit it should. It does, however, propose certain building constraints which would apply to the proposed boutique hotel which are addressed in more detail below.

The proposed development and associated use rights:

17. The proposed development contemplates, *inter alia*, the following:
 - 17.1 the removal of restrictive title deed conditions in terms of section 16(2)(c) of the By-Law as set out in section C of the Application form. We note that no application form is included in the documentation and it is therefore not possible to comment on the title deed restrictions that the applicant seeks to remove.



This is a fundamental and material omission and the application must be re-submitted and re-advertised in order to enable interested and affected parties, including our clients, to have regard to the title deed restrictions that the applicant seeks to have lifted and to submit informed comment thereon.

- 17.2 the demolition of an existing, single storey residential dwelling house and granny flat which the applicant concedes "***was not developed in recent times***" without giving any indication of the age of the structure and specifically whether it is older than 60 years. The significance of this is dealt with under the section dealing with the heritage impacts of the proposed development below.
- 17.3 the cutting and backfilling of the site for the construction of a double storey boutique hotel with six en-suite rooms on the second floor and two en-suite bedrooms, a restaurant of 100m², lounge, bar, kitchen and toilet facilities on the ground floor, swimming pool and parking for 21 vehicles.
18. The applicant's motivation report states quite glibly and without any substantiation that the proposed development and uses are consistent with the relevant spatial planning guidelines and do not require environmental or heritage approval. We submit that this is patently incorrect for the reasons motivated below. Another material omission in the motivation report is a surveyor's diagram confirming the distance of the property and any proposed structures or activities on the property from the high water mark of the sea. The significance of this omission is dealt with under the section dealing with environmental impacts below.
19. Furthermore, the applicant's motivation report states that the proposed uses are consistent with the surrounding uses but makes no reference to our client's fishmeal / cannery facility or harbour uses which are in close proximity to the proposed boutique hotel or motivate the



desirability of locating a boutique hotel in such close proximity to an existing fishmeal / cannery facility and harbour. We submit, for reasons motivated in detail below, that the proposed boutique hotel is patently inconsistent and irreconcilable with the uses in the harbour and our client's fishmeal/cannery facility in particular and it will be entirely irresponsible of the Municipality to permit a boutique hotel in the proposed location. Our instructions are that there are other, considerably more appropriate locations for a boutique hotel which do not present the same potential for conflicting land uses.

20. No Engineering and services reports are included with the application and the motivation report simply states that *"An engineering report will however follow as soon as it is finalised by the relevant company."* This is not compliant with the requirements for an application in terms of the By-Law and does not place interested and affected parties in a position to consider and comment on the potential engineering, infrastructure and services implications and impacts of the proposed development nor does it place the Municipality in a position to apply its mind to these considerations. It is unlawful for the applicant to submit an engineering report to the municipality without first affording our client an opportunity to comment on the report and the application must be rejected on this basis alone in order for the applicant to supplement the application and re-circulate it for comment by I&As.

The application is misleading and contains numerous material misrepresentations, errors in law and in fact, is unlawful and in breach of the National Environmental Management Act, 1998 ("NEMA") and the National Heritage Resources Act, 1999 ("NHRA") and cannot be considered in its current form:

21. The application report concludes very glibly and without any specialist motivation or substantiation that no environmental or heritage approval is required for the proposed boutique hotel. We submit that this cannot simply be accepted without further interrogation.



22. For reasons motivated in more detail below, we submit that environmental authorisation under NEMA may be required, that the applicant and its consultants' motivation to the contrary amounts to a patent misrepresentation of the correct facts which gives rise to various errors in law.
23. In the circumstances the planning application must be rejected or at the very least suspended until such time as the applicant has obtained, *inter alia*, the necessary NEMA approval from the DEA.

NEMA:

24. In our considered view, the following listed activities will be undertaken by the applicant and therefore necessitate that prior environmental authorisation is obtained failing which the activities are unlawful (and any purported approval of the planning application will fall foul of section 2 of NEMA, discussed in more detail below):
- 24.1 *Listing Notice 1:*
- 24.1.1 Activity 19: **The infilling or depositing of any material of more than 5 cubic metres into, or the dredging, excavation, removal or moving of soil, sand, shells, shell grit, pebbles or rock of more than 5 cubic metres from-**
- (i) *a watercourse;*
 - (ii) *the seashore; or*
 - (iii) *the littoral active zone, an estuary **or a distance of 100 metres inland of the high-water mark of the sea** or an estuary, whichever distance is the greater*



but excluding where such infilling, depositing , dredging, excavation, removal or moving-

(a) will occur behind a development setback;

(b) is for maintenance purposes undertaken in accordance with a maintenance management plan; or

(c) falls within the ambit of activity 21 in this Notice, in which case that activity applies.

24.1.2 It is clear that the applicant's activities will involve the removal and/depositing of more than 5m³ of material. Should this occur within 100m of the high water mark of the sea, the applicant requires prior environmental authorisation in terms of NEMA, read with activity 19 in Listing Notice 1 and any failure to obtain this is a criminal offence under NEMA. The development setback exclusion does not apply unless the competent authority, the Department of Environmental Affairs and Development Planning, has formally approved a development setback line in terms of NEMA. The relevant definition of "development setback" contained in Listing Notice 1 provides that "*development setback*" means a setback line defined or adopted by the competent authority;'

24.1.3 Activity 54: **The expansion of facilities** –

(i) in the sea;

(ii) in an estuary;



- (iii) *within the littoral active zone;*
- (iv) *in front of a development setback; or*
- (v) **if no development setback exists, within a distance of 100 metres inland of the high-water mark of the sea** *or an estuary, whichever is the greater; in respect of-*
 - (a) *fixed or floating jetties and slipways;*
 - (b) *tidal pools;*
 - (c) *embankments;*
 - (d) *rock revetments or stabilising structures including stabilising walls;*
 - (e) **buildings where the building is expanded by 50 square metres or more;** *or*
 - (f) **infrastructure where the development footprint is expanded by 50 square metres or more.**"

24.1.4 It is clear that the applicant's activities will involve the expansion of buildings and infrastructure in excess of 50m². Should this occur within 100m of the high water mark of the sea, the applicant requires prior environmental authorisation in terms of NEMA, read with activity 54 in Listing Notice 1 and any failure to obtain this is a criminal offence under NEMA. Again, the development setback exclusion does not apply unless the



competent authority, the Department of Environmental Affairs and Development Planning, has formally approved a development setback line in terms of NEMA.

- 24.2 It is incumbent on the applicant to satisfy the Municipal planning authority that its proposed development does not require prior environmental authorisation under NEMA, failing which the planning authority will not be able to show that it has, in the course of arriving at a decision on the planning application, satisfied the NEMA principles set out in section 2 of NEMA as it is statutorily required to show. In order to do so, the applicant will require a surveyor's diagram showing the distance of the property and any proposed activities from the high water mark of the sea or (in respect of activity 19) present the planning authority with a copy of its NEMA approved development setback.

NHRA:

25. The application also misrepresents the legal requirements under section 34 of the National Heritage Resources Act, 1999 ("NHRA") in respect of the statutory imperative to obtain the relevant heritage resources authority's consent prior to any demolition of a building older than 60 years, regardless whether it has been altered over the years.
26. The application contemplates the demolition of an existing, single storey residential dwelling house and granny flat which the applicant concedes "***was not developed in recent times***" without giving any indication of the age of the structure and specifically whether it is older than 60 years.
27. Section 34(1) of the NHRA provides in express terms that "*No person may alter or demolish any structure or part of a structure which is older than 60 years without a permit issued by the relevant provincial heritage resources authority.*"



28. It is incumbent on the applicant to either show conclusively that the structure is not older than 60 years or to seek the relevant heritage resources authority's consent to demolish the structure. In the absence of such heritage consent we submit the Municipal planning authority is unable to apply its mind to the desirability of the proposed activities.
29. The **Heritage Survey for the Overstrand** dated 2009 expressly identifies the following "Constraints/Vulnerabilities" in respect of Gansbaai:
- "The rate at which the town is growing and the development pressure on particularly the area around the harbour is a concern as modest cottages are demolished to make way for multiple storey blocks of flats."***
30. This is precisely what the proposed development of a double storey boutique hotel in close proximity to the harbour will entail and it should not be countenanced by the Municipality on heritage grounds alone.
31. In fact the applicant underestimates the heritage value of the property and its surrounding area considerably. The Heritage Survey records that the remains of the oldest parts of the village are located at the water's end of Groenewald Street and at the present camping site and that *"these locations have potential archaeological significance."*
32. The property is also surrounded by numerous residential and other structures that have heritage significance and have been proposed for heritage protection and grading in terms of the NHRA.
33. Having regard to the "Heritage Management Recommendations" that apply to the residential structures in the area, including in respect of the structures adjacent to the property it is clear that the property and the structure currently on it requires formal protection in terms



of the zoning scheme regulations and that, while demolition could be considered, a permit from HWC is required. The Heritage Survey records further that the property falls within a proposed **Special Area**.

34. The construction of a two storey boutique hotel in the proposed Special Area will have significant, adverse impacts on the heritage resources of the receiving and surrounding environment with material visual impacts and impacts on the sense of place. Notwithstanding this fact, the applicant does not present any specialist heritage or visual impacts studies to satisfy the heritage and planning authorities that the proposed development is desirable. We submit that this too is a fundamental and material flaw in the application and that the application must be withdrawn and only be resubmitted and re-advertised once it has supplemented the application with specialist visual and heritage studies and obtained the approval of HWC for the demolition of the existing structure.

The application and proposed uses and associated structures do not comply with sections 64 and 66 of the Municipal Planning By-Law or with section 42 of SPLUMA and are patently undesirable:

The Municipal Land Use Planning By-Law, 2016:

35. The By-Law provides, *inter alia*, as follows:

35.1 Section 64 deals with "*Requirements for amendment, suspension or removal of restrictive conditions*" and prescribes that:

- 35.1.1 When the Municipality considers the removal, suspension or amendment of a restrictive condition, the Municipality must have regard to the following:



- (a) the financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vest in the person as the owner of a dominant tenement;
- (b) the personal benefits which accrue to the holder of rights in terms of the restrictive condition;
- (c) the personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed;
- (d) ***the social benefit of the restrictive condition remaining in place in its existing form;***
- (e) the social benefit of the removal or amendment of the restrictive condition; and
- (f) ***whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.***

(Own emphasis)

36. We have not had sight of section C of the Application form which was not included in the application documents provided to the public and, in the circumstances cannot express an informed opinion on the criteria set out above and particularly whether the title deed conditions which the applicant seeks to remove have been imposed for the benefit of the community and area i.e amount to praedial servitudes or not. We submit that, considering the location of the building within the Historic Core Area and the visual sensitivity and



impacts on the sense of place of a two storey boutique hotel, the title deed restrictions are in place for the benefit of the wider community and area and must be interpreted accordingly when the test under section 64 of the By-Law is applied.

37. As we have stated, the failure to include details of the title deed restrictions which the applicant seeks to remove and a copy of the title deed for verification purposes is a fundamental and material omission and the application must be re-submitted and re-advertised in order to enable interested and affected parties, including our clients, to have regard to the title deed restrictions that the applicant seeks to have lifted and to submit informed comment thereon.
38. CHAPTER VI of the By-Law deals with "CRITERIA FOR DECISION MAKING" and provides, *inter alia*, as follows in section 66:
- 38.1 *General criteria for consideration of applications:*
- (1) *When the Municipality considers an application **it must** have regard to the following:*
- (a) *the application submitted in terms of this By-law;*
 - (b) *the **procedure followed in processing the application;***
 - (c) *the **desirability of the proposed utilisation of land** and any guidelines issued by the Provincial Minister regarding proposed land uses;*
 - (d) *the comments in response to the notice of the application and the comments received from organs of state and internal departments;*



- (e) *the response by the applicant to the comments referred to in paragraph (d);*
- (f) ***investigations carried out in terms of other laws which are relevant to the consideration of the application;***
- (g) ***a registered planner's written assessment** in respect of any application in terms of the By-Law;*
- (h) *the **integrated development plan and Municipal Spatial Development Framework;***
- (i) *the applicable Local **Spatial Development Frameworks** adopted by the Municipality;*
- (j) *the applicable structure plans;*
- (k) *the **applicable policies of the Municipality that guide decision-making;***
- (l) *the Provincial Spatial Development Framework;*
- (m) *where applicable, the regional spatial development framework;*
- (n) *the policies, principles, planning and development norms and criteria set by national and provincial government;*
- (o) *the matters referred to in **Section 42 of the Spatial Planning and Land Use Management Act;***



(p) the principles referred to in **Chapter VI of the Land Use Planning Act**; and

(q) the relevant provisions of the Zoning Scheme.

(2) A Municipality must approve a site development plan submitted to the Municipality for approval in terms of applicable development parameters or conditions of approval **if the site development plan—**

(a) is consistent with the development rules of the zoning;

(b) **is consistent with the development rules of the overlay zone;**

(c) complies with the conditions of approval; and

(d) **complies with this By-law.**

(Own emphasis)

39. For the reasons motivated below, we submit that the proposed structures and associated uses are patently **undesirable** as contemplated in the By-Law, are contrary to the relevant principles contained in section 42 of SPLUMA and Chapter VI of LUPA, do not include relevant investigations carried out in terms of other applicable laws (NEMA and the NHRA) are inconsistent with relevant planning policies and guidelines and that any SDP approved by the Municipality for the proposed structures and associated uses will be inconsistent with the development rules of the applicable Gansbaai Overlay Zone

40. We submit that it is incumbent on the applicant to motivate and substantiate compliance with the criteria set out in sections 64 and 66 of the By-Law, section 42 of SPLUMA and



Chapter VI of LUPA to enable the decision-maker to apply his mind to the desirability of the proposed uses.

41. There has been a wholesale failure in the application motivation report to motivate compliance with those provisions and for good reason – the application is patently *undesirable* and irreconcilable with existing rights, including those of our clients', for the reasons that will be described below.

