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ERVEN 2350 & 2352, AUVERGNE RESIDENTIAL ESTATE, VERMONT, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR SUBDIVISION, REZONING, CLOSURE OF A PUBLIC PLACE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF OVERSTRAND MUNICIPALITY AND THE AUVERGNE HOMEOWNERS' ASSOCIATION

2350 & 2352HVM (4123/2022)

H Olivier

27 February 2025

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Hermanus Administration

1. EXECUTIVE SUMMARY

A final amended application was received on 30 April 2024 from Plan Active Town and Regional Planners on behalf of Overstrand Municipality and The Auvergne Homeowners' Association (HOA) on Erven 2350 and 2352, Vermont in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the following:

- ❖ **Closure of Public Place** in terms of Section 16.(2)(n) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 to accommodate the closure of a public open space (Erf 2350, Vermont) and a portion of public road (portion of Erf 2352, Vermont) Blue Crane Street and Goshawk Road;
- ❖ **Subdivision** in terms of Section 16.(2)(d) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 of Erf 2352 into two portions namely a Portion A (approximately 2024m²) and a Remainder (approximately 1161m²);
- ❖ **Rezoning** in terms of Section 16(2)(a) of the By-Law as follows:
 - Erf 2350, Vermont from Open Space Zone 2: Public Open Space (OS2) to Open Space Zone 3: Private Open Space (OS3) and
 - Portion A, a portion of Erf 2352, Vermont from Transport Zone 2 B: Public Road (TR2 B) to Transport Zone 2 A: Private Road (TR2 A);
- ❖ **Determination of an administrative penalty** application in terms of Section 16.(2)(q) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 the By-Law for the unauthorized access/security gate constructed in Blue Crane Street road reserve that provides controlled access to Auvergne Residential Estate.

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.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

Public open space Erf 2350 measures approximately 63m² in extent. The proposal is to close and rezone this public open space to a private open space to be used by residents and guests of Auvergne Residential Estate only.

Public road Erf 2352 measures approximately 3185m² in extent. The proposal is to close and subdivide a portion of 2024m² from the public road and rezone it to a private road. This will enable the Auvergne Residential Estate to keep the security gate that was illegally constructed, and to create a refuse area outside the gate.

The surrounding area has a strong residential character with a blend of group housing and single residential erven.

4. SUMMARY OF APPLICANT'S MOTIVATION

THE MOTIVATION CAN BE SUMMARIZED AS FOLLOWS:

- ❖ The developer on behalf of the HOA applied to legalize the existing situation.
- ❖ The in-principal approval has been obtained from the Municipality to purchase the public open space and portion of the public road.
- ❖ The two (2) properties are ordinary erven in terms of the Surveyor-General status report.
- ❖ The application includes the closure of the portion of road and public open space, the subdivision of the portion of road and the rezoning of the public open space to private open space, and the portion of public road to private road.
- ❖ The application also includes an application for an administrative penalty fee, for a gate that was illegally constructed in a public road.
- ❖ The surrounding properties are zoned Group Housing and Residential zone I.
- ❖ Erf 2350 is a vacant open space, whilst the portion of Erf 2352 is used as a private gated road.
- ❖ The public open space currently poses a security risk.
- ❖ The legalization of the gate will make the development a security estate, and no need for the public open space.
- ❖ A portion of Blue Crane Street and Goshawk Road will be closed.
- ❖ A central refuse area will also have to be provided. A refuse area of 2,5 x 4,2m and 10m² in extent will be provided on the Blue Crane Street sidewalk (on the private land).
- ❖ The proposal is compatible with the character of the area and will not negatively impact anybody else's rights.
- ❖ No additional erven or buildings will be created.
- ❖ Will not have a negative impact on property values.
- ❖ The application will improve the security of the area.
- ❖ Should the Municipality need to place any services on the properties in future they will have to do so due to an insertion in the title deed.
- ❖ No additional services are required.
- ❖ The controlled access point at Auvergne Residential Estate will not be changed and no additional traffic impact will be created.
- ❖ It will have no impact on the larger road network.
- ❖ No heritage impact or environmental impact.
- ❖ There are no restrictive conditions in the Title Deeds.
- ❖ In line with the MSDF (Municipal Spatial Development Framework) as the area will still be utilized for Urban Development.

DETERMINATION OF ADMINISTRATIVE PENALTY**a) Nature, duration, gravity, and extent of the contravention**

An access gate was constructed at approximately November/December 2014. One of the conditions of approval was that an SDP be submitted showing the stacking distance and refuse bins position. The applicant was never informed about the illegal entrance gate and building plans was approved since 2015. The access gate is merely a sliding galvanized iron gate.

(b) The conduct of the person (allegedly) involved in the contravention

The Developer constructed the gate but was under the impression that the gate was permitted.

(c) Report by a quantity surveyor in matters of unauthorised building/construction

Do not believe an administrative penalty will be imposed, but did obtain a quotation from a construction company who confirmed the cost of the gate is R56 457,53.

(d) Whether the unlawful conduct was stopped

No. The development is a security estate and therefore the HOA is now attempting to rectify the matter.

(e) Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law

No, according to our knowledge neither the developer nor the Auvergne HOA has previous contraventions.

It is requested that the administrative penalty be waived given the history of the development, that no complaints have been received, and the gate is a prime security feature.

PLANNING PRINCIPLES❖ **Spatial Justice**

N/A

❖ **Spatial Sustainability**

Will not impact on urban sprawl or a sensitive environment.

❖ **Efficiency**

The Municipality will not have the burden to maintain the properties in future.

❖ **Spatial Resilience**

Not Applicable. The proposal is not in conflict with any Spatial Planning Policies or other OM Regulations.

❖ **Good Administration**

The correct consultation process is followed in consultation with the Municipality, and relevant government tiers and the public are enabled to participate.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	Yes	22 August 2024	27 September 2024
E-mail notices & on-site notice	Yes	22 August 2024	27 September 2024
Internal departments	Yes	22 August 2024	27 September 2024
Ward councillor	Yes	22 August 2024	27 September 2024
Total comments	One (1)		
Total letters of support	One (1)		
Was public participation undertaken in accordance with Section 46 - 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
Fire Department	25/09/2024	No objection.
Building Control	29/08/2024	No objection.
Municipal Environmental	16/10/2024	No objection.
Engineering Services	27/08/2024	See Annexure F.
Telkom	11/11/2024	See Annexure G.
Property Administration	26/09/2024	No objection. Only a boundary wall / fence and refuse area allowed.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

The application was duly advertised in the local newspaper. Notices were e-mailed to surrounding residents in the area and the Vermont Ratepayers Association. A notice board was also placed on-site by the applicant's consultant.

It is to be noted that the sale of land application was also advertised with the land use application. The Property Administration Division will deal with such application and any objections against the sale of land application will be dealt with in their report.

- ✚ One (1) letter of **support** was received from *J van der Merwe*.
- ✚ One (1) letter of **objection** was received from *Henk from the Hemel-en-See*.

The applicant was provided with an opportunity to respond to the objection received. The objection and support letter are attached as Annexure D and the applicant's response are attached as Annexure E respectively.

The objection, the applicant's reply and the Municipal Town Planners response thereon can be summarized as follows:

OBJECTION

It will improve crime in this area.

APPLICANT'S RESPONSE

The objection makes no sense and does not constitute a valid or substantial ground for objection. The objection should be dismissed

TOWN PLANNER'S RESPONSE

The applicant's sentiment is supported. It is not clear if the objector means it will worsen crime in the area. No additional reasons were submitted in support of the opinion, and therefore the objector's statement does not prove the application to be undesirable.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See Paragraph 7 above.

9. MUNICIPAL ASSESSMENT OF COMMENTS

All Municipal Branches and other institutions support the application.

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 application is in line with the planning objectives applicable to this application.

The objectives relating to:

Spatial Justice

N/A

Spatial Sustainability

The application will not impact valuable agricultural and sensitive environmental land.

Efficiency

It will financially be more efficient to legalize the gate than to remove the gate. The municipality will also have less maintenance as the roads and services will have to be maintained by the applicant.

Spatial Resilience

N/A

Good Administration

Procedure as determined by the relevant By-Law of the Municipality has been followed and a good public participation process was followed.

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

The application is consistent with the planning principles.

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

Consistent since it remains for road and open space purposes.

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

N/A

10.6 Impact on Municipal engineering services

The development is already serviced. The services in the complex will now become private services.

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

N/A

10.8 Existing and proposed zoning comparisons and considerations

The application is in line with the Overstrand Spatial documents.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL

The development was approved in 2007. The property is developed with a residential development consisting of Residential Zone 1 and group housing erven.

The road and open spaces within the development was approved as public open spaces and a public road. The developer however put up a gate and marketed the development as a gated development.

In 2018 a notice was sent out to the developer to remove the gate. The developer and Homeowners Association applied to Council to purchase a portion of the public road and public open space, and in 2019 Council in-principle supported the sale of the land, subject thereto that the applicant subdivide, rezone and close the public places.