42. A recent decision of the Western Cape High Court in the matter of ***Booth NNO v Minister of Local Government*** had occasion to consider (and confirm) the two bases under section 36(1) of LUPO (prior to its repeal) on which applications can be refused. We submit that these considerations are equally apposite to the consideration of *desirability* of the proposed uses under the By-Law, SPLUMA and LUPA.

43. At paragraph [47] of the judgment, Rogers, J says the following:

"The function of Section 36(1), in my view, is to make lack of desirability and effect on existing rights the only bases on which a decision maker may refuse an application. He is not compelled to refuse an application merely because there is some element of undesirability or some adverse effect on existing rights – whether, with reference to these criteria, the application should be refused or granted as a matter for the decision maker's judgment and discretion. But what he may not do is refuse the application with reference to any other criteria."

44. As these objections show, not only are the removal of title deed restrictions and rezoning and associated uses and structures undesirable (when viewed objectively and in the context of the receiving and surrounding environment and impacts on the sense of place, visual and noise impacts, impacts on heritage resources and the impact of the proposed uses on



existing rights, including those of our clients) but the purported motivation of desirability in the application is entirely superficial.

45. The application report makes the very glib and entirely unsubstantiated statement that the proposed uses will not impact on rights. The contrary is patently obvious when regard is had to the levels of opposition from almost all the neighbouring and surrounding homeowners and affected parties.
46. The application makes no reference whatsoever to the operations of Gansbaai Marine and the desirability of locating a boutique hotel in such close proximity to the fishmeal factory/cannery and similar uses located within the harbour. We submit that the wholesale failure to address and substantiate the effect on existing rights renders the application fatally flawed in its current form as is the absence of any EIA and/or specialist visual, heritage, noise and socio-economic impact studies to support the applicant's various sweeping, glib and unsubstantiated motivations in the application report.
47. **Booth** confirms that the applicant is required to make substantive submissions that show (objectively viewed) that the proposed uses (and by implication we submit any associated structures), if approved, are desirable and will not impact adversely on existing rights.
48. The application fails to meet this requirement and should be rejected on this basis alone.
49. As we have stated above, the applicant is also unable to satisfy the further criteria and requirements contained in section 66 of the By-Law or section 42 of SPLUMA and Chapter VI of LUPA.
50. In **Hayes v Minister of Finance & Others** it was held that:-



*"The test of desirability is conclusive – in terms of section 36(1) **a departure application shall be refused solely on the basis of a lack of desirability.** Though the test is phrased in the negative, **it lays down a positive test: the test is the presence of a positive advantage which will be served by granting the application.**"*

(Own emphasis)

51. Significantly, the Court in Hayes held that the **degree of opposition from "residents in the area concerned" is a "relevant circumstance" [in evaluating the desirability of a proposed land use].**
52. It is submitted that, self-evidently, the "positive advantage" or "acceptability" of the proposed land uses contemplated in the application must be for the area or community and not only for the applicant at the expense of existing rights and the environment (including in respect of visual, heritage, noise, socio-economic impacts and impacts on the sense of place of the surrounding area). Such rights include the right to have existing commercial and socio-economic rights and rights in respect of heritage and sense of place protected through the strict enforcement of the laws and spatial planning guidelines that were adopted for this very purpose including, *inter alia*, the By-Law, SPLUMA, LUPA, NEMA, NHRA, the zoning scheme and relevant planning policies and guidelines.
53. The motivation report fails to motivate any positive advantages which the proposed land uses will bring about for the area and community other than general and unsubstantiated reference to alleged benefits in respect of job creation and tourism. There is no socio-economic assessment which substantiates or supports the applicant's glib contention in respect of benefits or which addresses the impact which a boutique hotel in such close proximity to our client's fishmeal factory/cannery will pose for our client and its many



employees and extended beneficiaries. We submit, on the contrary, that a boutique hotel in the proposed location is patently not desirable, will be irreconcilable with existing rights held, *inter alia*, by our clients and will hold no positive advantages. A proper consideration and interrogation of the application will show that there are in fact no positive benefits for the immediate and surrounding area – in fact the proposed uses will have significant adverse impacts on existing rights and on the rights and interests of the area and community and will derogate from sound spatial planning principles as expressed in the in By-Law, SPLUMA, LUPA and the proposed Overlay Zones.

54. In assessing the "*desirability*" of the proposed uses, the decision maker must consider whether a "*positive advantage*" will accrue to the area or community by approving this application and must also take account of the fact that it is opposed by almost all the immediate neighbours and surrounding property owners in the vicinity.
55. We submit for the reasons expressed above and described in greater detail below, that the proposed uses are patently undesirable and that the application fails "*the positive test*" laid down in **Hayes** and does not satisfy the bases required for approval as confirmed in **Booth** nor the additional bases set out under section 66 of the By-Law, section 42 of SPLUMA or Chapter VI of LUPA.

Spatial Planning and Land Use Management Act, 2013 ("SPLUMA")

56. The preamble to SPLUMA records, *inter alia*, that:

*"... it is the State's obligation to realise the constitutional imperatives in section 24 of the Constitution, **to have the environment protected for the benefit of present and future generations through reasonable legislative and other measures, which include a land use planning system that is protective of the environment;**"*



*"...the State must **respect, protect, promote and fulfil the social, economic and environmental rights of everyone** and **strive to meet the basic needs of previously disadvantaged communities**; ... sustainable development of land requires **the integration of social, economic and environmental considerations in both forward planning and ongoing land use management to ensure that development of land serves present and future generations**;*

57. In the absence of the necessary specialist motivations in respect of socio-economic impacts, heritage impacts and impacts on visual receptors and sense of place and a proper town planning motivation for locating a boutique hotel in such close proximity to our clients' fishmeal factory / cannery, it is not possible for the applicant to show that it meets the objects of SPLUMA as set out in the preamble.

58. Section 42 of SPLUMA sets out the requirements for deciding an application and provides, *inter alia*, that:

"(1) In considering and deciding an application a Municipal Planning Tribunal must—

(a) **be guided by the development principles set out in Chapter 2;**

(b) make a decision which is **consistent with norms and standards, measures designed to protect and promote the sustainable use of agricultural land, national and provincial government policies and the municipal spatial development framework**; and

(c) take into account—



- (i) the **public interest**;
- (ii) **the constitutional transformation imperatives and the related duties of the State**;
- (iii) **the facts and circumstances relevant to the application**;
- (iv) **the respective rights and obligations of all those affected**;
- (v) the state and impact of engineering services, social infrastructure and open space requirements; and
- (vi) any factors that may be prescribed, including timeframes for making decisions.

(2) When considering an application affecting the environment, a Municipal Planning Tribunal must ensure compliance with environmental legislation.

(Own emphasis)

59. We submit that the applicant has not shown (and cannot show) that the proposed uses are in the public interest; will promote the constitutional transformation imperatives and the related duties of the State and the respective rights and obligations of all those affected as contemplated in section 42 of SPLUMA. In fact the contrary is true – the proposed boutique hotel in such close proximity to our client's facility is contrary to sound planning policy, is not in the public interest and will pose risks to our client's operations and the job security of its employees thereby jeopardising the constitutional transformation imperatives which our client's operations meet, while posing potentially significant impacts on existing rights



including those of our clients. The applicant has, furthermore been unable to show compliance with the relevant environmental legislation as contemplated and motivated above.

The Draft Gansbaai Heritage Core Overlay Zone:

60. The stated purpose of this Overlay Zone is:
- 60.1 To **protect and enhance the relationship between the historical core area and the harbour.**
- 60.2 To **protect** the number of **graded heritage sites** and **significant streetscapes in the area.**
- 60.3 **To promote a positive public space environment and the retention of views towards the harbour and across the town.**
61. One of the threats which the Overlay Zone seeks to manage is the **inappropriate scale, massing of buildings adjacent to the coastline and within the historic core area.**
62. The management mechanism proposed in the Overlay Zone is **control of the scale and massing of development immediately adjacent to the coastline and in the historic core.**
63. The following additional management measures are proposed to be dealt with in Regulations:



63.1 **No departures or consent applications should be approved in the HPOZ which would increase the massing, scale, bulk and height of any proposed development beyond the parameters established in the Town Planning scheme as viewed from the public realm.**

63.2 *Where new additions are to be built onto structures identified as being conservation worthy, such additions must occur to the rear of the erf and must not in any way overwhelm the original structure in terms of massing and height.*

63.3 *A positive interface between the private erf and public realm must be established in the residential areas. High visually impermeable boundary walls must not be permitted. Boundary walls facing onto public streets must be a maximum of 1.5m. No prefabricated materials, including vibracrete walls and false stone walls will be permitted in this zone. Driveways must not exceed one third of the frontage of the property. Garages and carports must be located behind the front façade of the building.*

63.4 **Large monolithic structures with a horizontal emphasis should be discouraged in the residential zones. Buildings should be fragmented in form, and apertures must have a vertical emphasis. Large glazed surfaces must be located at least 1.5m behind the front façade of the building.**

(Own emphasis)

64. The proposed boutique hotel with its associated uses within the Historic Core area will clearly be contrary to all the proposed management measures set out above.

The proposed development is contrary to the principles contained in section 2 of the National Environmental Management Act 107 of 1998 ("NEMA")



65. The principles set out in Section 2 of NEMA apply throughout the Republic to the actions of all organs of state that may significantly affect the environment and guide the interpretation, administration and implementation of NEMA and any other law concerned with the protection or management of the environment.
66. The NEMA principles are directly relevant to a decision under the By-Law, LUPA and SPLUMA and the Municipal decision-maker is bound to have regard to the NEMA principles in determining the application.
67. Sub-section 3 provides that development must be socially, environmentally and economically sustainable.
68. Sub-section 4(a) provides that sustainable development requires the consideration of all relevant factors including the following:
- 68.1 That the **disturbance of landscapes and sites that constitute the nation's cultural heritage is avoided, or where it cannot be altogether avoided is minimised and remedied;**
- 68.2 That a **risk averse and cautious approach is applied**, which takes into account the limits of current knowledge about the consequences of decisions and actions;
- 68.3 The **negative impacts on the environment and on people's environmental rights be anticipated and prevented, and where they cannot be altogether prevented, are minimised and remedied.**



69. Sub-section 4(i) provides that the *social, economic and environmental impacts of activities, including disadvantages and benefits, must be considered, assessed and evaluated, and decisions must be appropriate in the light of such consideration and assessment.*
70. We submit that the proposed land uses and the associated structures are contrary to the principles contained in Section 2 of NEMA for the following reasons:
- 70.1 They will cause significant disturbance of a landscape which constitutes part of the Gansbaai's cultural heritage. The proposed activities within the heritage core area/special area will have significant visual impacts and impacts on heritage and the sense of place.
- 70.2 The applicant has failed to conduct an EIA as is legally required in terms of NEMA and, in the circumstances, a risk averse and cautious approach should be applied and the proposed development should not be entertained.
- 70.3 Considering the broad definition of environment under NEMA which includes the physical, aesthetic and cultural properties of the surroundings within which humans exist and the conditions of the foregoing that influence human wellbeing and health, we submit that the proposed development will have a significant negative impact on the environment, as defined, and on people's rights including those of our clients.
- 70.4 We submit that a proper consideration, assessment and evaluation of the social, economic and environmental impacts of the proposed uses and associated development militate strongly against its approval.



70.5 We submit that the proposed development will not serve the public interest and will destroy an area which forms part of the people's common heritage as contemplated in Subsection 4(o) of NEMA.

CONCLUSION:

71. For the reasons motivated above we submit that the application be refused alternatively that it be referred back to the applicant for further supplementation and re-advertisement.
72. We request to be notified when this matter is heard by the Municipal Planning Tribunal, in order to attend the meeting and ask that our clients' be afforded an opportunity to make oral submissions.
73. Finally, so as to pre-empt and avert future applications of a similar nature which contemplate use rights which are irreconcilable with existing rights in the area, including those held by our clients, the Municipality should amend its spatial planning informants including its SDF together with its zoning scheme and overlay zone for the area to place a restriction on inappropriate uses and to incorporate an appropriate development buffer around our client's facility and the harbour.

We thank you for your consideration of these submissions.

Yours faithfully

WERKSMANS ATTORNEYS

ERF 222 PLANNING APPLICATION
06.04.2017



A handwritten signature in black ink, appearing to read 'Justin Truter'. The signature is fluid and cursive, with a large initial 'J' and 'T'.

Per:

JUSTIN TRUTER

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- **GANSBAAI PELAGIESE VISSERS BEPERK**
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2003/007542/07
- **UNATHI-WENA FISHING CC**
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- **LETAP**
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Port Elizabeth
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- Mev FJJ Swart
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Erf nommer 143
Gansbaai
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- Mnr OC Viljoen
Mullerstraat 4
Erf nommer 148
Gansbaai
7220
- Mev EJ Byrne
Mullerstraat 6
Erf nommer 158
Gansbaai
7220
- Mev S Spence
Fabriekstraat 8
Erf nommer 157
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- Mnr B Groenewald
- Mnr JP Lesch
- Mnr CJF Lourens
- Mnr HJ May
- Mnr LD Marthinus
- Mnr PN Siweni
- Mnr TJ Tobias
- Mnr DC Africa
- Mnr RC Valentine
- Mnr AK Appel
- Mnr CH Fourie
- Mnr DP Fourie
- Mnr HB Groenewald
- Mnr F Titus
- Mnr E du Toit

- Mnr HF Fourie
- Mnr FJ de Wet
- Mnr J Nomdoe
- Mnr I Mans
- Mnr J Williams
- Mnr PC Groenewald
- Mnr HE Wessels
- Mnr FA van der Radt
- Mnr A da Grass
- Mnr JF Kalan
- Mnr W Otto
- Mnr Z Duna
- Mnr J Phaliso
- Mnr F Wilshut
- Mnr L Gobikratshi
- Mnr HDC Wessels
- Mnr P Groenewald
- Mnr OC Viljoen
- Mnr JJ Viljoen
- Mnr WH Nel
- Mnr PJ Viljoen
- Mnr F Seku
- Mnr JR Franken
- Mnr M Khonzinkosi
- Mnr JGJ Otto
- Mnr BR Europa
- Mnr G Otto
- Mnr IE Wessels
- Mnr E Lourens
- Mnr HH Lourens
- Mnr F Hill
- Mnr DJ Leonard
- Mnr JC Wildschutt
- Mnr M Mlimisi
- Mnr J Madikiza
- Mnr PL Otto
- Mnr AJ Otto
- Mnr J de V Vermeulen
- Mnr JW Human
- Mnr Z Siweni
- Mnr N van Schalkwyk
- Mnr J Marais
- Mnr R Pieters

- Mnr HC Dreyer
- Mnr DNH Dreyer
- Mnr I Swart
- Mnr LJ Groenewald
- Mnr JJ Germishuys
- Mnr SD Cloete
- Mnr C Geldenhuys
- Mnr CH Geldenhuys
- Mnr PJ Wilkenson
- Mnr PC Hans
- Mnr D de W Groenewald

- Mnr M Fick
- Mnr MJ Germishuys
- Mnr JP Germishuys
- Mnr DA Rock
- Mnr M Dunsdon
- Mnr PC Bester
- Mnr Malonti
- Mnr HD Groenewald
- Mnr MJ Germishuys
- Mnr DJJ Baardman
- Mnr R Appel

5. BOOTEIENAARS

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7220
CK98/19743/23
- Germishuys & Groenewald B.K
Germishuysstraat 14
Gansbaai
7220
1999/043896/23
- HDC Wessels Familie Trust
Middelkusstraat 7
Gansbaai
7220
IT3030/2009
- Runtu Visserye CC
Barnardstraat 35
Gansbaai
7220
2008/104100/23
- Arno-Louis Vissery
Barnardstraat 35
Gansbaai
7220

- 2008/126825/23
- WJ Swart
Hoofstraat 4
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7220
5311285017006
- HD Groenewald
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7220
2205085030008
- Merlene Visserye CC
Barnardstraat 35
Gansbaai
7220
2008/039941/23

PROVINSIALE ADMINISTRASIE

van

DIE KAAP DIE GOEIE HOOP

VERSLAG

van

Komitee van Onderzoek

insake Vismeelfabriek

VERSLAG VAN KOMITEE VAN ONDERSOEK INSAKE VISMEELFABRIEKE.

1. Op 8 Desember 1959 het die Administrateur ingevolge Uitvoerende Komitee-besluit no.3055 van 22 Oktober 1959, die volgende komitee aangestel -

Voorsitter	:	Mnr. E.J. Crean
Lede	:	Dr. R.J. Smit en mnr. J.C.G. du Toit
Sekretaris	:	Mnr. J.A. Conradie

om ondersoek in te stel na, verslag uit te bring oor en aanbevelings te doen in verband met die volgende:-

- (A) die plekke langs die kusgebiede van die Provinsie waar die oprigting van vismeelfabrieke toegelaat behoort te word;
- (B) of voorwaardes opgelê behoort te word op enige sodanige fabrieke wat opgerig word, ten einde -
 - (i) die volksgesondheid te beskerm;
 - (ii) volle beskerming te verleen teen enige oorlas of ongewenste toestand wat mag ontstaan, hetsy as gevolg van onaangename reuke, besoedeling van water of van enige ander oorsaak wat ook al;
- (C) of voorwaardes gestel behoort te word ten opsigte van persele vir vismeelfabrieke ten einde die volgende te verseker:
 - (i) nakoming van (B) hierbo;
 - (ii) die behoorlike dorpsbeplanning daarvan;
 - (iii) die beskerming van die omliggende gebiede asook die gesonde ontwikkeling daarvan;
- (D) of dit raadsaam sal wees om die bestaande wetsbepalings vir die beheer van hierdie saak te versterk of uit te brei en, indien wel, in watter opsigte; en
- (E) enige ander saak wat na die mening van die Komitee in die openbare belang is om te ondersoek en verslag oor te doen.

2. Die eerste vergadering van die Komitee is gehou op 8 Desember 1959 toe daar besluit is om kennisgewings in die „Cape Times”, „Cape Argus” en „Die Burger” te publiseer waarin belanghebbendes versoek word om memoranda oor sake in die opdrag genoem aan die Komitee voor te lê. Die Komitee het daarna nog sestien keer byeengekom om die memoranda te oorweeg, onderhoude aan individue en verteenwoordigers van verskeie organisasies toe te staan, inspeksies uit te voer en sy verslag en aanbevelings te oorweeg.

3. Die Komitee se inspeksies het die gebied vanaf Simonstad tot by Arniston en vanaf Houtbaai tot by Laaipek (Velddrif) gedek.

4. Die Komitee het die eer om die volgende verslag en aanbevelings wat die opdrag puntsgewyse dek, voor te lê:-

(A) DIE PLEKKE LANGS DIE KUSGELEDE VAN DIE PROVINSIE WAAR DIE OPRIGTING VAN VISMEELEFABRIEKE TOEGELAAT BEHOORT TE WORD.

5. Weens die Provinsie se geweldige lang kuslyn en die feit dat dit dringend noodsaaklik is dat die Komitee so gou doenlik verslag doen, het die Komitee se ondersoek net die deel van die kus gedek wat hierbo vermeld word. Die algemene opmerkings en aanbevelings in hierdie verslag behoort egter eweseer van toepassing te wees op die gebiede wat nie uitdruklik daarin gedek word nie.

6. Dit is algemeen bekend dat die vismeel- en visoliebedryf een van die Unie se grootste potensiële bates is en in die landsbelang alle aanmoediging verdien. Terselfdertyd moet so n fabriek beskou word as een wat onder die omskrywing van n hinderlike bedryf ressorteer. Hoewel aansienlike vordering gemaak is deur die oprigting van skroptorings om die onaangename uitdamping uit te skakel, is dit onseker of hulle heeltemal doeltreffend is. In ieder geval moet sulke toestelle vroeër of later onklaar raak. Dieselfde geld die wegdoen van afvalwater met die gevolglike besoedeling van die see en bemorsing van die strande. Die gevaar hiervan moet interaard toeneem met die getal fabrieke. Hoewel dit onwaarskynlik is dat hulle gelyktydig onklaar sal raak, is dit denkbaar dat hulle agtereenvolgens onklaar kan raak en dus wesentlik

daartoe sal bydra dat die oorlas dikwels sal voorkom en langer sal duur. Tot onlangs toe twee fabriekke op Houtbaai opgerig is, was al die fabriekke net op afgeleë plekke op die weskus vanaf Saldanhaabaai noordwaarts en ver van enige beboude gebiede of toeristeeorde af geleë, behalwe een fabriek wat in die Tafelbaaise hawegebied geleë is. Hierdie fabriek verwerk hoofsaaklik wit vis wat nie so hinderlik as olieagtige vis is nie. Nietemin, ten spyte van die invoering van duur moderne installasies en tegnieke, ontstaan daar nog steeds nou en dan oorlaste.

7. Die bedryf is hoofsaaklik afhanklik van die pelsers, maar verwerk ook Maasbankers en Makriele. Die trekgewoontes van die pelsers is nog nie bekend nie hoewel dit in verskillende hoeveelhede op verskeie tye van die jaar so ver as Durban aangetref word. Getuienis is aan u Komitee voorgelê ten effekte dat die pelsers oor die afgelope dertig jaar gereeld in die Valsbaaigebied aangetref is, maar sy grootste sametrekking tot onlangs, wat bekend is, was ten noorde van genoemde gebied langs die Weskus. Gedurende die afgelope twee jaar het die pelsers tydelik of andersins na die suide getrek. Min of niks is aan die Weskus gevang. Groot skole het in die Valsbaaigebied saamgetrek. U Komitee is meegedeel dat daar verlede jaar sowat 90% van die jaarlikse kwota van 250,000 ton in hierdie gebied gevang is.

8. Die pelsers bederwe taamlik vinnig nadat dit gevang is, met die gevolg dat daar 'n afname is in die hoeveelheid en gehalte van sowel die olie as die vismeel wat daarvan vervaardig word. Ten einde maksimum-doeltreffendheid te verkry behoort die vis bewerk te word so gou doenlik nadat dit gevang is en dit geld veral vis wat vir inmaakdoeleindes bedoel is. Dit verklaar waarom die Maatskappye dit nodig vind om hul fabriekke so na as moontlik aan die visgronde op te rig. Sommige van die fabriekke kan miskien oortollig word as vis nie in ekonomiese hoeveelhede in hulle nabyheid gevang kan word nie. Die fabriekke aan die Weskus bevind hulle in 'n moeilike posisie weens die lang skof vanaf die Valsbaaigebied wat van vyftien tot agttien ure mag duur en waarin die vis se toestand aansienlik verswak.

9. Vis het 'n kenmerkende reuk wat verskerp na gelang dit bederwe. Weens verskeie omstandighede, dikwels buite beheer,

kan/.... .

kan dit gebeur dat vis wat vir vismeel bestem is, verrot. Die verwerking van sulke vis, hoe doeltreffend die installasie en apparaat ook al mag wees, laat uiters onaangename reuke en uitvloeisels ontstaan.

10. Die volgende faktore is verantwoordelik vir die oorlas wat deur vismeelfabriekes geskep word:-

- (i) Ondoeltreffende installasies en apparate veral die gebrek aan geskikte wyse om die onaangename uitdamping te hanteer.
- (ii) Onderbrekings met die gevolglike ophoping van die vis en afval, insluitende kreef en wit vis. Ontbinding vererger in hoë mate die reeds skerp reuk van vis.
- (iii) Ontoereikende verkoeling in die afvalruimte van treilers wat in die varsvissbedryf gebruik word.
- (iv) Vertragings by die verwydering van die vis vanaf die bote na die ontvangsplek.
- (v) Gebrek aan beheer en beskikbaarheid van voldoende arbeidskragte om kreeflywe vinnig van die skoonmaakskuur na die installasie te verwyder.

Hoewel baie van hierdie moeilikhede oorkoomlik is, is voortdurende toesig en n hoë mate van doeltreffendheid noodsaaklik aangesien daar altyd die gevaar bestaan dat n oorlas kan ontstaan.

11. Een van die waardevolste bates van die Suidelike Kaap en veral die Kaapse Skiereiland is die opvallende natuurskoon, waarskynlik die mooiste op die Afrikaanse Vasteland. Gevolglik is dit oral in die wêreld, as n vakansie- en toeriste-oord bekend. Groot somme geld word sowel in Afrika as in die buiteland bestee om sy aantreklikhede te adverteer. Die toeristebedryf kan beskou word as n ontwikkelde bate en van n permanente aard. Dit sou klaarblyklik onverstandig wees om alle moontlike steun aan die ontwikkeling van die toeristebedryf te verleen en terselfdertyd die stigting van hinderlike bedrywe toe te laat. Dit is hier waar daar aanduidings is van regstreekse botsing tussen hierdie twee waardevolle bates. Dit is vanselfsprekend dat, as die toeristebedryf aangemoedig moet word, die verwerking van vis op plekke moet geskied waar

dit/.....

dit nie die toeris aanstoot sal gee of sal wegja nie. Buitendien sal dit eweseer dwaas wees om 'n hinderlike bedryf te plaas waar dit 'n nadelige uitwerking op bestaande of goed-gekeurde woongebiede kan hê behalwe waar sodanige woongebiede 'n integrerende deel van erkende visbedrywe uitmaak.

12. Dit volg dus dat fabriekse opgerig behoort te word waar hulle die minste oorlaste kan skep. Dit is geensins maklik nie uit hoofde van hulle noodsaaklike vereistes wat kortliks as volg is:-

- (i) 'n Voldoende voorraad vars water.
- (ii) Krag, verkieslik in die vorm van elektrisiteit.
- (iii) Toereikende hawegeriewe vir die beskerming van bote gedurende stormagtige weer, en geriewe vir die snelle en doeltreffende aflaai van vangste.
- (iv) Genoeg werkmense.
- (v) Behuising vir Blankes, Kleurlinge en Bantoes, en behoorlike geriewe.
- (vi) Behoorlike en doeltreffende sanitasie.
- (vii) Die verwerking van die fabriek se uitvloeisel en die wegdoen daarvan.
- (viii) Voldoende voorsiening, om te voorkom dat oorlaste geskep word deur besoedeling van die lug en van die see.
- (ix) Vervoergeriewe of per pad of per boot.

13. Die bedryf het tans te kampe met 'n groot daling in die wêreldprys van vismeel weens die groot hoeveelheid daarvan wat aangebied word deur Peru waar groot en toenemende hoeveelhede Ansjovis verwerk word. Van u Komitee word nie verlang om presies te bepaal wat die uitwerking daarvan op die Uniese bedryf sal wees nie maar dit is duidelik dat die bemerking van die opbrengs baie moeiliker en teen aansienlik verminderde pryse en winsgrense sal wees.

14. U Komitee het kortliks ingegaan op die moontlikheid om fabriekse te gebruik maar het bevind dat daar geen steun hiervoor is nie. Die vernaamste besware is die hoë kapitaalkoste en bedryfskoste, om nie eens van personeelmoelikhede te praat nie.

15. Soos vollediger in paragrawe 19 tot 23 van hierdie verslag verduidelik, berus die beheer oor die oprigting van hinderlike bedrywe tans by plaaslike owerhede. Met die oog op die ernstige aard van die vraagstukke verbonde aan vismeelfabriekes, beveel u Komitee aan dat hul oprigting ook aan die goedkeuring van die Administrateur onderworpe moet wees. Ten einde die anomalie uit die weg te ruim wat mag ontstaan as een besondere hinderlike bedryf aan die Administrateur se goedkeuring onderworpe gemaak word en nie andere nie wat dergelike vraagstukke kan skep, doen u Komitee aan die hand dat die oprigting van alle hinderlike bedrywe aan die Administrateur se goedkeuring onderwerpe gemaak moet word.

16. U Komitee het hom baie moeite getroos in sy pogings om plekke te vind wat weselik voldoen aan die voorafgaande noodsaaklike vereistes, en het langs die kus af tot so ver as Arniston, oos van Agulhas, gereis. U Komitee is meegedeel dat daar verder as hierdie punt geen plekke van praktiese waarde is wat na genoeg aan die huidige bekende visgronde is nie.