This application is for the closure and rezoning of Erf 2350 (63m²) from public open space to private open space. Application is also made for the subdivision, rezoning and closure of a portion (2024m²) of Erf 2352 from public road to private road.

It is to be noted that the public road and public open space are not indicated on the Surveyor Generals records as public places, and the closure of the public places is only done to comply with the Planning By-law.

The application was advertised, and one (1) objection was received. The applicant was provided with the opportunity to respond to the objection.

The objection is not clear and therefore has no impact on considering the desirability of the application.

The application was circulated to all relevant Municipal branches and other departments/institutions. No objections were received.

It appears as if the gate was already constructed in approximately end of 2014. It is an existing situation and would have no additional impact on surrounding property owners.

The application implies that the development will now change from a development with a public road to a gated development. The road and internal services will become the responsibility of the Homeowners Association. Municipal services will only be provided up to the boundary of the development, and the estate will also have to create a central refuse area. A central refuse area will be created at the entrance gate.

The application will have no additional impact on the surrounding properties with regards to traffic or impact the character of the area, as this is an existing situation.

ADMINISTRATIVE PENALTY

a) *Nature, duration, gravity, and extent of the contravention*

An access gate was constructed at the end of 2014. It is a steel gate which was constructed at the entrance to the estate.

(b) *The conduct of the person (allegedly) involved in the contravention*

The developer constructed the gate.

c) Report by a quantity surveyor in matters of unauthorised building/construction

No report from a quantity surveyor was provided, but a quotation from a construction company who confirmed the cost of the gate is R56 457,53, was provided.

d) Whether the unlawful conduct was stopped

No. A notice was sent out to the developer in 2018, but the gate was never removed. Application was made to purchase the land from Council, and Council provided their in-principal support for the sale of land in 2019.

e) Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law

The consultant indicated that according to their knowledge neither the developer nor the Auvergne HOA has previous contraventions.

The applicant requested that the administrative penalty be waived given the history of the development, the fact that no complaints have been received, and the gate is a prime security feature.

It is acknowledged that the services report make reference to a stacking distance in front of a gate. The developer was however informed that the development has a public road and that no gate can be constructed. A building plan was also never approved for the existing gate. The gate is therefore an illegal structure.

Considering the history of this matter, and the fact that the developer and Homeowners Association is attempting to legalize the existing situation, it is recommended a 5% administrative penalty fee be imposed.

The penalty fee is determined as follows:

✚ Cost of gate R56 457,53 divided by 100 and multiplied by 5(%) equals R2 823,00.

It is recommended that a total penalty fee of R2 823,00 be imposed.

CONCLUSION

Considering the above, it is the opinion that the application can be approved.

The application is desirable and is supported.

13. RECOMMENDATION

1. that the objections be noted;

2. that the application in terms of Section 16.(2)(n) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the closure of a public place to accommodate the closure of a public open space (Erf 2350, Vermont) and a portion of public road (portion of Erf 2352, Vermont) Blue Crane Street and Goshawk Road, **be approved**, in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16.(2)(d) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 for the subdivision of Erf 2352 into two portions namely a Portion A (approximately 2024m²) and a Remainder (approximately 1161m²), **be approved**, in terms of the provisions of Section 61 of the By-Law;
4. that the application in terms of section 16(2)(a) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 the rezoning of Erf 2350, Vermont from Open Space Zone 2: Public Open Space to Open Space Zone 3: Private Open Space and Portion A, a portion of Erf 2352, Vermont from Transportation Zone 2B: Public Road (TR2 B) to Transport Zone 2A: Private Road (TR2 A), **be approved**, in terms of the provisions of Section 61 of the By-Law;
5. that the approvals in Points 1 to 3 above be subject to the following conditions:
 - (a) that approval is for the subdivision and rezoning as indicated on Drawing number verm2352s-rev1 dated November 2023;
 - (b) that building plans be submitted for the gate to the Building Control Department for approval, and that all conditions of the Building Control – and the Fire Department be complied with at that stage;
 - (c) that the private road portion and private open space be transferred into the name of the Homeowners Association;
 - (d) that the Constitution of the Auvergne Residential Estate be amended to incorporate the private road and private open space;
 - (e) that a refuse area be provided to the satisfaction of the Manager: Waste Management;
 - (f) that all the conditions in the Services Report (attached as Annexure F), be complied with;
 - (g) that the Overstrand Municipality retains the right to enforce any relevant legislation and or By-Laws;
 - (h) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
 - (i) that all other development parameters as prescribed in the relevant Land Use Scheme be complied with.
6. that the comments received from Telkom (attached as Annexure G), be noted.

7. that the determination of an administrative penalty in terms of Section 90.(4) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020, for the unauthorized access/security gate constructed in Blue Crane Street road reserve (Erf 2352), that provides controlled access to Auvergne Estate, **be imposed**, and that an administrative penalty fee of **R2823,00** be payable within thirty (30) days of this decision.
8. that the applicant and objector be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2020 regarding the above decisions.

14. REASONS FOR RECOMMENDATION

POINTS 1 - 4

- ❖ The application is supported by all relevant Municipal Departments and State or other institutions.
- ❖ The development is already serviced, and no additional services will be required.
- ❖ The objection that was received is not clear and does not prove the application to be undesirable.
- ❖ This is an existing situation from approximately 2015 and will not create any additional traffic impact, impact on surrounding property owners or impact the character of the surrounding area.
- ❖ The road portion and open space will be transferred to the Homeowners Association and will be maintained by them, placing less of a financial strain on the municipality, and is therefore considered efficient.

POINT 6

- ❖ The developer constructed the sliding gate, without submitting any building plans, and cannot debate that the structure is not illegal.
- ❖ The penalty fee imposed is reasonable considering the history of the matter and the scale of the illegal structure.

15. ANNEXURES

- Annexure A: Locality Plan
- Annexure B: Motivation Report
- Annexure C: Site Development Plan (subdivision plan)
- Annexure D: One (1) objection & one (1) support letter received
- Annexure E: Applicant's response to objection
- Annexure F: Services Report
- Annexure G: Comment: Telkom
- Annexure H: Quotation from contractor

SIGNATURES

REGISTERED PLANNER

Name: **HENK OLIVIER**

SACPLAN Reg No: **B/8128/2004**

Signature: _____

Date: _____



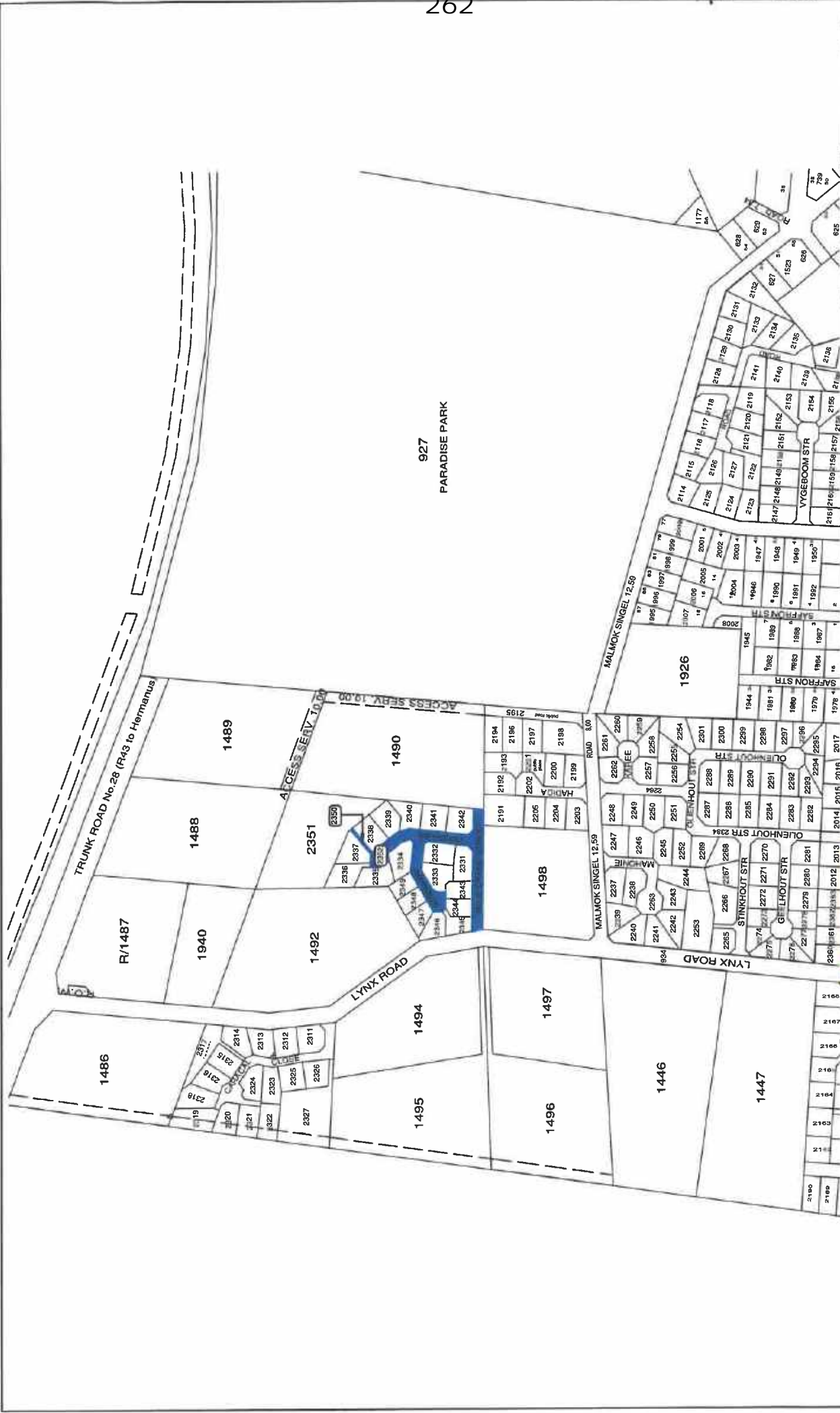
Scale: NTS
Drawing Nr: verim3521.dwg
Date: FEBRUARY 2022