17. Daar sal besef word dat die hele gebied jammerlik arm is aan natuurlike hawens. Almal dié wat die naam in die geringste mate waardig is, is reeds geëksploiteer. Daar is n aantal plekke waar kunsmatige hawens geskep kan word. Die meeste hiervan sal noodwendig klein wees en duur om te bou en die oorgrote meerderheid voldoen nie aan een of meer van die noodsaaklike vereistes nie. Uit die getuienis wat aan u Komitee voorgelê is, is dit duidelik dat daar volop vis in die Valsbaaigebied is. Alle pogings moet derhalwe aangewend word om n terrein te vind waar die nodige fabriekes saamgetrek kan word en waar hulle vryelik kan uitbrei sonder nadelige uitwerking op nabygeleë wonings en vakansieoorde. Die saamtrekking van sulke fabriekes op een plek sal waarskynlik die hoë koste regverdig om n voldoende groot hawe en seehoofde te bou. Van die plekke wat deur u Komitee besoek is en wat uitvoeriger in paragraaf 13 behandel word, verdien die gebied in die omgewing van Die Skip nader ondersoek deur die regte owerhede en organisasies. Daar is miskien ander plekke wat hulle tot behoorlike aanpassing leen. U Komitee was uiteraard nie in n posisie om so n uitvoerige ondersoek in te stel nie.

18. Die moontlikheid van die oprigting van vismeelfabriekes op die volgende plekke is ondersoek:-

Stoney/.....

Stoney Point (in die omgewing van Bettysbaai naby Kaap Hangklip). Die kus is baie oop en geheel en al blootgestel aan die Suidoostewind, en die koste verbonde aan die oprigting van die nodige beskermingsmure sal aansienlik wees. Water is beskikbaar, en daar kan sekerlik reëlings getref word om die kragkabel van Escom te verleng vanaf sy huidige eindpunt te Kleinmond. Die beswaar is dat hierdie hele kuslyn reeds in woon-dorpsgebiede uitgelê is, en die oprigting van vismeelfabriek word nie aanbeveel nie.

Hawston. Dit is n Kleurlinggemeenskap wat vir sy bestaan geheel en al van die visvangs afhanklik is. As gevolg van vertoë wat deur hierdie gemeenskap gerig is, het u Komitee ondersoek daarna ingestel of dit moontlik is om aan te beveel dat n hawe gebou word om n vismeelfabriek te bedien. By die eintlike Hawston is die kus geheel en al blootgestel. Die naaste skuilplek is Hermanus. U Komitee het geen idee hoe dit vir die bote moontlik gemaak kan word om hul vragte af te laai nie. Andersins is daar geen besware teen die oprigting van vismeelfabriek nie.

U Komitee is meegedeel dat Woorweërs sowat 60 jaar gelede by Mudge Point, ongeveer n myl suidoos van die eintlike Hawston, n klein visfabriek gehad het en inderdaad in staat was om n stoomtreiler te bring deur die diep maar smal kanaal tussen die riwwe wat dien om die krag van die see te breek. Die hawe is uiters klein en kan blykbaar net een of twee bote op n keer herberg. Daar bestaan geen paaie nie. Voorsiening kan vir water en krag gemaak word. Indien die bovermelde vraagstukke opgelos kan word, kan geen beswaar gesien word teen die oprigting van n vismeelfabriek aldaar nie.

Hermanus. Dienuwe hawe is betreklik klein en nie ten volle beskut nie, soos die onlangse gebeurtenis bewys het toe n groot visskuit wat in die hawe voor anker gelê het, na die oop see gewaai en verlore is. Hermanus is hoofsaaklik n woondorp en toeristeoord. Die oprigting van vismeelfabriek op die voorgestelde terrein kan onmoontlik aanbeveel word. Dit sal in die onmiddellike nabyheid van bestaande wonings wees en nie ver van die middel van die dorp af nie. Geen afvaardiging van die dorpsinwoners of die Munisipaliteit wat ten gunste van die oprigting van fabriek is, het u Komitee se uitnodiging om hulle opwagting te maak, aangeneem nie en hulle het ook nie memorandum voorgelê nie. Aan die ander kant het u Komitee talryke besware ontvang. Dit is ons oerwoë mening

dat Hermanus hoofsaaklik as n woongebied en vakansie- en Toeristeoord erken moet word en nie n geskikte plek waarin hinderlike bedrywe gelê behoort te wees nie.

Gansbaai. Die bestaande hawe is klein en kan net in redelik goeie weer bevaar word; dit is uiters gevaarlik wanneer die wind noordwes tot suidwes is. Enige vismeelfabriek sal in die onmiddellike nabyheid van die dorp moet wees. Terselfdertyd sal daar besef word dat Gansbaai hoofsaaklik n vissersdorp is; vir hul bestaan is die gemeenskap uitsluitend van die visvang afhanklik. Gevolglik word gemeen dat die dorpsinwoners gewoon sal raak aan die reuke van die fabriek net soos die mense van Saldanha daaraan gewoon geraak het, veral as die fabriek met hedendaagse reukweerinsteallasies toegerus is om die onaangename uitdamping tot n minimum te beperk.

Die Skip. Hierdie terrein is tussen vier en vyf myl suid van Gansbaai aan die westekant van die Danger Point-skiereiland. Dit het nie n natuurlike hawe nie maar besit die moontlikhede van n kunsmatige hawe. Die oprigtingskoste van die nodige breekwater sal aansienlik wees. Die water is diep en groot bote kan daar geherberg word. Dit word reeds erken as n skuilplek vir vissersbote gedurende orweer. Tans vind daar hoegenaamd geen ontwikkeling plaas nie. Grond is beskikbaar vir fabriek en vir behuising. Elektrisiteit kan vanaf Gansbaai aangelê word en water vanaf Die Kelders. U Komitee is van mening dat dit n plek is wat oorweging verdien mits die aansienlike bedrag wat nodig is om n kunsmatige hawe te bou, gevind kan word. Daar is goedgekeurde dorpsgebiede aan die oostekant van die skiereiland. Hulle is egter nog feitlik onontwikkel en die mening word gehuldig dat, as vismeelfabriek opgerig word, die dorpsgebiedeienaars nie nadelig geraak sal word nie aangesien hulle grond dan winsgewend gebruik kan word vir fabriek en die nodige behuisingsfasiliteite vir die fabriekswerkers.

Struisbaai. Die Baai verskaf die enigste natuurlike beskerming vir vissersvaartuie vir baie myle. Dit is egter klein en baie vlak. n Hawe of n seehoof sal baie duur wees. Laasgenoemde sal minstens $\frac{1}{2}$ myl in die see in moet strek. Tans kan net n klein gedeelte van die baai deur baie klein skuite gebruik word. Water is beskikbaar maar nie krag nie. Dit word nie vir n vismeelbedryf aanbeveel nie aangesien dit

deur/.....

deur n gevestigde woon-aanleg omring word en n gewilde vakansie-oord is. Daar is alreeds huise naby die baai.

Arniston. Hierdie baai word nie vir vismeelbedrywe aanbeveel nie. Dit is aansienlik ontwikkel as n vakansie-oord. Die huise is naby geleë. Die baai is in alle geval klein, vlak en rotsagtig.

Didovallei, Simonstad. Hoewel Didovallei klaarblyklike voordele vir die bedryf inhou, was u Komitee verplig om sorgvuldige oorweging aan die volgende belangrike faktore te skenk:-

- (i) Die gebied grens aan die gevestigde woonvoorstad Glencairn. As gevolg van die toenemende uitbreiding van Kaapstad en die gewildheid van die Skiereiland as n vakansie-oord sowel as n tuiste vir afgetrede persone uit Suidelike Afrika en die buiteland, moet die vraag na woonplek langs die kus onvermydelik toeneem.

Die huidige Visolieaffinadery het die inwoners van die omgewing nog nie ernstige rede vir besware gegee nie, nóg vir sover dit onaangename uitdamping betref nóg vir sover dit die afvoer van afval na die see betref. Indien hierdie fabrieksgebied egter uitgebrei word tot sê 2 of 3 maal sy huidige grootte waar daar n verskeidenheid van hinderlike prosesse uitgevoer word, bestaan n baie groter moontlikheid dat n oorlas geskep sal word as gevolg van uitdamping en die besoedeling van die see en strande. Geen fabrieksbestuur kan waarborg dat daar nie onderbrekings in die vervaardigingsprosesse van tyd tot tyd sal wees nie. Bowendien sal die oprigting van n vismeelfabriek in hierdie gebied n nadelige sielkundige uitwerking op die inwoners en toeriste hê.

- (ii) Uit die oogpunt van dorpsaanleg word dit as n kortsigtige beleid beskou om toe te laat dat n nywerheidsgebied gestig word waar daar nie n natuurlike uitbreiding van die bedrywe self of die stigting van verwante bedrywe kan plaasvind nie.

Byna die hele gelyke gebied van die laer deel

van hierdie vallei word reeds in beslag geneem deur die verskillende samestellende dele waaruit die Visolieraffinadery bestaan. Enige verdere fabriek sal in die valleihange aan weerskante geleë moet wees, en verdere uitbreidings sal plaasvind op grond waarvan die topografie al meer ongunstig is. Die bestaande raffinadery pas gerieflik in die vallei. Vanaf die Kuspad is dit nie te opsigtelik nie. Maar dit is onwaarskynlik dat dit ook die geval sal wees as daar verdere fabriek teen die heuwels opgerig word. U Komitee is van mening dat Didovallei reeds ten volle as 'n nywerheidsgebied geëksploiteer is.

- (iii) Daar is 'n neiging in die visbedryf om al hoe meer Bantoes in diens te neem. Terwyl daar geen werkloosheidsvraagstuk in die Suid-Skiereiland is nie, het Simonstad vir 'n lang tyd ernstige moeilikhede in verband met die behuising van sy nie-blanke bevolking ondervind. Nuwe fabriek in Didovallei kan nie bestaan sonder dat meer Bantoe-arbeid na die Suid-Skiereiland getrek word nie. Dit sal bestaande behuisingsvraagstukke vererger asook die moeilikheid om geskikte geriewe te verskaf. Anders, indien die Bantoe in Nyanga gehuisves moet word, sal hulle daagliks lang afstaande vervoer moet word op 'n spoorlyn wat reeds oorlaai is en deur uitsluitend blanke woongebiede loop. Geeneen van hierdie alternatiewe kan met enige mate van gelykmoedigheid beskou word nie.

Dit is dus u Komitee se oorweë mening dat die oprigting van vismeelfabriek in Didovallei nie toegelaat moet word nie.

Miller's Point (\pm 3 myl suid van Simonstad). Hierdie gebied is 'n erkende woongebied en vakansieoord en die besware wat in die geval van Didovallei geopper is, is eweseer hierop van toepassing.

Houtbaai. Daar is alreeds twee vismeelfabriek in die vissershawe geleë en in werking en u Komitee kan nie aanbeveel

dat enige verdere vismeelfabriek opgerig word nie; die bestaande fabriek is 'n bron van groot ontevredenheid onder die inwoners. Die vernaamste redes vir besware is (a) die onaangename uitdamping, (b) die ononderbroke afvoer van afvalwater en bloedwater na die baai, (c) die bemorsing van die strande en (d) die instroming van Bantoes en die onwenslike toestande wat daardeur ontstaan. Die aanbring van reukweertorings het die onaangename uitdamping aansienlik verminder. Aangesien die uitdamping duidelik merkbaar is in baie kalm weer en nie wanneer die wind sterk waai nie, is dit in hierdie stadium nie moontlik om te bepaal hoe doeltreffend hierdie reukweermiddels sal wees nie, want selfs onderwyl u Komitee besig was om te beraadslaag, is die klagtes bevestig ten opsigte van sowel die uitdamping as die uitvloeisel. Afgesien van sy vissershawe aan die westekant, is Houtbaai 'n woonbuurt en toeristeoord, 'n welbekende mooi plek en vakansieoord. Daar word beweer dat daar reeds 'n ernstige gebrek aan behuising vir die Bantoes en Kleurlinge is en dat daar nie voldoende geriewe vir die fabriekswerkers is nie.

Duikereiland. Dit is geleë aan die Atlantiese kant van die Hangberg wat dit van Houtbaai skei; per boot kan dit in tien minute vanaf Houtbaai bereik word. Sy ankerplek het 'n sekere mate van beskerming van Duikereiland, maar dit wil voorkom of dit nodig is om die een of ander breekwater te bou. Daar is 'n beperkte voorraad water en krag is beskikbaar vanaf Houtbaai. Vir praktiese doeleindes kan gesê word dat daar geen pad is nie, maar die gebied kan van die see af bedien word. Hoewel die terrein nie as 'n ideale een beskou kan word nie, kan daar tog ten gunste daarvan gesê word dat dit weg van die woongebied van Houtbaai geleë is, en as fabriek wat daar opgerig word, toegerus is om reuke en skadelike uitdamping te vermy, behoort daar weinig of geen gevaar te bestaan dat 'n oorlas geskep sal word nie. Dit moet egter aan die fabriek as 'n noodsaaklikheid gestel word dat hulle bote moet gebruik om hulle voorrade en produkte te vervoer ten einde te verhoed dat die verkeer op die uiters smal en natuurskone pad tussen Kaapstad en Houtbaai te druk word.

Saldanhaabaai. Dit is die enigste groot natuurlike hawe aan die westkus. Twee vismeelfabriek word daar gedryf. Daar kan geen beswaar gesien word teen nog meer vismeelfabriek nie. Dit is baie jammer dat die vis so ver suid weggetrek het dat hierdie hawe onder huidige omstandighede aansienlik

onekonomies/.....

onekonomies geword het.

St. Helenabaai. Hierdie gebiede is deur die vismeel-bedryf ontwikkel en is uitsluitend daarvan afhanklik. Daar kan geen beswaar gesien word teen verdere uitbreiding indien dit nodig word nie.

B. OF VOORWAARDES OPGELEË BEHOORT TE WORD OP ENIGE SODANIGE FABRIEKE WAT OPPERIG WORD, TEN EINDE -

- (i) die volksgesondheid te beskerm;
- (ii) volle beskerming te verleen teen enige oorlas of ongewenste toestand wat mag ontstaan, hetsy as gevolg van onaangename reuke, besoedeling van water of van enige ander oorsaak wat ook al.