Plan Description:
LOCALITY MAP

ERVEN 2350 & 2352 VERMONT

Property Description:
All distances approximate and subject to survey.
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ERVEN 2350 & 2352 VERMONT

OVERSTRAND MUNICIPALITY

- **Determination of an administrative penalty for the existing access gate on Erf 2352 Vermont**
- **Closure of a Public Open Space, Erf 2350 Vermont and portion of Public Road, Erf 2352 Vermont**
- **Subdivision and Rezoning of a portion of Erf 2352 Vermont**
- **Rezoning of Erf 2350 Vermont**

REVISED - MOTIVATION REPORT

1. BACKGROUND

Mrs A. le Roux on behalf of Overstrand Municipality, the owner of erven 2350 and 2352 Vermont, and Mr J.J. Visser on behalf of Auvergne Residential Estate (Vermont), have instructed the company Plan Active Town and Regional Planners to apply for the determination of an administrative penalty, closure of a public open space, the closure of a portion of public road, subdivision and rezoning of erven 2350 and 2352 Vermont.

Auvergne Residential Estate (Vermont) received an in-principle approval from Property Administration: Overstrand Municipality to acquire erf 2350 Vermont (Open Space Zone 1) and a portion of $\pm 2100\text{m}^2$ of erf 2352 Vermont (Public Road). Refer to the decision letter dated 1 March 2019 attached. In the decision letter our client was given two options to finalize the acquisition of land process. Our client opted for option 2. The Deed of Sale was signed on 13 and 17 December 2021 by the respective parties (copy attached). The next step in the sequence of the process stipulated for option 2 is to submit the necessary town planning applications.

The minutes of the meeting for the acquisition of land application confirmed that the respective portions are not considered viable properties, hence the alienation is granted in principle (subject to conditions as stipulated in the decision letter and Deed

of Sale). The determination of an administrative penalty is for the existing access / security gate constructed within the Blue Crane Street, road reserve that serves as controlled access to the residential estate.

A Status Report has been issued by the Surveyor-General indicating that Erven 2350 and 2352 are ordinary erven and not public place and public street in the records of the Surveyor-General, but that it must still be closed officially in terms of *Section 37 (Part 5) of the Western Cape Land Use Planning Act.3 of 2014*.

2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the determination of an administrative penalty for the unlawful access / security gate constructed in Blue Crane Street road reserve that provides controlled access to Auvergne Residential Estate;
- Chapter 4, Section 16(2)(n) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, for the closure of a public open space (Erf 2530 Vermont) and a portion of a public road, (portion of erf 2352 Vermont – Blue Crane Street and Goshawk Road);
- Chapter 4, Section 16(2)(d) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, for the subdivision of erf 2352 Vermont;
- Chapter 4, Section 16(2)(a) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, for the rezoning of erf 2350 Vermont and Portion A, a portion of erf 2352 Vermont.

3. GENERAL APPLICATION INFORMATION

3.1 PROPERTY DESCRIPTION

Erf 2350 Vermont is a public open space situated between two erven (erven 2337 and 2338 Vermont) within the Auvergne Residential Estate, Vermont. Erf 2352 Vermont is a public road (Blue Crane Street and Goshawk Road) that gives access to Auvergne Estate. The road also serves as the internal access road within the estate. Refer to the enclosed locality map.

Both erven 2350 and 2352 Vermont are held by title deed no. T40120/2020. Erf 2350 Vermont is 63m² in extent. Erf 2352 Vermont is 3185m² in extent.

3.2 ZONING

Erf 2350 Vermont is zoned Open Space Zone 2: Public Open Space (OS2). Erf 2352 Vermont is zoned Transport Zone 2: Road and Parking B – Public Road (TR2 B).

Surrounding properties are zoned: Single Residential Zone 1: Single Residential, General Residential Zone 2 and Transport Zone 2: Road and Parking purposes and being utilised as such.

3.3 LAND USE

Erf 2350 Vermont is a vacant public open space portion situated between two single residential erven in the Auvergne Estate. The homeowner's association of Auvergne Residential Estate currently maintains this portion of land due to the position of the public open space within the estate.

Erf 2352 Vermont is a public road – Blue Crane Street and Goshawk Road. Blue Crane Street gives access to Auvergne Estate and both Blue Crane and Goshawk Roads serve as the internal access roads to the residential estate.

Land uses that surround the subject properties are single residential dwellings, public open spaces and public roads.

3.4 PROPOSED APPLICATION

- The determination of an administrative penalty in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020, for the unlawful access / security gate constructed in Blue Crane Street road reserve that provides controlled access to Auvergne Residential Estate;
- The closure of a public open space, Erf 2350 Vermont in terms of Chapter 4, Section 16(2)(n) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020;
- The closure of a portion of a public road, a portion of Erf 2352 Vermont in terms of Chapter 4, Section 16(2)(n) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020;
- The subdivision of erf 2352 Vermont in terms of Chapter 4, Section 16(2)(d) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020, into two portions as follow:
 - Portion A: $\pm 2024\text{m}^2$
 - Remainder: $\pm 1161\text{m}^2$;
- The rezoning of:
 - erf 2350 Vermont from Open Space Zone 2: Public Open Space to Open Space Zone 3: Private Open Space, in terms of Chapter 4, Section 16(2)(a) of the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020;
 - Portion A, a portion of erf 2352 Vermont, from Transport Zone 2 B: Public Road (TR2 B) to Transport Zone 2 A: Private Road (TR2 A).

3.4.1 Rectification of contravention

In terms of Chapter 5, Section 90(1) a person who is in contravention of the Municipal Planning Amended By-Law (2020), and submits an application to rectify the contravention, must apply to the Municipality for the determination of an administrative penalty, provided that the Municipality has not obtained and issued a demolition directive in terms of Section 85 in respect of the land or building or part thereof concerned.

As the application is for the rectification of a contravention of the By-Law (due to the unlawful access gate constructed for the Auvergne Residential Estate) an application is submitted for the determination of an administrative penalty fee in terms of Chapter 4, Section 16(2)(q) of the Overstrand Municipality's Amended By-law on Municipal Land Use Planning, 2020. However, the Municipal Planning Tribunal (MPT) has the authority not to impose such a fee.

As previously mentioned, Auvergne Estate is an existing residential estate in Vermont. The estate is a security complex – with an access gate installed at the entrance of the estate. The access gate was constructed illegally on erf 2352 Vermont, i.e. within the Blue Crane road reserve. The administrative penalty application submitted is to address the illegal access / security gate of the Auvergne Estate.

In terms of Section 90(3) of the MPBL, the MPT must at least consider the following factors when determining an appropriate administrative penalty:

- **The nature, duration, gravity and extent of the contravention**

The land use approval to develop the Auvergne Estate was approved in January 2007 subject to the conditions specified. The General Plan was approved in April 2007. Our client bought the Auvergne Residential Estate erven in 2011. At the time it took two years to deal with the services agreement and hence the properties were only transferred to our client in 2013. When our client bought the property all the estate boundary walls (peripheral boundary walls) were already constructed, except for the boundary wall adjacent to Blue Crane Street. Building plans were submitted for changes to existing boundary walls and to construct the new boundary walls in 2014. At the same time a proposal to change the streetlights of the estate was also granted.

The access gate was constructed at the entrance to the estate at approximately the same time in November / December of 2014.

One of the land use approval conditions read as follows:

"(b) that an amended layout showing the position of the proposed access gate, stacking distance, visitors entrance lane, existing Milkwood trees and position of refuse bins should be submitted to Council."

From the above it is evident that an access gate was always part of the planning for the estate. The access gate was already present on site when the changes to the boundary walls, new boundary wall and changes to the streetlights were granted. Yet, the issue of the existing "unlawful" access gate was never brought to our client's attention.

The first transfer of the properties within the Auvergne Estate took place in September 2015. It should be noted that fifteen (15) building plans have been approved for the Auvergne Estate since 2015, therefore after the access gate was constructed at the end of 2014. Yet, once again the municipality did not raise any concerns for the As Built access gate of Auvergne Estate.