19. Vereistes vir die oprigting van persele, installasies of werke wat oorlaste kan veroorsaak en as hinderlike bedrywe geklassifiseer word, word vervat in die Regulasies op Hinderlike Bedrywe, opgestel kragtens artikel 132 van die Volksgezondheidswet, no.36 van 1919, en afgekondig by Goewermentskennisgewing no.1606 van 1934, soos gewysig by Goewermentskennisgewing no.35 van 14 Januarie 1944. In regulasie 1(b) van hierdie regulasies word hinderlike bedrywe omskryf. Hoewel „werke vir die droogmaak of inmaak van vis; walvisstasies en persele of werke gebruik vir die opberging of behandeling van materiaal afkomstig van walvisse; of vir die bereiding van vislewerolie uit haaië en ander vissoorte" vermeld word, word geen melding van „vismeel" gemaak nie. Hierdie tekortkoming word aangevul in regulasie 1(a) van die Regulasies op Aanstootlike Bedrywe vir die Stad Kaapstad, afgekondig by Goewermentskennisgewing no.402 van 1930, soos gewysig by Goewermentskennisgewing no.614 van 21 April 1944 - „Werke vir die bereiding, berging of vermenging van vermaalde kreef, vis". Daar word sterk aanbeveel dat dergelike bepalings op die res van die Provinsie of wat dit betref die hele Unie van toepassing gemaak word.

20. Die prosedure wat ten opsigte van hinderlike bedrywe gevolg moet word, word duidelik uiteengesit nl. dat sodanige bedryf, amsag of inrigting nie sonder die voorafverkreë toestemming van die plaaslike owerheid opperig, uitgebrei, verander of aangebou mag word nie. Voorts moet sekere noodsaaklike inligting saam met die aansoek verstrek word, nl. -

- (i) 'n „liggings“-plan waarop aangedoon word hoe die persele, die paaie, wonings en fabriekke in die omgewing geleë is;
- (ii) besonderhede in verband met die bedryf;
- (iii) besonderhede in verband met die installasie, met inbegrip van ketels, verteertoestelle, droërs, en ander aparate;
- (iv) die middels wat aangewend word vir die wegdoen van oorlaste en om te voorkom dat oorlaste ontstaan deur reuke, uitdamping, vloeibare afval en vaste afval;
- (v) besonderhede in verband met die behuising vir werknemers, met inbegrip van sanitêre reëlins en 'n toevoer drinkwater.

21. Die plaaslike owerheid publiseer dan 'n kennisgewing in een of meer nuusblaaie vir 'n tydperk van 14 dae en gedurende hierdie tydperk kan besware ingedien word. Indien die plaaslike owerheid van mening is dat die installasie, perseel en werke in ooreenstemming is met hul vereistes en dat geen oorlaste of gevaar vir die volksgesondheid waarskynlik sal ontstaan, kan toestemming verleen word vir die oprigting van die fabriek. Vide paragraaf (f) van regulasie 1 - Die verlening van sodanige toestemming hang in alle gevalle af van die behoorlike konstruksie, instandhouding en gebruik van die geboue en werke en die installasie en aparate daarin en van die doeltreffende verhoeding van enige oorlaste of gevaar vir die volksgesondheid wat daaruit mag ontstaan.

22. Indien daar te eniger tyd 'n oorlaste geskep of 'n gevaar vir die openbare gesondheid veroorsaak word, kan die plaaslike owerheid die bestuurder, eienaar of persoon in beheer deur middel van skriftelike kennisgewing aansê om die gebrek onmiddellik te herstel ten einde 'n oorlaste of gevaar vir die volksgesondheid te verhoed. Ingeval hy versuim om dit te doen, kan die plaaslike owerheid gelas dat die perseel gesluit word.

23. Hoofstuk VIII van die Volksgezondheidswet no.36 van 1919, verleen aan plaaslike owerhede uitgebreide magte om te handel met oorlaste of sake wat die volksgesondheid raak. Artikel 128 van die Wet maak daarvoor voorsiening dat die publiek kan

optree/.....

optree waar die plaaslike owerheid versuim om die oorlas uit die weg te ruim. Artikel 11 verleen aan die Administrateur die bevoegdheid om stappe te doen waar die volksgesondheid ernstig aan gevaar blootgestel word en die plaaslike owerheid versuim om die nodige stappe te doen.

24. Dit is dus duidelik dat die bestaande wet voldoende beskerming teen oorlaste en sake rakende die volksgesondheid bevat en slegs streng toegepas moet word.

C. OF VOORWAARDES GESTEL BEHOORT TE WORD TEN OPSIGTE VAN PERSELE VIR VISMEELEFABRIEKE TEN EINDE DIE VOLGENDE TE VERSEKER:

- (i) nakoming van item (B) van die opdrag;
- (ii) die behoorlike dorpsbeplanning daarvan;
- (iii) die beskerming van die omliggende gebiede asook die gesonde ontwikkeling daarvan.

25. Vir sover dit (i) betref, is dit die toedrag van sake dat, hoewel daar voldoende voorsiening in die wet is vir die verwydering van 'n oorlas, voorkoming beter is as genesing. Die sluiting van 'n goed gevestigde fabriek waar 'n oorlas veroorsaak word wat nie doeltreffend bestry kan word nie, bv. die onaangename uitdamping uit 'n vismeelfabriek, sal nie 'n maklike task wees nie. Sulke fabriek behoort derhalwe nie in die nabyheid van woongebiede of vakansieoorde toegelaat te word nie. Die uitsondering is egter waar die omliggende woongebied feitlik 'n integrerende deel van die visnywerheid is, bv. Saldanha, St. Helenabaai en Gansbaai. Die moontlikheid van seebesoedeling behoort ook noukeurige aandag te geniet. Geskikte installasie om die afvalwater en bloedwater doeltreffend te verwerk en om die vis te bewaar voordat dit verwerk word of gedurende onderbrekings in die fabriek, is noodsaaklik. Die pyp vir die afvoer van die uitvloeiisel behoort op die seabodem te wees met sy uitlaat minstens 300 voet van die laagwaterpeil af.

26. Vir sover dit (ii) en (iii) betref, moet die volgende vereistes nagekom word -

- (1) 'n Goedgekeurde tipe reukweerder moet geïnstalleer word.
- (2) Voldoende behuising moet verskaf word. In

hierdie verband is daar getuienis aan u Komitee voorgelê dat die bemannings van vissersbote dikwels geen geskikte behuising en ander geriewe het nie met die gevolg dat maatskaplike euwels ontstaan. Die sanitêre geriewe op die bote is dikwels primitief. Die fabriekseienaars aanvaar verantwoordelikheid vir die behuising van die fabriekswerkers maar het geen verpligtings teenoor die bemannings van die bote wat dikwels aan private eienaars behoort nie. Daar moet nietemin 'n poging aangewend word om toe te sien dat die bemannings, wanneer hulle aan wal is, behoorlike huisvesting en losies ontvang. U Komitee is van mening dat dit gedoen kan word deur die verskaffing van geskikte koshuise.

- (3) Die aanleg van die fabrieksterreine en van die vereiste behuising en geriewe moet saam met die aansoek om die fabriek voorgelê word en aan die Administrateur se goedkeuring onderworpe wees. Eweneens moet geen veranderinge of uitbreidings aan die goedgekeurde aanleg, wat nie aan gewone beplanningsvereistes voldoen nie, sonder die Administrateur se toestemming aangebring word nie. Die oprigting van 'n behuisingskema is natuurlik reeds aan die Administrateur se toestemming onderworpe ingevolge die omskrywing van „Dorp of onderverdeelde landgoed" in artikel 1 van die Ordonnansie op Dorpe, no.33 van 1934.

D. OF DIT RAADSAAM SAL WEES OM DIE BESTAANDE WETSBEPALINGS VIR DIE BEHEER VAN HIERDIE SAAK TE VERSTERK OF UIT TE BREI EN, INDIEN WEL, IN WATTER OPSIGTE.

27. Die aandag word gevestig op die aanbevelings vervat in paragrawe 15 en 19 van hierdie verslag.

E. ENIGE ANDER SAAK WAT NA DIE MENING VAN DIE KOMITEE IN DIE OPENBARE BELANG IS OM TE ONDERSOEK EN VERSLAG OOR TE DOEN.

28. U Komitee het geen aanbevelings onder hierdie hoof nie.

EINDE.

29. Graag wil u Komitee sy dank betuig aan al die persone en organisasies wat hom so baie in sy taak gehelp het. In die besonder wil u Komitee graag sy innige waardering boekstaaf vir die gewillige en bekwame hulp wat verleen is deur mnr. P. Grobbelaar, Distrikshawe-ingenieur (Visseryhawens) wat u Komitee op sy inspeksies van die kusgebiede vergesel en gelei het.

E.J. CREAK
VOORSITTER.

R.J. SMIT.
LID.

J.C.G. DU TOIT
LID.

J.A. CONRADIE
SEKRETARIS.

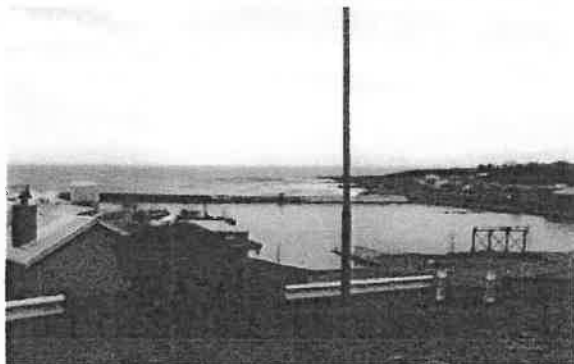
16 Maart 1960.
DATUM.

COMMENTS ON OBJECTIONS: ERF 222: GANSBAAI

VIEW FROM NORTHERN SIDE OF GANSBAAI HARBOR



VIEW FROM APPLICATION PROPERTY ACROSS GANSBAAI HARBOR AND WALKER BAY



VIEW FROM NORTHERN SIDE OF GANSBAAI HARBOR



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REPLY TO COMMENTS RECEIVED: ERF 222, GANSBAAI



1. INTRODUCTION

1.1 To be able to comment on the comments/objections, received about the application for the removal of restrictive conditions and rezoning, it is necessary to first of all paint a clear picture of what is meant by the term "Boutique Hotel".

In terms of the Overstrand Municipality Zoning Scheme of June 2013, "hotel" means a property used as a temporary residence for transient guests, where lodging and meals are provided, and may include:

- (i) A restaurant or restaurants;
- (ii) Associated conference and entertainment facilities that are subservient and ancillary to the dominant use of the property as a hotel; and
- (iii) Premises which are licensed to sell alcoholic beverages for consumption on the property; but does not include an off-sales facility.

As no definition of "boutique hotel" appears in the Scheme Regulations, it is accepted that the definition will be the same as the foregoing for a hotel.

All over the world, however, a boutique hotel is regarded as a special kind of hotel attracting a special kind of guest.

1.2 The following facts and remarks will enlighten the foregoing.

- The word "boutique" means any small, exclusive business offering customized service.
- ***Boutique hotels are found in either big cities or in resort destinations such as holiday resorts or destinations such as seaside towns.***
- These boutique hotels in resort destinations usually exhibit one or more of the following characteristics:
 - (a) they are usually exotic, small and intimate;
 - (b) ***they give their guests a chance to explore the local feel without sacrificing luxury;***
 - (c) ***successful boutique resort hotels unite traditional architecture with the comfort and luxury of modernism, without losing the personality of the local community;***
 - (d) a boutique hotel is intimate in size and feeling;
 - (e) a boutique hotel is an independent hotel (or feels like one);
 - (f) a boutique hotel strives to be one-of-a-kind;
 - (g) ***a boutique hotel has an independent attitude and works hard to not feel like a corporate hotel;***
 - (h) a boutique hotel usually has a bull's-eye urban setting;
 - (i) some boutique hotels are sophisticated country inns;
 - (j) ***you know a small town is upscale if it houses a fine boutique hotel;***
 - (k) a boutique hotel is rich in local flavor; and
 - (l) a boutique hotel can be counted upon to house an outstanding restaurant and bar that draw people from all over.

The foregoing leads to the conclusion that a boutique hotel, other than an ordinary hotel, serves as an advertisement for the destination and the surroundings in which it is situated. ***It attracts people – particularly travelers and people on holiday – looking for exclusive places to stay in the surroundings they wish to visit.***

It can safely be stated that the harbor and surroundings in Gansbaai may be unique to some people still living there in houses which are mostly seventy or more years old, but this is not the major attraction drawing people to Gansbaai, anymore. ***Gansbaai is today seen, and advertised, as a holiday destination and a retirement area for those who wish to retire in seaside surroundings with the mountains as an added attraction.***

Gansbaai main industry is not that of fishing anymore, but of tourism and hospitality.

The harbor itself is a good example of the foregoing statement. People do not make a trip to the harbor to watch the boats – which nowadays are not rowboats anymore – going out to sea; they go there for attractions such as the shark-watching enterprise that has nothing to do with the "fishing heritage" of the area. Nobody comes to visit the fishmeal factory out of choice.

2. REPLY ON OBJECTIONS

We shall first of all answer the objections made by WERKMANS and then those of the various individuals living in close proximity to the affected property.

2.1 All the arguments made by Werkmans Attorneys regarding heritage and other laws are presented on behalf of:

- a) Gansbaai Marine (Edms) Bpk (owners of the fishmeal factory) presented by Mr. AJ Coetzee, who is apparently the Chairman, and lives in Gansbaai (no home address supplied) and four shareholders presented by two persons, namely: Mr. HJ van Dyk of Gansbaai (no home address supplied) and Mr. I Patel with addresses in Centurion and Port Elizabeth.
- b) Four citizens living next to the application site who, in any case, wrote their own letters of objection.
- c) Mr. CH Fourie of 56 Park Street, Gansbaai and 80 fishermen with no addresses (or signatures) supplied.
- d) Boat Owners:
Fourie Eksteen Pelagies Bpk, also of 56 Park Street, Gansbaai;
Germishuys & Groenewald B.K., 14 Germishuys Street, Gansbaai;
HDC Wessels Familie Trust, 7 Middelkus Street, Gansbaai;
WJ Swart, 4 Main Street, Gansbaai;
HD Groenewald, 7 Main Street, Gansbaai; and
Runtu Visserye CC, Arno-Louis Vissery and Merlene Visserye CC all of 35 Barnard Street Gansbaai.