The access gate is merely a sliding galvanized iron gate, and not a built access boom gate with security building as seen at other estates in the area.

- **The conduct of the person involved in the contravention**

Our client constructed the access gate at the end of 2014 under the impression that an access gate was allowed for the development. As stipulated above the developer was under the impression that the access gate was permitted under the existing land use approval. When nobody questioned the construction of the gate along with the boundary wall adjacent to Blue Crane Street, the developer assumed that all is in order. Issues with the access gate and the unlawfulness thereof were also never raised with the submission and approval of fifteen of the estate erven's building plans.

Our client was informed of the unlawfulness of the access gate in February 2018 per mail. The property owner immediately proceeded with the necessary discussions and

property administration application to address the matter at hand. Overstrand's Property Administration Department granted an in-principle approval for the acquisition of land (on which the access gate is positioned) on 1 March 2019. The sales agreement between Overstrand Municipality and the Auvergne Homeowners Association was signed in December 2021. Our firm was appointed in December 2021 to proceed with the necessary land use application to address the access gate and the acquisition of land in line with Property Administration's approval conditions.

- **Whether the unlawful conduct was stopped**

The unlawful access gate cannot be removed since this is a security feature of the estate that needs to remain. The homeowner's association now attempts to rectify the contravention by submitting the administration penalty and land use application in order to legalise the position of the structure on the subject property.

- **A report by a quantity surveyor in matters of unauthorised building / construction**

If the Overstrand Municipality finds it necessary that an administrative penalty fee needs to be enforced for the unauthorised building works, we will submit a report from a quantity surveyor with reference to the unauthorised building works. The reason being that if there is a chance that no penalty fee is imposed the report from a quantity surveyor will be unnecessary at this stage.

The developer of the Auvergne Residential Estate confirmed that the construction and installation costs of the access gate is R56 457,53 (2023 construction fee – refer to quotation from GK Construction dated 12 August 2023 attached.

- **Whether a person involved in the contravention has previously contravened this By-Law or a previous planning law**

To the best knowledge of the applicant and as confirmed by our client, neither the developer nor the Auvergne Homeowners Association has previously contravened this By-Law or any other previous planning law concerning the Auvergne Residential Estate.

- **Summary**

We appeal to the Overstrand Municipality to take into consideration that there is no impact of the existing access gate on the surrounding area. It should also be considered that no complaints from surrounding properties have been submitted with regards to the access gate. In addition, the access gate is a prime security feature to ensure the safety of the residents in the estate. Given the role the access gate plays at the estate as well as the history of the development of Auvergne Estate, we respectfully request that no penalty fee be imposed on our client for the reasons given above.

3.4.2 Land use applications: Subdivision and rezoning

The homeowner's association of Auvergne Residential Estate, Vermont, applied to purchase erf 2350 Vermont (63m² in extent) and a portion of erf 2352 Vermont (±2100m² in extent) from the Overstrand Municipality. Subsequently the Mayoral Committee resolved at their meeting held on 27 February 2019 that the public street portion (portion of Blue Crane Road and Goshawk Road), be sold to the homeowner's association and that erf 2350 Vermont be rezoned and erf 2352 Vermont be subdivided and rezoned. Refer to the copy of the Deed of Sale entered between Overstrand Municipality and J.C. Davis for erven 2350 and 2352 Vermont signed on 13 and 17 December 2021 respectively by the buyer and seller. The decision letter from Overstrand Municipality's Property Administration department dated 1 March 2019 is also attached.

Erf 2350 Vermont is a public open space erf situated between two of the erven in Auvergne Estate. It is a vacant portion of land currently maintained by the Auvergne Homeowner's Association. Auvergne is a closed residential estate and this portion of public open space (that cannot be closed off to avoid the public from gaining access to the estate) currently poses a security risk to residents of the residential estate. The motivation for the acquisition of this portion of land was to allow the estate to include this portion of land in the residential estate as a private open space portion. This way the safety of the residents is no longer compromised.

In addition, the largest extent of Blue Crane Street and Goshawk Road is considered private roads that only give access to the Auvergne Residential Estate. As part of the property administration application the municipality granted the estate the opportunity to acquire the portion of road that only serves the Auvergne Residential Estate.

Firstly, an application is submitted for the closure of a public open space of 63m² in extent, being Erf 2350 Vermont.

Secondly, it is proposed to rezone erf 2350 Vermont (63m²) from Open Space Zone 2: Public Open Space (OS2) to Open Space Zone 3: Private Open Space (OS3). The subject property will be alienated to Auvergne Residential Estate. This will allow the HOA to include this portion of land in the estate and continue to maintain it as part of the existing private open space in the estate. The reason for the alienation of this portion of land is to allow the Auvergne HOA to close / fence off this portion to prevent trespassers in the residential estate. Currently erf 2350 Vermont is an alley / vacant portion of land that allows uncontrolled public access to the Auvergne Residential Estate. The estate is a security complex and the status of erf 2350 Vermont contradicts the security that the estate offers to its residents.

Thirdly, to give effect to the approval from Property Administration, it is proposed to subdivide erf 2352 Vermont (Blue Crane Street) as follows:

- Portion A: ±2024m²;
- Remainder: ±1161m².

Refer to the Subdivision Plan attached. A copy of the draft diagram for unregistered erf 2630 (a portion of erf 2532) Vermont compiled by Van Dyk Land Surveyors is also attached. The draft diagram and subdivision plan indicate that the area of the road to be closed (inclusive of the splay area and the proposed position of the refuse area) is 2 024m² in extent, thus within the 2 100m² area as per the Deed of Sale. The proposal is therefore still in line with the property administration decision letter and sales agreement between our client and Overstrand Municipality.

Remainder erf 2352 Vermont will keep its existing zoning of Transport Zone 2 B (Public Road). The reason for the alienation of Portion A, a portion of erf 2352 Vermont, is to allow the subject portion to be used as private access road to the Auvergne Residential Estate. As a result, it is lastly proposed to rezone Portion A, a portion of erf 2352 Vermont, from Transport Zone 2 B (Public Road) to Transport Zone 2 A (Private Road)

to allow a portion of Blue Crane Street and Goshawk Road for private use by the residents of the Auvergne Residential Estate only. The rezoning of this portion will also allow the estate to keep the existing controlled access gate on Portion A, a portion of erf 2352 Vermont.

Special conditions specified for the alienation of erf 2350 Vermont and Portion A, a portion of erf 2352 Vermont, are included in the Deed of Sale Agreement (copy attached). One of the conditions that must still be complied with is the Operational Services' condition for the approval of the previous land use approvals (for the approval of the General Plan) stipulated the following:

"8. That the proposed development be provided with a central refuse collection facility, which must comply with the standards of the Department: Operational Services."

In addition, the Overstrand Land Use Scheme Regulations (2020) stipulates that 0,5m² refuse area must be provided for every dwelling in the group housing development. Auvergne Estate comprises of 19 erven with one dwelling on each erf. As a result, provision must be made for a central refuse area of at least 9,5m². The layout of the development does not allow for the provision of a central refuse collection facility on one of the erven. Therefore, the provision of a central refuse collection facility on the sidewalk of Blue Crane Street was proposed and discussed with the Overstrand officials. The Operational Services Department approved the position of the refuse collection facility on the sidewalk. The refuse area may not extend onto the built road, as a result the central refuse collection facility was extended and is 2,5m wide and 4,2m in length. The refuse area will be placed ±7,5m from the access gate and will not extend onto the kerb. The department indicated that the refuse area must be at least 10m² in extent. As a result, the proposed refuse area of ±10,5m² meets the 0,5m² per dwelling and the 10m² requirement for the provision of a central refuse facility for the Auvergne Estate.

It is proposed to rezone Blue Crane Street to private road and the latter is defined as follows: *"means privately owned land which provides vehicular access to a separate land unit or land units and which is designated as private road or private street on an approved general plan, diagram or approved plan of subdivision; it may include ancillary access control infrastructure such as a gatehouse, guardhouse, **refuse room** and utility room, but does not include a driveway on a property or a servitude."* A

central refuse facility can therefore be accommodated on the sidewalk of Blue Crane Street in the private road zoning is granted.

It is submitted that the proposal is compatible with the character of the area, does not impact negatively on the rights of anyone else and that no good reason exists for not approving this application.

The proposed land use application is not in contrast to the existing land use tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

3.5 CHARACTER OF THE ENVIRONMENT

The current uses of subject properties are Public Open Space and Public Road purposes. It was already confirmed by the Property Administration department that the properties are considered non-viable portions of land. The proposal to alienate erf 2350 Vermont and change the use from public open space to private open space will not take away viable open space currently used by the public.

The same is true for erf 2352 Vermont. The road layout for the area will remain unchanged – it is merely the use of Blue Crane Street (private versus public road) and maintenance thereof in future that will change. The impact on the character of the area will therefore be minimal. The proposed land use application will not have a negative impact on the neighbouring properties or residential character of the area.

3.6 POTENTIAL OF THE PROPERTY (DESIRABILITY OF THE PROPOSED UTILIZATION)

The Property Administration department confirmed that the subject properties approved for alienation (erf 2350 Vermont and a portion of erf 2352 Vermont) are

classified as non-viable portions of land (refer to Property Administration's decision letter dated 1 March 2019). The alienation of erf 2350 Vermont and change of use from Public Open Space to Private Open Space will not take away public open space that currently serves the residents of Vermont. Erf 2350 Vermont is situated between two residential erven within a residential estate. To allow the closure, alienation and subsequent change of use to Private Open Space will allow the estate to incorporate this portion into their existing private open space areas while simultaneously enhancing the security of the estate.

Erf 2352 Vermont has the potential to be partially closed, alienated, subdivided and rezoned since the portion of Blue Crane Street approved for alienation only serves the Auvergne Residential Estate and not the greater Vermont area. The change of use from Public Road to Private Road has no impact on the greater road network in the area. The security gate / controlled access point is already positioned at the entrance of the estate in Blue Crane Street. The gate at its current position has no negative impact on the traffic in the area; therefore, the partial closure, alienation and land use application for erf 2352 Vermont can be considered positively.

No additional buildings or erven are proposed that will put strain on municipal services. The municipality will instead be alleviated from the burden of the upkeep of this portion of public street that can serve Auvergne Estate better as a private road with controlled access.

3.7 ECONOMIC IMPACT

The proposed public open space and portion of a public street closure, subdivision and rezoning will neither have a negative impact on the property values of the existing Auvergne Residential Estate nor the portion of Blue Crane Street that will remain a public road. Property values of surrounding erven will not be negatively affected by the proposed application since both erven 2350 and 2352 Vermont already exist and are used for similar land uses (public open space versus private open space; public road versus private road).

The proposed land use application will ensure that the Auvergne Homeowners Association meets all the conditions of approval for the acquisition of a public open space and a portion of public street.

The municipality will receive funds for selling the both the public open space and road portions, versus an unused and non-viable public open space positioned between two erven within the Auvergne Residential Estate and a portion of public road that can actually serve the Auvergne Residential Estate better as a private road (in terms of controlled access and the security of the estate). The future maintenance of the private road will now also become the financial responsibility of the Auvergne Home Owners Association – thus the financial burden on the municipality for the maintenance of Blue Crane Street and Goshawk Road is lessened.

3.8 SOCIAL IMPACT

The proposed closure of a public open space, closure of a portion of public street, alienation, subdivision and rezoning will have a positive impact on the social status quo of the area.

By allowing the acquisition of land (and in turn approving the land use application) it will eliminate the security risk the existing public open space (erf 2350 Vermont) currently poses for the Auvergne Residential Estate. In addition, the Auvergne Residential Estate can remain a security / access controlled residential estate since the approval of the application will allow them to keep the existing gate positioned in Blue Crane Street.

The impact that the proposed application will have on the social wellbeing of the surrounding community will only be beneficial and no negative impacts are anticipated.

3.9 COMPATIBILITY WITH SURROUNDING LAND USES

The subject properties are public open space and public road portions situated in an existing residential area. Erf 2350 Vermont will still be an open space portion after closure and rezoning (now private instead of public). Portion A, a portion of erf 2352 Vermont, will still be used as a road (now private instead of public). As a result, the

proposed zonings of the respective portions are still compatible with the surrounding land uses.

In effect no open space or street portions are “lost” with this application since – they merely change use from public to private to be incorporated as part of the Auvergne Residential Estate. Both erf 2350 and Portion A, a portion of erf 2352 Vermont, are already part of the Auvergne Residential Estate. All erven in the immediate vicinity will retain their existing accesses.

The look and feel of the proposed land use are still in line with the general look and feel of the existing residential character of the area. Thus, there will be no impact on the character of the area.

3.10 IMPACT ON EXTERNAL ENGINEERING SERVICES

3.10.1 PROVISION OF SERVICES

Property Administration's decision letter dated 1 March 2019 stipulates the following in par. 8:

“8. that it be noted that the Municipal property herewith envisaged to be alienated is not required for the provision of basic municipal services in terms of the provisions of paragraph 5 of Council's Administration of Immovable Property Policy and Section 14 of the Local Government: Municipal Finance Management Act (Act 58 of 2003).”

A condition was also included in the Deed of Sale that stipulates should the municipality needs to install services on the subject properties in the future they will have the right to do so with prior notice to the purchaser.

The proposal will have no impact on the scale and usage of the existing available services since no additional loading of the existing civil infrastructure is anticipated.

The Department: Operational Services has no objection to the proposed land use application (services report dated 18 April 2023 refers – copy attached). A new central refuse facility is proposed for the Auvergne Estate as described in section 3.4.2 to meet the Department: Operational Services' approval condition for the development.

Additional services (if required) will be provided to the satisfaction of the Overstrand Municipality.

3.10.2 TRAFFIC IMPACT AND ACCESS

Auvergne Residential Estate will continue to take access from Blue Crane Street. The section of the road that serves Auvergne Estate will however change from public to private road. The controlled access to Auvergne Residential Estate will remain unchanged. Erf 2350 Vermont will become a private open space within the residential estate with access from the internal / private Blue Crane Road. No new access points are proposed.

The section of Blue Crane Street south of the Auvergne Residential Estate will remain a public road to potentially serve future residential extensions in this area. The change in use of Blue Crane Street from public road to private road will have no impact on the larger road network since the portion to be subdivided (Portion A, a portion of erf 2352 Vermont) and closed already serves as private / controlled access to the Auvergne Residential Estate.

No new residential portions are proposed and therefore the impact on the traffic flow in the area will remain unchanged.

3.11 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

3.11.1 HERITAGE VALUE

The application does not involve changing the character of a site larger than 5 000m². In addition, no development is proposed. Consequently, the proposed land use application does not trigger Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

Erven 2350 and 2352 Vermont are not situated within the Heritage Overlay Zone as determined by the Overstrand Municipal Growth Management Strategy (2010) and the erven are not earmarked for heritage conservation purposes in terms of the Overstrand Heritage Survey Report (2009). In addition, the subject properties do not fall within the Heritage Protection Overlay Zone (2020).

The subject properties are not associated with any important persons or groups or important events and activities.

Considering the above it is evident that the proposed open space closure, portion of a public street closure, subdivision and rezoning will not hinder any future land use applications on the subject erven. From the above it is evident that the proposed application does not encompass any heritage significance and therefore the impact on the heritage value of the area will be kept to a minimum.

3.11.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed open space closure, portion of a public street closure, subdivision and rezoning (land use application) do not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998). In addition, the subject properties are not within the Coastal Management Zone nor the Environmental Management Overlay Zone (2020).

3.12 TITLE DEED

Title deed no. T40120/2020 has no restrictions that need to be removed for this application to be approved. A conveyancer's certificate is not included with this application since the title deed is straight forward.

There is no bond registered against erven 2350 and 2352 Vermont.

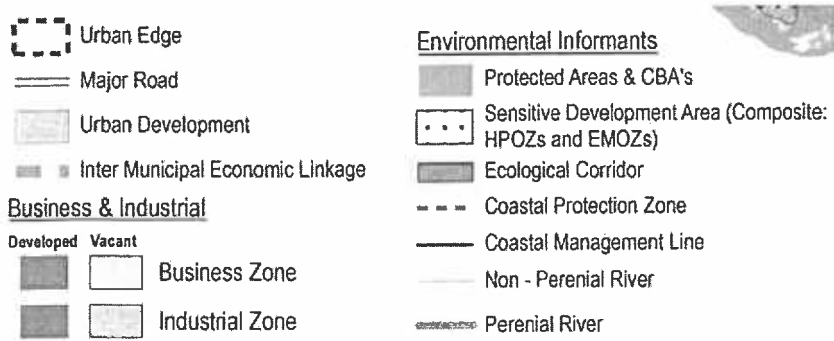
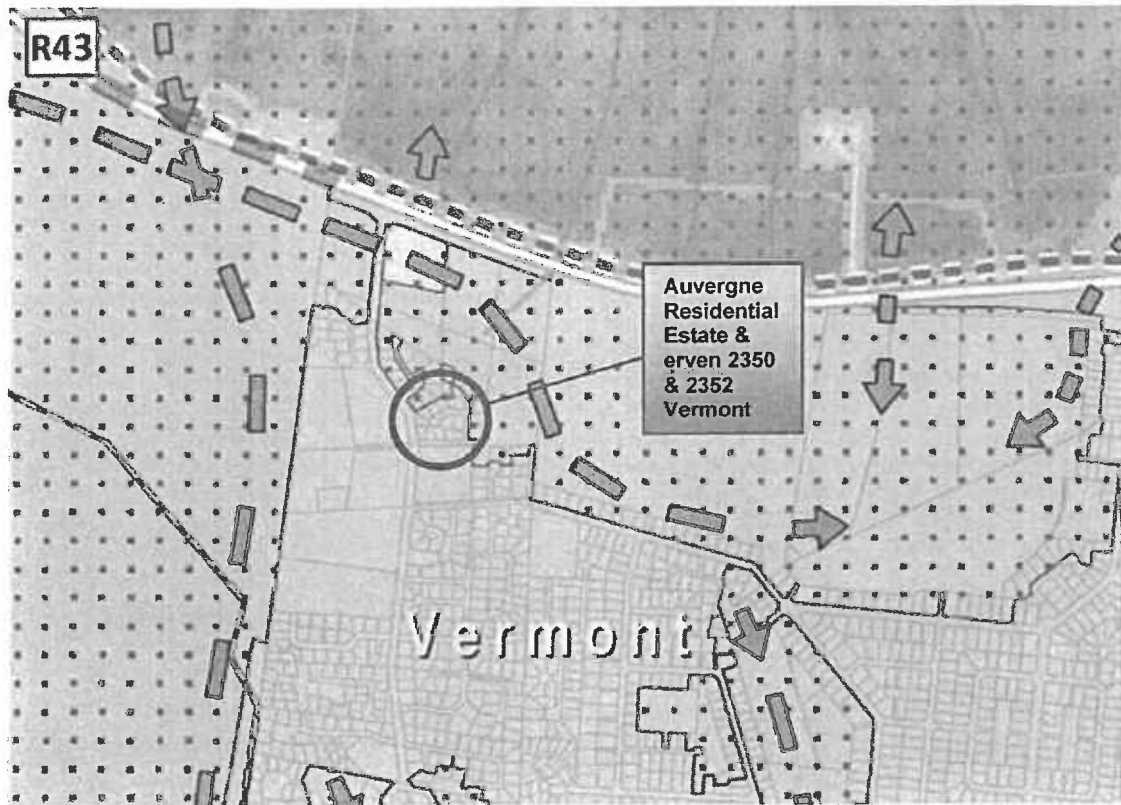
3.13 FORWARD PLANNING AND LAND USE DOCUMENTS