2.2 Observation:

- a) It would seem as if the list of objections made by Werkmans, was probably instigated by the owners (shareholders) of the factory and the boat owners who are greatly dependent on the factory as their main market.
- b) The fishermen, who stand to lose nothing by the proposed erection of the hotel, added their names to the list of objectors as they are dependent on the factory and the boat owners for their livelihood.
- c) It is understandable that the factory owners would object to the development as they would expect that it will not take long for the owners of an expensive hotel and restaurant to start objecting to the bad smells emanating from the factory when in production – particularly with the wind blowing from the harbor towards the land – whilst they can basically do very little or nothing about the smell.

d) The objection is clearly, so it appears, made to cover themselves against future complaints when they will be able to state the fact that they had objected against the establishment of the hotel, but that they had been overruled.

2.3 WERKMANS makes the following points:

2.3.1 Their clients stand to be directly and adversely affected by the proposed land uses and associated structures.

Answer: There is only one land use being applied for, namely, the rezoning of the erf from Residential 1 to Business Zone (Bulk Zone 2) in order to enable the applicant to erect a boutique hotel on the property.

It is totally unclear as to how the presence of a small (8 bedrooms), but unique hotel will adversely affect the objectors. The only people, who might be affected directly, are some of the property owners on adjacent erven.

2.3.2 The application is: a) technically and legally invalid.

Answer: No clear indication as to why the application is technically invalid is given by the objectors. The application was prepared in terms of the prescriptions for applications in the Town Planning Scheme. The notice of the application was advertised and states clearly that it was advertised and notice given "in terms of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016" and the relevant Sections were quoted in the advertisement.

As to how an application can be "legally invalid" beats understanding. If this statement is to be true, then the Municipality is in trouble for daring to advertise it.

2.3.3 The application is: b) undesirable.

Answer: There can never be laws to go into the details of what is desirable and what is undesirable as people will always differ about the subject.

We do not agree with the fact that the objectors make use of decisions made under repealed laws (paragraphs 42 to 44 of their submission), but wish to point out that in the judgment quoted, the judge said: "He is not compelled to refuse an application merely because there is *"some element"* of undesirability or *"some adverse effect"* on existing rights.

Planning laws never stay the same as has been proven by all the new legislation like SPLUMA, NEMA, new zoning schemes and planning policies. Had they been found to be undesirable, they would never have been promulgated.

Heritage laws cannot be used to stem development in and of a whole built-up area (township), because in the worst scene scenario, if the present heritage laws had already been in swing during the time of the first white settlers, Cape Town would never have existed today, but would have been South Africa's largest cattle and vegetable farming concern.

The applicant did not see the proposed development as undesirable for, if that had been the case; he would never have paid two million rand to purchase the property.

2.3.4 The application: c) will have significant negative impacts on their business and associated rights and interests.

Answer: It is hard to imagine what the negative impacts of a boutique hotel could possibly be for the fishing industry, including the fishmeal and canning factory.

It is much easier to think that the hotel, with its restaurant, will bring people, interested in the uniqueness of the area and surroundings, to the area and can become ambassadors for this area and Gansbaai as a whole, as the whale watching operation has already proved to do.

2.3.5 The application: d) will present an unwanted precedent in respect of the spatial planning of the Gansbaai town and specifically the heritage core and also on the heritage and amenity of the receiving and surrounding environment.

Answer: It is hard to imagine a whole town, or a large part of it, being in favour of a Municipality planning to keep them away from development.

It is also interesting to note that nobody has ever objected to this "heritage" environment being "disturbed" by installing a modern day running water system, a modern day sewage system, modern day surfaced roads and other modern day amenities.

The house under consideration gives no impression of being of heritage importance as it only presents the face of a cracked old building of sixty - plus years of age.

As a matter of fact it would seem that *nobody had objected to the granny flat being added to the existing "heritage house" at the time of the addition being made --* and this despite the fact that the granny flat actually used to be an outbuilding (garage) of the house and was converted to its present use without "heritage" approval.

An inspection of this "heritage environment" will also reveal the presence of at least 3 guest houses, 3(three) public bars and a number of business premises in close proximity to the property in question. These are indicated on the attached plan of the vicinity. (See "Annexure A")

Finally, as far as "heritage" is concerned, it must be noted that the new plans for the hotel will not be considered for approval by the building department of the Municipality without the approval of an application to the HWC that the existing buildings, which are apparently older than sixty years, may be demolished to make way for the new development.

3. SUMMARY

The grounds of objection, in summarized form, are as follows:

- a) The application is misleading;
- b) It contains:
 - i) numerous material misrepresentations;
 - ii) errors in law; and
- c) Is unlawful and
- d) is in breach of NEMA and the National Heritage Resources Act, 1999.
- e) The proposed uses do not comply with:
 - i) section 42 of SPLUMA or
 - ii) sections 64 and 66 of the By-Law; and are
 - iii) patently undesirable and
 - iv) contrary to the relevant spatial planning policies and guidelines of the Western Cape SDF, Overstrand SDF and IDP and proposed Gansbaai Heritage Core Overlay Zone and;
 - v) represent the incremental erosion of a landscape/streetscape with significant heritage importance.
- f) Is contrary to the principles contained in section 2 of NEMA.
- g) No application form is included in the documentation and it is therefore not possible to comment on the title deed restrictions that the applicant seeks to remove.
- h) The existence of the fishmeal/cannery facilities.

Answer : (a) -- (f): Most of these points can be regarded as "sweeping" or opinionated statements and have mostly been attended to above and in the motivation report of the application.

It is for Council to decide whether a Heritage report is required or not and, if so, to instruct the applicant to obtain such a report and present it to Council before a final decision on the application will be made.

(g): An inclusion of a copy of the document for the application for removal of title deed restrictions was an unfortunate omission by the Town Planning Department, but can be made available if necessary.

(h): The choice of place for the development of the proposed hotel has been done with the full knowledge of the existence of the nearby factory which, therefore, cannot be presented as a factor against the application.

4. PRIVATE OBJECTORS

4.1 The following private objectors in the vicinity of the affected Erf 222 submitted their objections after the application was advertised. They are:

- a) F.J.J. Swart, erf 143
- b) S.D. Spence, erf 157
- c) O.C. Viljoen, erf 148
- d) E.J. Byrne, erf 158
- e) J.J. van Dyk, erf 1080
- f) H. en A.A. Steyn, 2 Muller Street

4.2 E.A. and G.J. van Dyk, erf 149: No objection.

4.3 The objections, most of which are the same, can be listed as follows and compared with the information as summarized in 4.1.

- | | |
|--|---------|
| a) Building lines will be removed. | (e) |
| b) Four storey will be allowed. | (e) |
| c) It will be a fire hazard. | (e) |
| d) It will impact on privacy. | (e) |
| e) It will reduce the sea view. | (e - f) |
| f) It will increase traffic congestion. | (e) |
| g) Municipal services will have to be upgraded. | (e) |
| h) There will be noise pollution | (a- f) |
| i) Against restaurant and pub open to public, because of selling of alcohol. (a - f) | |
| j) Streets will be wasted with empty booze bottles and takeaway holders as is already happening near the two guest houses in the area. (a - d and f) | |
| k) The crime rate is already climbing since the opening of the two guest houses. (a - d and f) | |
| l) The question of heritage value is a problem. (a - f) | |
| m) Properties will be devalued. (b and f) | |

Answer: The following remarks may serve as answers to the concerns of the various property owners:

- a) The building lines will not become less, but rather larger than for housing purposes. Only the street building line will become less, and from the plans it is clear that the building will not be situated at the back or side of the erf as those spaces will be needed for entry ways from Groenewald Street by vehicles moving towards the parking area.
- b) The Town Planning Scheme Regulations will allow for a building of no more than 3 storeys, including the ground floor.
- c) It is difficult to see as to how a new residential building can present a fire hazard.
- d) There will be very few windows overlooking adjoining stands. A double storied house on the erf could have a greater impact on the privacy of the adjoining erven than the proposed hotel.
- e) There are judgments available to the fact that the obliteration of a sea view can never be illegal and this complaint cannot, therefore, be entertained.
- f) What with the nearness of the harbor and the factory, it is difficult to believe that the traffic will be adversely affected by the hotel with its planned restaurant.
- g) Municipal services are for the municipality to sort out with the applicant.
- (h, i and j) These complaints about noise pollution, the public bar and pollution in the streets, can be handled together as they all seem to stem from the fact that the restaurant and bar will be open to the public.

In answer, the objectors can be assured that, particularly in the case of a boutique hotel, the public bar, which is proposed to be only 10m² in area, will not be able to sell liquor in bottles or other holders to be taken away and in the same way no take-away food will be sold in the restaurant. This kind of hotel will certainly not have any inclination of selling food or liquor to drunks. There are, in any case, already three public bars in the vicinity to cater for the needs of the private inhabitants of the area.

- k) Why the presence of a boutique hotel will lead to criminality is hard to figure out.
- l) The whole question of "heritage" is something for the Council to consider with regard to their own planning and that of Cape Heritage with regard to their policy and Law.
- m) How the presence of a boutique hotel will lead to the devaluation of the value of properties in the vicinity is difficult to imagine. The opposite already seems to be the truth when taking the selling price of the stand into consideration.

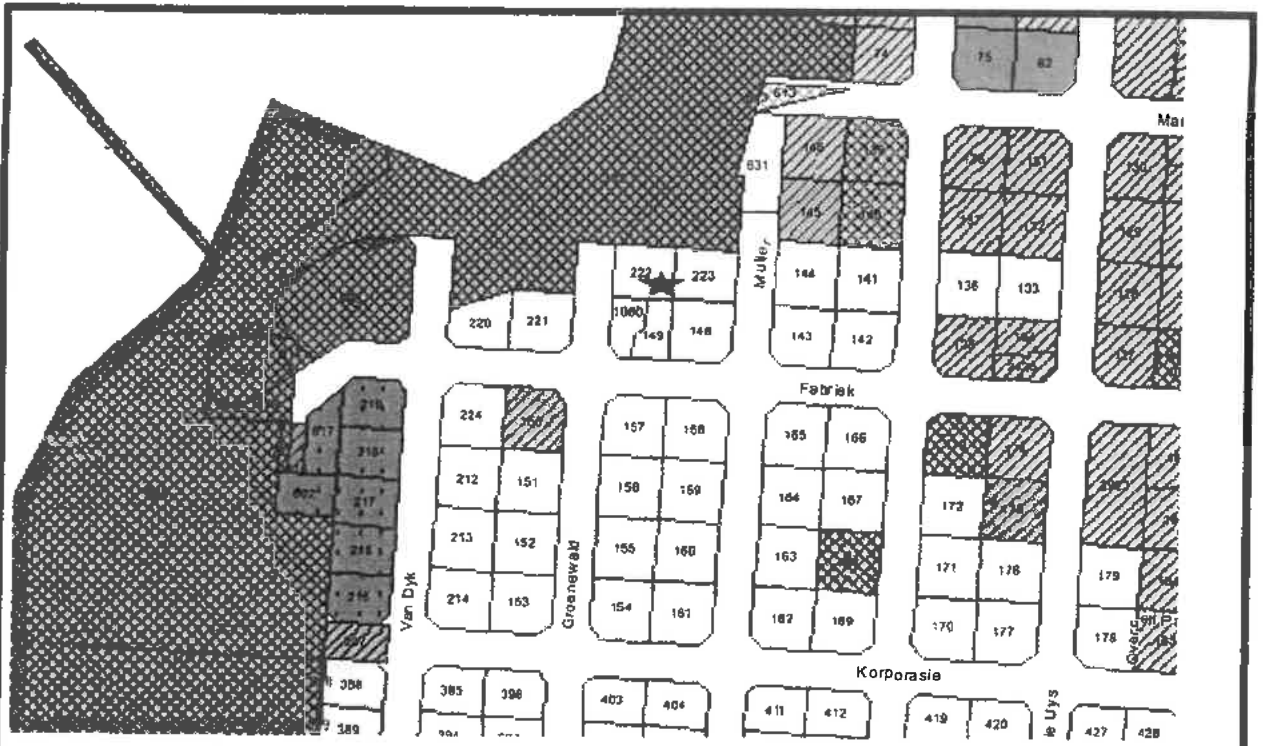
5. FINALLY:

Taking everything into account and looking objectively at the application and, particularly, the Motivation Report, the opinion, from a town planning point of view, remains that the approval of the application will be to the benefit, not only of the particular section of Gansbaai where the hotel is planned to be erected, but for the whole of Gansbaai and the Overstrand municipal area as a whole.

END OF DOCUMENT

ANNEXURE "A"





	ERF 222: SITE OF APPLICATION
GUEST HOUSE	ERF 145
GUEST HOUSE	ERF 150 AND ERF 151
PUB	ERF 382
PUB	ERF 145
PUB	ERF 146
OBJECTOR	ERF 143, 148, 157, 158, 1080, 223
NO OBJECTION	ERF 149

ERF 222, GANSBAAI, 1 GROENEWALD STREET: REMOVAL OF RESTRICTIONS, AMENDMENT OF THE OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK, AND REZONING

I/We, the undersigned, in my capacity as the applicant of ERF 222: GANSBAAI: SITUATED IN THE OVERSTRAND MUNICIPALITY: DIVISION OF CALEDON: WESTERN CAPE PROVINCE, hereby nominates, constitute and appoint

ME de KOCK (ID 5211030043085)

(SACPLAN Reg. A/027/2007)

of

MEPLANNERS

With power of substitution, to be the duly authorized agent in name, place and stead, which may be necessary in order to sign documents and to perform all such acts which may be necessary in connection with-

the delivery of comments to the objections against the application

and generally for effecting the purposes aforesaid, to do or cause to be done whatever shall be requisite, as fully and effectual, for all intents and purposes as I might or could do if personally present and acting herein - hereby ratifying, allowing, confirming, promising and agreeing to ratify, allow and confirm all and whatsoever my said Agent shall lawfully do, or cause to be done, by virtue of these presents.