3.13.1 OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK (2020)

The Overstrand Spatial Development Framework (2020) earmarks the area where erven 2350 and 2352 Vermont are situated, for urban development purposes. Refer to the Spatial Development Framework Plan (2020) below. The status quo of the respective erven after the closure, subdivision and rezoning will remain unchanged (open space and road uses). As a result, the impact of the closures, rezoning and subdivision on the spatial integrity of the area will be minimal and is therefore consistent with the Overstrand SDF (2020).

3.13.2 OVERSTRAND MUNICIPAL GROWTH MANAGEMENT STRATEGY (2010)

The Overstrand Municipality's densification policy stipulates that it is important to enhance and protect the character of the existing low-density residential area such as Vermont, while still sensitively densifying where appropriate. This ensures that a wide range of erf sizes and types of development are available within Vermont.



The Overstrand Municipal Growth Management Strategy (OMGMS, 2010) specifies that erven 2350 and 2352 Vermont are part of Planning Unit no. 1 that consists of the established Vermont residential area. No densification for this planning area is proposed.

This application does not propose to create any additional residential portions, nor does it propose the construction of an additional dwelling unit on the subject properties. The density will therefore remain unchanged.

From the above it is evident that the proposed open space closure, portion of a public street closure, subdivision and rezoning adhere to the spatial planning policies for the Vermont area and subsequently falls within the existing planning for the Vermont area.

3.14 PLANNING PRINCIPLES

The planning principle of spatial resilience is not applicable to this application.

Spatial justice: This principle addresses the need to address the past imbalances regarding opportunity. This application is for erven as per the establishment of the existing Vermont Township and this principle does therefore not apply to this application.

Spatial sustainability: The proposed open space closure, portion of a public street closure, subdivision and rezoning will have no impact on the road network and availability of viable public open spaces in the area. The proposed land use application is to an improved residential estate within an established residential area and therefore will not impact on urban sprawl, or upon a sensitive environment.

It is submitted that the proposal is compatible with the character of the area and will not impact negatively on the existing rights of anyone else. The impact on the biophysical environment will also be kept to a minimum (i.e. no impact on natural, heritage or agricultural resources). Furthermore, the proposed application will have no adverse impact on the spatial sustainability of the area and is in keeping with the existing residential area as discussed in this report.

Efficiency: Erf 2350 Vermont and Portion A, a portion of erf 2352 Vermont, are non-viable portions of land. Erf 2350 Vermont has no function as a public open space due to its location and accessibility. Portion A, a portion of erf 2352 Vermont, only serves as an access road to the existing Auvergne Residential Estate. As motivated in this report both the portions can be utilised much better by the Auvergne Residential Estate / Homeowners Association by incorporating and managing it with their property.

Subsequently the Overstrand Municipality will not have the burden to maintain erf 2350 Vermont and Portion A, a portion of erf 2352 Vermont after the closure procedure has been finalised. The Overstrand Municipality also gains from a financial point of view since erf 2350 and Portion A, a portion of erf 2352 Vermont, are purchased from the Overstrand Municipality at market value.

Good administration: Our Company is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's Amendment By-law on Municipal Land Use Planning, 2020.

4. RECOMMENDATION

When this application is evaluated it is important to take note of the following:

- Erf 2350 and Portion A, a portion of erf 2352 Vermont, will be alienated to allow Auvergne Homeowners Association to buy the respective portions of land;
- Erf 2350 Vermont will change use from public open space to private open space;
- Portion A, a portion of erf 2352 Vermont, will change use from public road to private road and continue to provide access to the Auvergne Residential Estate and to allow the Estate to keep the existing access gate / controlled access;
- No new residential portions are created;
- The impact on the traffic will remain unchanged;
- The proposed open space closure, portion of a public street closure, subdivision and rezoning are compatible with the existing built character of the area;
- The proposed open space closure, portion of a public street closure, subdivision and rezoning will not have a negative impact on the land values of the surrounding erven;

- The Overstrand Municipality gains capital since erf 2350 Vermont and Portion A, a portion of erf 2352 Vermont, are purchased from the municipality at market value;
- The municipality will be alleviated from the burden of upkeeping a public open space that has no function as a public open space. In addition, the maintenance of the private road (portion of Blue Crane Street) will now also be the responsibility of the Auvergne Homeowners Association;
- This application is to incorporate non-viable portions of public open space and public street with Auvergne Residential Estate to ensure the estate continues to have controlled access and heightened security with the public open space portion no longer open to the public / trespassers.

With regards to the above mentioned it would be appreciated if the Overstrand Municipality would approve the open space closure, portion of a public street closure, subdivision and rezoning applicable to erven 2350 and 2352 Vermont.



Scale: 1:1000
Drawing Nr: verim23528-rev1.dwg
Date: 23 NOVEMBER 2023

Plan Description:
SUBDIVISION & REZONING

Property Description:
ERVEN 2350 & 2352 VERMONT

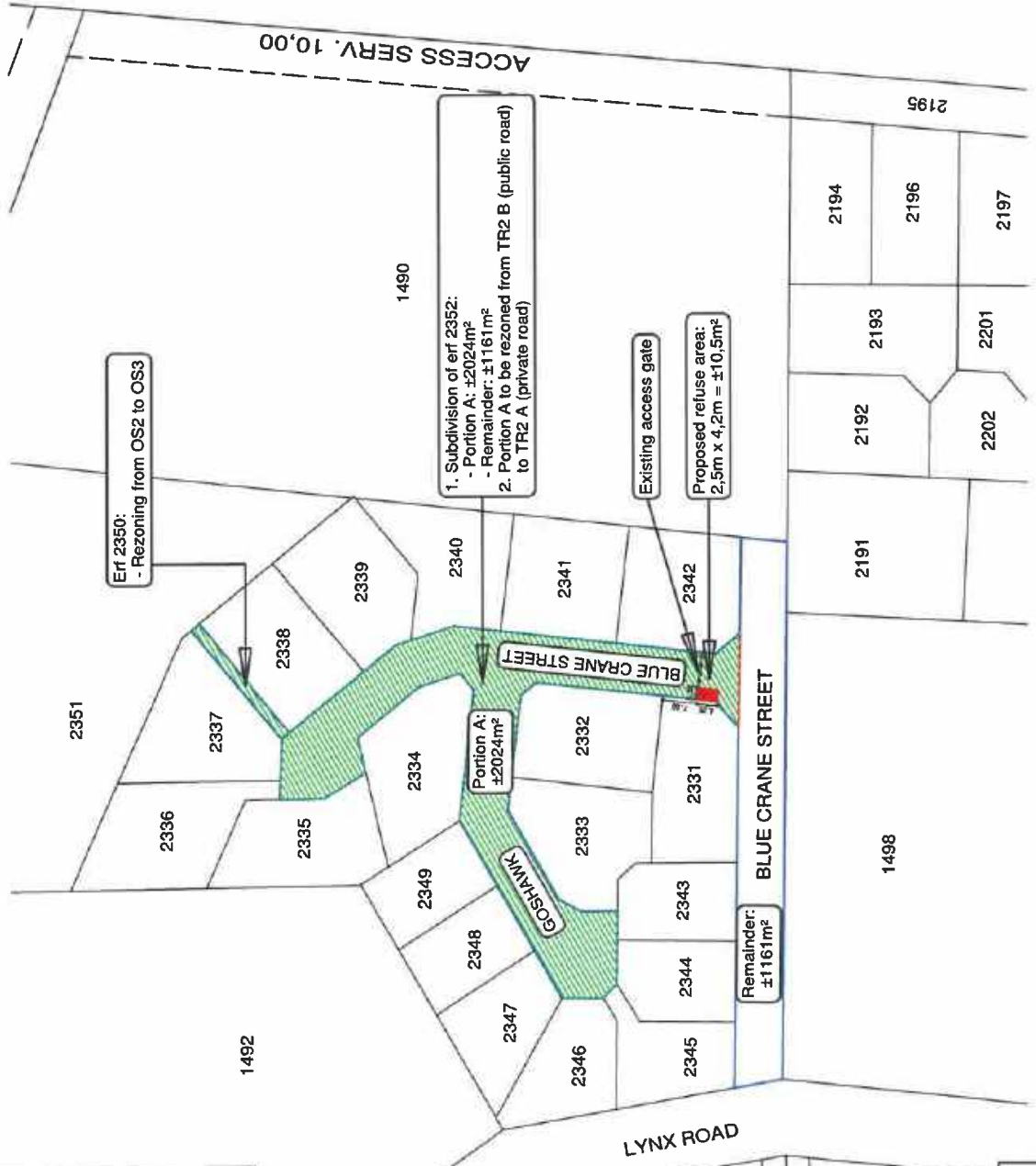
All distances approximate and subject to survey.
COPY RIGHT RESERVED