SIGNED AT GANSBAAI, THIS 22.....DAY OF JULY.....2017.

APPLICANT: [Signature]
Mr Martin Prinsloo
P/A Prinsloo Architectural Design Office
22 Dirkie Uys Street
GANSBAAI
7220

WITNESS 1: [Signature] Uweleen v. Prinsloo
(Please print in block letters as well)

WITNESS 2: [Signature] Anne J. van Vuuren
(Please print in block letters as well)

From: Danie Maree
To: Alida Conradie
Date: 2017/03/03 08:42 AM
Subject: Re: Erf 222 Gansbaai

Alida

Erf 222 currently has a 60 amp single phase connection. As mentioned in the application, this will be insufficient capacity for the development. We advise that the client obtain an engineering report from IX Engineers pertaining to the upgrading of the infrastructure. Mr Wietsché Snyman can be contacted in this regard at 021 912 3000. Please note that all investigation fees, upgrading fees, Bulk service levies as well as any costs pertaining to the repositioning of existing infrastructure will be for the client's account.

Kind Regards
Marissa Radyn

for

Danie Maree
Snr. Manager Electro Technical Services
Snr. Bestuurder Elektro Tegniese Dienste
Tel 028 384 8311
Mobile 082 3738269
Faks 028 384 8314
dmaree@overstrand.gov.za

Problems are not stop signs, they are guidelines .

>>> Charlene Pieters 2017/03/02 12:42 PM >>>
Dear Sir / Madam

Attached please find an Internal Memo for your attention. Kindly provide your department's comments to Alida Conradie aconradie@overstrand.gov.za on or before 7 April 2017.

NB: Kindly provide all comments in English. Your comments, as received, are copied straight into the Council & Delegated Reports.

Thank You

Charlene Pieters
Senior Clerk: Town Planning
Overstrand Municipality
A: 16 Paterson Street, Hermanus, 7200 | P: P.O Box 20, Hermanus, 7200
T: +27 (028) 313 8900 | F: +27 (028) 313 2093
E: cpieters@overstrand.gov.za | W: www.overstrand.gov.za

Vision Statement: "To be a centre of excellence for the community"

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Please consider the environment before printing this correspondence.



File reference:	3280
Date:	02.03.2017

INTERNAL MEMORANDUM

From : Town Planning Department
 Town Planner : SW van der Merwe

TO:

Area Manager	Building Department	District Health	Electrical Department
Environmental Officer	Fire Department	Infrastructure and Planning (Onrus)	Local Heritage Committee
Operational Services	Traffic Department	Ward Councillor (R de Coning)	Waste Management

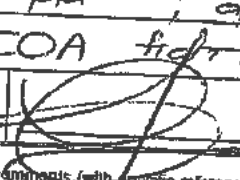
Applicant	M Prinsloo obo Stephen Jackie Familietrust
Property Details	Erf 222, 1 Groenewald Street, Gansbaai
Application Description	Proposed Removal of Restrictions and Rezoning

ATTACHMENTS :

<ol style="list-style-type: none"> 1. Notice 2. Locality Plan 3. Site & Ground Floor Plans 4. Motivation 	Should the information be insufficient for you to make an informative comment, please list any additional documentation that you would require to make informed comments.
--	---

YOUR DEPARTMENT'S COMMENTS:

Applicant to apply for a Health Certificate for an Accommodation facility under the Municipal Health By Law. If any food preparation takes place; applicant should apply for a COA from ODM, as well.

Signature:  Date: 06-03-2017

Please provide your comments (with specific reference to any conditions of approval that should be imposed) in the space provided above or in a separate Memo by not later than the date stipulated below. If you require an extension of time for submission of comments, kindly request this in writing. Should no comments be received, it will be assumed that you have no objection to the proposal and where appropriate, the Mayoral Committee will be informed accordingly.

- Building Control Department to confirm that all structures on the property/ies are in accordance with the approved building plans.

COMMENTS REQUIRED BY: 7 April 2017



TR A Theart
(S id merwe)

Division of Telkom SA SOC Ltd

10 Jan Smuts Drive
Pinelands
7404

Candice Spammer
Tel: 021 414 5582
Fax: 086 480 0617
Email: spammec1@telkom.co.za

Our Ref.: WWIP_WGNB0997_17
Your Ref.: 222 GGB 3290

03 April 2017

Attention: S Muller

Overstrand Municipality
HERMANUS

WAYLEAVE: REMOVAL OF RESTRICTIVE CONDITIONS AND REZONING: ERF 222, 1 GROENEWALD STREET, GANSBAAI

With reference to your application received 03 March 2017.

I hereby inform you that Telkom approves the proposed work indicated on your drawing in principle. This approval is valid for 12 months only, after which reapplication must be made if the work has not been completed.

Any changes or deviations from the original planning during or prior to construction must immediately be communicated to this office.

Approval is granted, subject to the following conditions.

As per sketch attached, Telkom SA LTD infrastructure will be affected, consequently the conditions below and on the attached legend will apply.

Telecommunication services position is shown as accurately as possible but should be regarded as approximate only.

Should alterations or relocation of existing infrastructure be required, such work will be done at the request and cost of the applicant.

61 Oak Avenue, Highveld, Techno Park, Centurion 0157,
Private Bag X881, Pretoria, Gauteng, 0001

11 APR 2017

FILE NO:	EL 222
	Gansbaai ✓
SCAN NO:	
COLLABORATOR NO:	1013447

Please notify this office within 21 working days from this letter of acceptance and if any alternative proposal is available or if a recoverable work should commence.

As important cables are affected, please contact our representative Frederik Swart at telephone number 028 514 1199 / 081 363 7815 at least 48 hours prior of commencement on construction work.

It would be appreciated if this office can be notified within 30 days of completion of the construction work. Confirmation is required on completion of construction as per agreed requirements.

Should Telkom SA infrastructure be damaged while work is undertaken, kindly contact our representative immediately.

All Telkom SA LTD rights remain reserved.

Yours faithfully



Selwyn Bowers
Operations Manager
Wayleave Management: Western Region

This wayleave, Reference Number **WWIP WGNB0997 17** is valid for 12 months from date hereof and is subject to the following conditions:

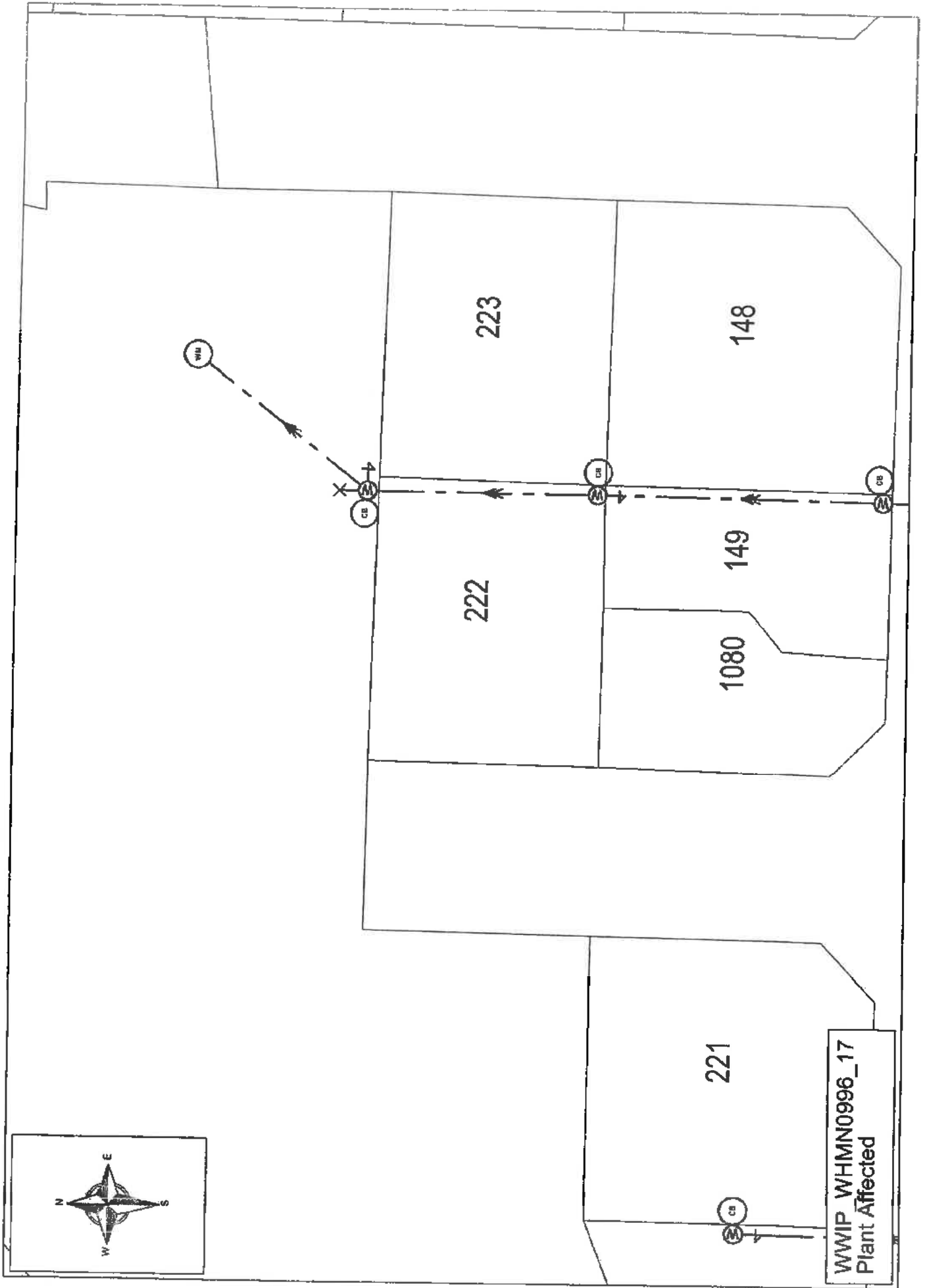
1. No mechanical plant or vibrator type compactors may be used within three meters of any Telkom Plant (I.E. any Telecommunication equipment above or below ground level).
2. The position of our plant affected by the proposal is indicated as approximate and **Frederik Swart** at Telephone No **081 363 7815** must be contacted at least 48 hours prior to commencement of the work, upon which the actual location of the Telkom Plant will be indicated on site.
3. A written request must be submitted to Telkom for consideration, should the of the work, upon which the actual location of Telkom Plant will be applicant require our plant to be relocated. The cost of such a relocation will be recoverable from the applicant.
4. It is the responsibility of the applicant to verify the existence of the indicated plant and to notify Telkom immediately, should the applicant locate any Telkom Plant which is not indicated on the plans.
5. Should the applicant expose any Telkom plant, the safeguard thereof will be the applicant's full responsibility.
6. Failing to comply with the above conditions or any special conditions addendum hereto will be regarded as gross negligence and the applicant will be held responsible for any damage or loss as a result thereof.

Date: 2017/04/04

By: C Spammer
For Regional General Manager
Western Cape

Telkom Symbol Legend	Green
1. Underground Pipe	
2. Underground Cable	
3. Manhole	
4. Street Distributio Cabinet (SDC)	
5. Jointing Pit / AJB	
6. Jointing Pillar (PJ)	
7. Pipe Junction Box (B/S)	
8. Robot Control	
9. Pole	
10. Stay	
11. Strut	
12. Aerial Cable (A/C)	







File reference:	3290
Date:	02.03.2017

INTERNAL MEMORANDUM

From	: Town Planning Department
Town Planner	: SW van der Merwe

TO:


Area Manager	Building Department	District Health	Electrical Department
Environmental Officer	Fire Department	Infrastructure and Planning (Onrus)	Local Heritage Committee
Operational Services	Traffic Department	Ward Councillor (R de Coning)	Waste Management

Applicant	M Prinsloo obo Stephen Jackie Familletrust
Property Details	Erf 222, 1 Groenewald Street, Gansbaai
Application Description	Proposed Removal of Restrictions and Rezoning

ATTACHMENTS :

<ol style="list-style-type: none"> 1. Notice 2. Locality Plan 3. Site & Ground Floor Plans 4. Motivation 	Should the information be insufficient for you to make an informative comment, please list any additional documentation that you would require to make informed comments.
--	---


YOUR DEPARTMENT'S COMMENTS:

Must be in compliance with the requirements of the Fire Safety Regulations SANS 10600T:2011 - Classification H5 - Hospitality if not more than 16 persons accommodation H1 - Hotel for more persons.	
Signature: 	Date:
M.M.S: PALITEIT OVERSTRAND MUNICIPALITY FIRE BRIGADE / BRANDWEER APPROVED / GOEDGEKEUR 07 APR 2017	

Please provide your comments (with specific reference to any conditions of approval that should be imposed) in the space provided above or in a separate Memo by not later than the date stipulated below. If you require an extension of time for submission of comments, kindly request this in writing. Should no comments be received, it will be assumed that you have no objection to the proposal and where appropriate, the Mayoral Committee will be informed accordingly.

- Building Control Department to confirm that all structures on the property are in accordance with the approved building plans.

COMMENTS REQUIRED BY: 7 April 2017

 Must provide a fire plan for approval.
+ Rational Design for Hotel - H1

Office of the Director:
Infrastructure & Planning
Environmental Management

**OVERSTRAND
ENVIRONMENTAL SECTION**

Kantoor van die Direkteur:
Infrastruktuur & Bepanning
Omgewingsbestuur

Enquiries: Benjamin Kondokter
Imibuzo

Ref : Erf 222 Gansbaai

Datum

Date : 07 April 2017

Isuku

To : Alida (Town planning) (via email)

**APPLICATION FOR PROPOSED REMOVAL OF RESTRICTIONS AND REZONING
OF ERF 222 GANSBAAI**

Overstrand Environmental Management Section wishes to comment on the application for proposed removal of restrictions and rezoning of Erf 222 Gansbaai. The above mentioned application does not trigger any listed activities and therefore has no implication on the NEMA Regulations.