Stads- en Streeksbeplanners
Town & Regional Planners



NOTES:
Erft boundaries
Subdivision line
Land for alienation to Auvergne Home Owners Association

Notes:
Existing access gate at Auvergne Estate.
Proposed refuse area indicated to the left of the existing gate in the road reserve.



Erft 2350:
- Rezoning from OS2 to OS3

1. Subdivision of erf 2352:
- Portion A: ±2024m²
- Remainder: ±1161m²
2. Portion A to be rezoned from TR2 B (public road) to TR2 A (private road)

Existing access gate
Proposed refuse area:
2,5m x 4,2m = ±10,5m²

Portion A:
±2024m²

Remainder:
±1161m²

GOSANK

BLUE CRANE STREET

LYNX ROAD

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Erf 2630 Vermont

situate in the Overstrand Municipality
Administrative District of Caledon

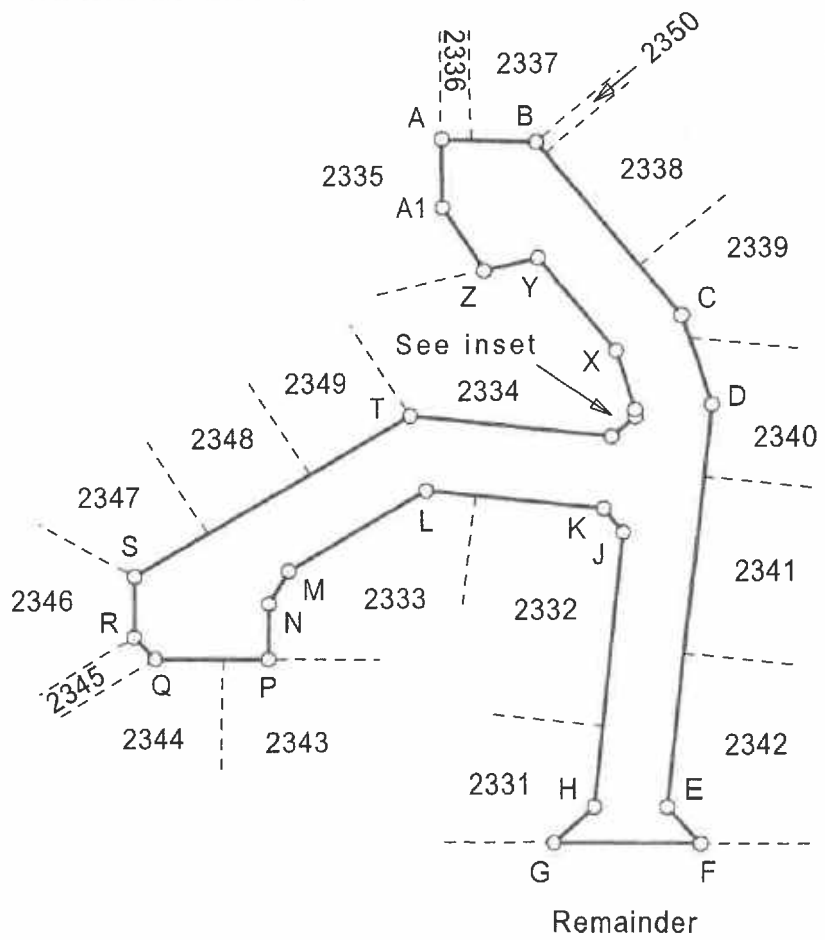
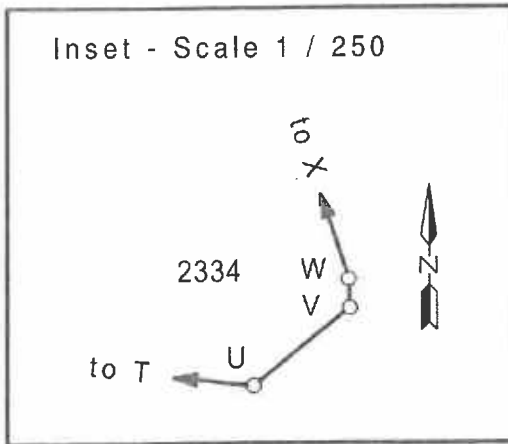
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Approved

for
SURVEYOR
GENERAL

DRAFT

Page 2
of 2 pages





Scale 1 : 1 000

Surveyed in

by me

LA van Dyk
Professional Land Surveyor
Registration Number: PLS 1069

Erf 2630 Vermont

SIDES metres	ANGLES OF DIRECTION	CO-ORDINATES Y System: WG 19° X		SG No.		
		Constants	0,00		+3 800 000,00	
AB	12,94	271.59.20	A	-13 786,98	+9 034,51	Approved DRAFT for SURVEYOR- GENERAL
BC	31,13	320.18.50	B	-13 799,92	+9 034,96	
CD	12,98	342.13.40	C	-13 819,80	+9 058,91	
DE	55,77	6.07.00	D	-13 823,76	+9 071,27	
EF	6,73	318.23.40	E	-13 817,81	+9 126,72	
FG	20,04	90.40.10	F	-13 822,28	+9 131,75	
GH	7,40	228.23.40	G	-13 802,24	+9 131,52	
HJ	37,94	186.07.00	H	-13 807,77	+9 126,60	
JK	4,24	141.07.00	J	-13 811,81	+9 088,88	
KL	24,58	96.07.00	K	-13 809,15	+9 085,58	
LM	21,99	60.02.00	L	-13 784,71	+9 082,96	
MN	5,21	30.21.10	M	-13 765,66	+9 093,94	
NP	7,61	0.40.10	N	-13 763,02	+9 098,44	
PQ	15,43	90.40.10	P	-13 762,93	+9 106,05	
QR	4,24	135.40.10	Q	-13 747,50	+9 105,87	
RS	8,32	180.40.10	R	-13 744,54	+9 102,84	
ST	43,75	240.02.00	S	-13 744,63	+9 094,52	
TU	27,84	276.07.00	T	-13 782,53	+9 072,67	
UV	4,24	231.07.00	U	-13 810,22	+9 075,64	
VW	0,66	186.07.00	V	-13 813,52	+9 072,97	
WX	8,93	162.13.40	W	-13 813,59	+9 072,31	
XY	16,75	140.18.50	X	-13 810,86	+9 063,81	
YZ	7,63	77.01.40	Y	-13 800,17	+9 050,92	
Z A1	10,38	147.06.40	Z	-13 792,73	+9 052,63	
A1 A	9,41	179.19.10	A1	-13 787,09	+9 043,92	
MUDGE POINT		31		-13 686,63	+7 840,96	
ONRUST		207		-17 112,01	+7 799,54	

Page 1
of 2 pages

BEACON DESCRIPTIONS

The figure ABCDEFGHJKLMNPQRSTUVWXYZA1
represents 2 024 square metres of land, being

Erf 2630 (a portion of Erf 2352) Vermont

situate in the Overstrand Municipality
Administrative District of Caledon

Western Cape Province

Surveyed in

by me

LA van Dyk

Professional Land Surveyor

Registration Number: PLS 1069

This Diagram is annexed to
No.

The original diagram is
S.G. No.

File:
S.R. No.
G.P. No. 641/2007
Comp AI-3CB/X23 (437)
AI-3CBC (3371)
LPI No. C0130023

Registrar of Deeds

Transfer No.