Please feel free to contact me should any questions arise.

Regards



-
- B.KONDOKTER
 - Nms:MR S MULLER
 - DIRECTOR:INFRASTRUCTURE & PLANNING

 - Cc : Liezl Bezuidenhout :Senior Environmental Manager

Alida Conradie - Kommetaar erf 222 Gansbaai

From: Benjamin Kondokter
To: Alida Conradie
Date: 2018/09/04 07:44 AM
Subject: Kommetaar erf 222 Gansbaai
Cc: Liezl de Villiers

More Alida

Die aansoek ("Appeal" van Gansbaai Marine) van erf 222 Gansbaai trigger geen NEMA gelyste aktiwiteite nie ek volstaan op my kommentaar soos gelewer op 07/04/2017

dankie

Benjamin Kondokter
Assistant Environmental Officer :
Environmental Management
(e) bkondokter@overstrand.gov.za
(t) 028 384 8320



ROAD NETWORK MANAGEMENT
 Email: Grace.Swanepoel@westerncape.gov.za
 tel: +27 21 483 4669
 Room 335, 9 Dorp Street, Cape Town, 8001
 PO Box 2603, Cape Town, 8000

REFERENCE: 16/9/6/1-21/119 (Job 24767)
ENQUIRIES: Ms GD Swanepoel
DATE: 10 May 2017

The Municipal Manager
 Overstrand Municipality
 Gansbaai Administration
 PO Box 26
GANSBAAI
 7220



Attention: Mr S van der Merwe

Dear Sir

ERF 222, GANSBAAI: REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND REZONING

1. Your letter 222 GGB (3290) dated 2 March 2017 refers.
2. Erf 222 is located in Gansbaai and takes access off Groenewald Street, a local municipal road.
3. This application is for the following:
 - 3.1 Removal of title deed restrictions in order to erect a boutique hotel and
 - 3.2 Rezoning from Single Residential Zone I to Business Zone II.
4. This Branch offers no objection to the application in terms of the Land Use Planning Act, No 3 of 2014.

Yours faithfully

ML WATTERS
 For **CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT**

FILE NO:	
SCAN NO:	
COLLABORATOR NO:	collab 1025342



OVERSTRAND

HERITAGE AND AESTHETICS COMMITTEE

MINUTES OF MEETING

Date: Thursday 14 SEPTEMBER 2017 (14:00 – 16:30)

Time: 14h00

Members present

Mr Basil Brink (Acting Chairman)

Mr A. Greeff

Mr B. Jones

Mr A. Finlayson

Mr C Roux

Mrs K. Smuts

Mr E. Grobler

In attendance: Mr J. Simson (Manager Building Services)

Mrs E. Lowings (Admin Assistant: Building Services) & Mr G. Coetzee (Principal Technician - Overstrand)

6.4 GANSBAAI : ERF 222 : 1 GROENEWALD STREET: S MOSTERT : PROPOSED DEMOLITION AND NEW HOTEL AND TP APPLICATION (OLDER THAN 60Y UNGRADED)

ARCHITECT / PLANNER Martin Prinsloo Arch. Technologist PRESENTED.

Comment:

Demolition & Town Planning application supported. Proposed new Boutique Hotel should be less fractured with larger scale, simpler roofs. Wall openings to be carefully proportioned. Reconsider the introduction of curved elevational elements into more appropriate rectangular elements. Towers not supported. A more simple, direct, contextually appropriate approach would be well received.

Action

Submit the demolition application to Heritage Western Cape.

6.5 GANSBAAI : 221 : 3 FABRIEK STREET : P JUYSER : PROPOSED GUESTHOUSE (OLDER THAN 60Y UNGRADED)

ARCHITECT / PLANNER Martin Prinsloo Tech. Architect PRESENTED.

Comment:

Town Planning application supported. The Committee is of the opinion that the structure should be graded 3C.

Action:

None.

7.4 Next Meetings:

12th OCT. 2017, 16th NOV. 2017 (AGM) & 7th DEC. 2017 (Year End Function)

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTIONS & REZONING: ERF 222,
GANSBAAI (3290)**

Stormwater (SW)	:	In Order
Electricity	:	In Order
Water	:	In Order
Sewer	:	In Order
Roads and traffic	:	In Order

Conditions:

1. That a Bulk Services Contribution Levy (BICL) be paid by the developer to supplement municipal services and amenities in accordance with the relevant legislation and as determined by the Council. The BICL tariff is adjusted by Council annually. The total BICL payable will be the amount as determined by the BICL Policy and tariff at the date of **actual payment**. BICL amounts quoted in any document will normally be applicable to the particular year in which the document was compiled and Council will not be bound by the quoted amounts.

1.1 Developments containing Sectional Title Units/ Commercial Buildings
(non-free standing properties – property is not to be subdivided)

The BICLs are to be paid in full **prior** to submission of the building plans. Building Plans will not be accepted unless the BICL is paid in full.

1.2 Developments with free standing properties (property that is subdivided and plots to be sold individually).

The BICLs are payable **prior** to clearance being issued by the Income Department of the Municipality.

The contribution according to the current policy (**2017/2018**) is as follows:

Freehold erven:

Water	R 21 500.00 x 2.94 =	R 63 210.00
Sewerage	R 14 496.00 x 2.21 =	R 31 891.20
Stormwater	R 7 500.00 x 1.05 =	R 7 895.00
Solid Waste	R 1 300.00 x 1.62 =	R 2 106.00
Road	R 6 500.00 x 26.93 =	<u>R 175 045.00</u>
TOTAL (inclusive of VAT)	=	R 280 147.20

Note:

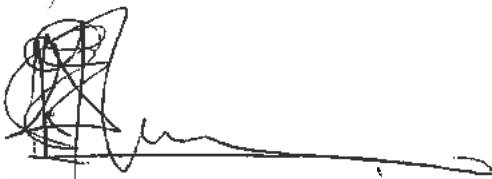
- 1.3 The above figures are estimates
- 1.4 That Overstrand Municipality Electrical Department be contacted regarding electricity bulk services levies

2. that the developer at his cost constructs the internal municipal civil and electrical services for the development as well as any link or bulk municipal services that need to be provided;
 - 2.1 the Director: Infrastructure and Planning may require the developer to construct internal, link, and/or bulk municipal services to a higher capacity than warranted by the development for purposes of allowing other existing or future developments to also utilise such services, provided;
 - 2.2 the rates and prices of such work be established in terms of a system which is fair, equitable, transparent and cost effective;
 - 2.3 if link municipal services have already been provided, the developer to contribute towards the cost thereof, the Director: Infrastructure and Planning to determine the amount of such contribution in terms of a system which is fair and equitable;
3. that servitudes for municipal services be registered in favour of the Council at the developer's cost in respect of all main services to be taken over by the Council and all existing municipal services concerned crossing private property;
4. that the developer indemnifies and keep the Council indemnified against all actions, proceedings, claims and demands, costs, damages and expenses arising out of the establishment of the township, the provision of services to the township or the use of servitude areas or municipal property:
 - 4.1 for a period which shall commence on the date that the installation of the services to the township are commenced with and shall expire after completion of the maintenance period;
 - 4.2 the developer to submit an acceptable public liability insurance policy to the Council and to pay the premium in advance for the period as set out above before any work concerned may commence;
 - 4.3 the insurance to be to an amount which shall not be less than that required by the CESA
 - 4.4 such indemnification against loss, claims or damages, to include claims pertaining to consequential damages by third parties and whether as a result of the damage to or interruption of or interference with the Council's services or apparatus or otherwise;
5. that a plan of all existing services be submitted to the Director: Infrastructure and Planning, by the developer and that any of the services that need to be relocated, be done by the developer at his cost to the satisfaction of the Director: Infrastructure and Planning:
 - 5.1 way-leaves must be obtained from the Operational Manager;

- 5.2 such way-leaves to be obtained prior to any excavation on public property or property where existing services are located;
6. that the developer may enter into an agreement with the Council to install or upgrade bulk and/or link municipal services and amenities at an agreed cost, subject to the following:
 - 6.1 such costs to be established in accordance with a system which is fair, equitable, transparent, competitive and cost effective;
 - 6.2 such costs shall be set-off against (part or full) development contributions payable in respect of engineering services;
 - 6.3 to the extent that such costs exceed the development contributions payable, the Council will refund the developer the difference with interest calculated at the prime rate, when funds are available;
7. that plans of all the internal municipal civil and electrical (high and low voltage supply) services and such link services as required by the Director: Infrastructure and Planning, prepared by an ECSA registered professional engineer/technologist, be submitted to the Director: Infrastructure and Planning for his prior approval;
8. the "Guidelines for the Provision of Engineering Services in Residential Townships" (Blue Book), SANS 1200 specifications and the Design and Construction Standards for civil and electrical services of the Council to be used as the standard design and construction criteria with which such plans must comply;
9. the Director: Infrastructure and Planning to be notified in writing of all deviations from the Standard Design and Construction Criteria when plans are submitted for his approval and such deviations to be separately approved in writing by the Director: Infrastructure and Planning;
10. the successful completion of such works to be supervised and certified by an independent professional civil engineer/technologist i.e. a professional civil engineer/technologist who has no direct financial interest in the development, other than payment as standard professional fees for the work concerned; and
11. such independent professional civil engineer/technologist to furnish the Director: Infrastructure and Planning with satisfactory proof of his professional indemnity insurance to an amount which shall not be less than that required by the CESA and which insurance shall be valid for the relevant contract and maintenance period;
12. that all municipal civil and electrical services installed or constructed by the developer, be maintained after completion thereof for a maintenance period, as described in the General Condition of Contract for works of Civil Engineering Construction – 2010, of 12 months, and

13. that a Certificate of Completion together with as-built services plans be provided by the independent professional engineer/technologist to the Overstrand Municipality. As-built plans to be on quality paper, together with a DXF file thereof;
14. that the developer furnish the Council with a bank guarantee equal to 2.5% of the value of the provided municipal civil and electrical services as certified by the independent professional engineer/technologist. The guarantee shall be to the satisfaction of the Director: Infrastructure and Planning and valid for the 12 months maintenance period which commences from date of the Certificate of Completion;
15. that the developer appoint a consulting electrical engineer (IX Engineers) to determine the electricity demand for the development and pay a fee to Overstrand Municipality to determine the capacity in the existing electricity network;
16. that the electricity reticulation and supply be provided according to the master plan by the developer at his cost;
17. that only the existing electricity connection will be available for the development;
18. that an approved refuse collection area/room to sufficiently accommodate the refuse generated by the development and which is to be proved with the following:
 - a. properly ventilated;
 - b. a cement floor;
 - c. a tap and running water, as well as a drainage point which is connected to the sewer network;
 - d. at a position nearest to an access road for the development and be accessible for the refuse truck at all times, to the satisfaction of the Director: Infrastructure and Planning;
19. that the refuse collection area be constructed in accordance with the requirements of the Overberg District Municipality;
20. that a stormwater management plan, which may include attenuation facilities to ensure that the pre-development run-off is not exceeded and that erosion and pollution is minimised, be submitted to the Director: Infrastructure and Planning for approval and that the approved management plan be implemented by the developer at his cost to the satisfaction of the Director: Infrastructure and Planning;
21. that the above stormwater management plan include the following:
 - 21.1 pre-development run-off from the catchment area;
 - 21.2 post-development run-off from catchment area;

- 21.3 existing stormwater reticulation system and the capacity thereof;
21.4 connection of internal stormwater reticulation system;
overland escape routes;
22. that the connection to the stormwater reticulation system be provided according to the stormwater management plan, by the developer and approved by Overstrand Municipality;
23. that no on-street parking will be allowed;
24. that damage to the existing roads, used as routes for access to the development, for the provision of services, be repaired by the developer;
25. that the proposed development be provided with adequate sewer conservancy tanks that must comply with the specifications as detailed in the municipal by-law w.r.t. Water & Sanitation;
26. that any relevant commercial food preparation facilities must be provided with a grease trap, which must comply with the standards and specification of the Department: Operational Services.



DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES

05/10/2017
DATE

REGISTERED POST

Our Ref: HM/ OVERSTRAND MUNICIPALITY/GANSBAAI/ERF 222
 Case No.: 17102504ZK0228E
 Enquiries: Zethembe Khuluse
 E-mail: zethembe.khuluse@westerncape.gov.za
 Tel: 021 483 9685
 Date: 15 June 2018

Aneisiraal 7 Besiote Korporasie
 1 Groenewald Straat
 Gaansbaai
 Overstrand



ILifa leMveli leNtshona Koloni
 Erfenis Wes-Kaap
 Heritage Western Cape

PERMIT

CASE NUMBER 17102504ZK0228E

Issued in terms of Section 34(1) of the National Heritage Resources Act, 1999 (Act 25 of 1999) and
 Regulation 3(3)(a) of PN 298 (29 August 2003)
 This permit is valid for three years from the date of issue

This permit is issued for:

Proposed Action: Total Demolition
 Site: Erf 222, 1 Groenewald Straat, Gaansbaai
 Graded: Not Conservation Worthy

NOTE:

- This decision is subject to an appeal period of 14 working days.
- The applicant is required to inform any party who has expressed a bona fide interest in any heritage-related aspect of this record of decision. The appeal period shall be taken from the date above. It should be noted that for an appeal to be deemed valid it must refer to the decision, it must be submitted by the due date and it must set out the grounds of the appeal. Appeals must be addressed to the official named above and it is the responsibility of the appellant to confirm that the appeal has been received within the appeal period.
- Work may NOT be initiated during this 14 day appeal period.
- If any archaeological material or evidence of burials is discovered during earth-moving activities all works must be stopped and Heritage Western Cape must be notified immediately.
- This approval does not exonerate the applicant from obtaining any necessary approval from any other applicable statutory authority.
- A copy of this permit must be displayed in a prominent place on the site until the permitted work is completed.

Should you have any further queries, please contact the official above and quote the case number.


 Mxolisi Dlamuka
 Chief Executive Officer, Heritage Western Cape

www.westerncape.gov.za/cas

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