Loretta Gillion

From: See en Sand <>
Sent: Monday, 07 October 2024 11:54
To: Loretta Gillion
Subject: RE: Erven 2350 & 2352, Auvergne Residential Estate, Vermont (Revised Application) - Public Participation - You are regarded as a potentially affected property owner

Good day

The only thing this document states is that municipality can deny my objection if it is after the closing date that my objection was not. Nowhere does it state that by law I have to provide anything to you. You are just making the process difficult to the public so that you don't get many objections because no one wants to do so much effort and the municipality knows that.

You have my details you know who I am otherwise you would not have sent me this mail.

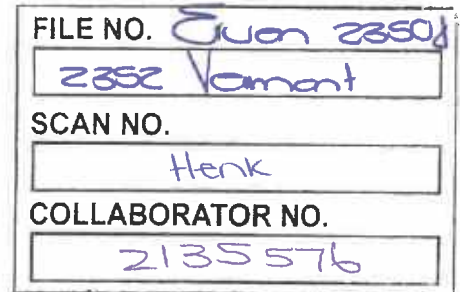
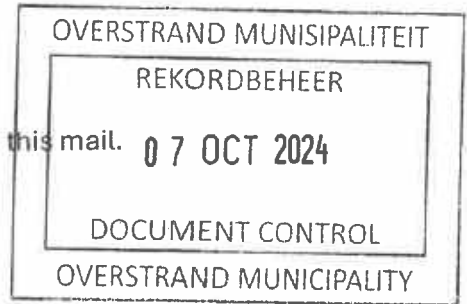
I am not obligated to follow your policies only the law.

I objected to the request and that is as far as I am going to go.

TP-D./theait
(H. Olivia)

Kind regards

Henk



From: Loretta Gillion <loretta@overstrand.gov.za>
Sent: Monday, 07 October 2024 10:33
To: See en Sand <>
Subject: RE: Erven 2350 & 2352, Auvergne Residential Estate, Vermont (Revised Application) - Public Participation - You are regarded as a potentially affected property owner

Dear Henk

With reference to your email below and your statement that **"You have it you are just to lazy to look for it"**, kindly take note of the following:

Section 52 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 requires the following requirements for the submission of comments:

- 7 OCT 2024

Loretta Gillion

From: Loretta Gillion
Sent: Monday, 07 October 2024 10:33
To: See en Sand
Subject: RE: Erven 2350 & 2352, Auvergne Residential Estate, Vermont (Revised Application)
 - Public Participation - You are regarded as a potentially affected property owner

Dear Henk

With reference to your email below and your statement that *"You have it you are just to lazy to look for it"*, kindly take note of the following:

Section 52 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 requires the following requirements for the submission of comments:

52. Requirements for submission of comments

- (1) A person may in response to a notice received in terms of Sections 47, 48 or 50 object, comment or make representations in accordance with this Section.
- (2) Any objection, comment or representation received as a result of a public notice process must be in writing and addressed to the person mentioned in the notice within the time period stated in the notice and in the manner set out in this Section.
- (3) The objection must state the following:
 - (a) the name of the person or body concerned;
 - (b) the address or contact details at which the person or body concerned will accept notice or service of documents;
 - (c) the interest of the body or person in the application;
 - (d) the reason for the objection, comment or representation.
- (4) The reasons for any objection, comment or representation must be set out in sufficient detail in order to—
 - (a) indicate the facts and circumstances which explains the objection, comment or representation;
 - (b) demonstrate the undesirable effect which the application will have on the area;
 - (c) demonstrate any aspect of the application which is not considered consistent with applicable policy.
- (5) The Municipality may refuse to accept an objection, comment or representation received after the closing date.

Regards

Loretta Gillion

Administrative Officer: Town & Spatial Planning
 Directorate: Planning & Development, Overstrand Municipality, Hermanus
 A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20
 T: 028 313 8900 | E: loretta@overstrand.gov.za

Loretta Gillion

From: See en Sand < >
Sent: Thursday, 03 October 2024 10:39
To: Loretta Gillion
Subject: RE: Erven 2350 & 2352, Auvergne Residential Estate, Vermont (Revised Application) - Public Participation - You are regarded as a potentially affected property owner

Good day

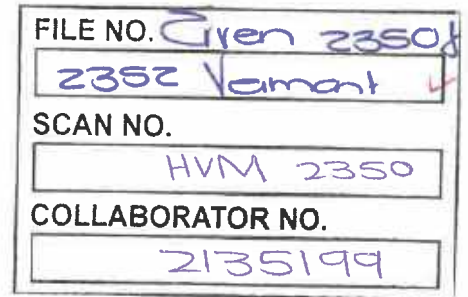
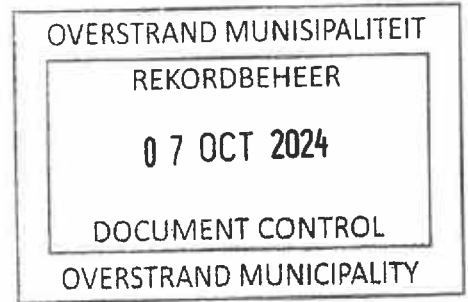
You sent me a mail thus you have my details in regards with name, contact details and my address so I am not going to give that to you. You have it you are just to lazy to look for it.

My reason for objection is that this will improve crime in the area.

Kind regards

Henk

*TP. D. Theart
(M. Olivia)*



From: Loretta Gillion <loretta@overstrand.gov.za>
Sent: Monday, 23 September 2024 11:41
To: See en Sand < >
Cc:
Subject: RE: Erven 2350 & 2352, Auvergne Residential Estate, Vermont (Revised Application) - Public Participation - You are regarded as a potentially affected property owner

Dear Sir / Madam

Receipt is hereby acknowledged of your email.

Kindly also provide your name, contact details, reasons for your objection as well as your erf / street number.

Regards

Loretta Gillion

Administrative Officer: Town & Spatial Planning
 Directorate: Planning & Development, Overstrand Municipality, Hermanus
 A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20
 T: 028 313 8900 | E: loretta@overstrand.gov.za

From: See en Sand <
Sent: Wednesday, September 18, 2024 1:17 PM
To: Loretta Gillion <loretta@overstrand.gov.za>
Cc:
Subject: FW: Erven 2350 & 2352, Auvergne Residential Estate, Vermont (Revised Application) - Public Participation - You are regarded as a potentially affected property owner

Good day

I object to the revised application in Vermont.

Regards

Land owner

From: Loriaan Isaacs <loriaanisaacs@overstrand.gov.za>
Sent: Thursday, 22 August 2024 14:17
To: Loretta Gillion <loretta@overstrand.gov.za>
Subject: Erven 2350 & 2352, Auvergne Residential Estate, Vermont (Revised Application) - Public Participation - You are regarded as a potentially affected property owner

To whom it may concern

ERVEN 2350 & 2352, AUVERGNE RESIDENTIAL ESTATE, VERMONT: APPLICATION FOR SUBDIVISION, REZONING, CLOSURE OF A PUBLIC PLACE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF OVERSTRAND MUNICIPALITY AND THE AUVERGNE HOMEOWNERS' ASSOCIATION

You are regarded as a potentially affected property owner.

Attached please find a self-explanatory notice for your attention.

Sections 47 and 48 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 (By-Law) requires that notice must be given, and Section 49 allows for a period of not less than 30 days from the date on which notice was given to affected persons to submit comments, objections or representations in respect of a land use planning applications. Council, during a meeting held on 30 November 2023, resolved that such notice be given via e-mail in accordance with the provisions of the Electronic Communications and Transactions Act, 25 of 2002. Due to ongoing difficulties in service delivery experienced by the South African Post Office, and as per the aforesaid Council resolution, **NO** registered mail/letters will be forwarded in the interim period.

Kindly regard this email as your formal notification of such land use application. Kindly provide your comment, objection or representations, if any, directly to Loretta Gillion (loretta@overstrand.gov.za) on or before **27 September 2024**.

Also note that the notice will be available at the Town & Spatial Planning Department, and on the municipal webpage at the following link: <https://www.overstrand.gov.za/en/documents/town-planning/land-use-planning-applications>

Kind regards / Vriendelike Groete



Loretta Gillion

From: Loriaan Isaacs
Sent: Tuesday, 27 August 2024 07:54
To: Loretta Gillion
Subject: FW: Erven 2350 & 2352, Auvergne Residential Estate, Vermont (Revised Application) - Public Participation - You are regarded as a potentially affected property owner

From: Jaco Van der Merwe <jaco@greeff.co.za>
Sent: Monday, August 26, 2024 12:29 PM
To: Loriaan Isaacs <loriaanisaacs@overstrand.gov.za>
Subject: RE: Erven 2350 & 2352, Auvergne Residential Estate, Vermont (Revised Application) - Public Participation - You are regarded as a potentially affected property owner

No objection

Kind regards



Jaco van der Merwe

Franchise Owner - Hermanus
Registered with the PPRA
Property Practitioner

- ☎ 083 235 0241
- ✉ jaco@greeff.co.za
- 📍 Shop 2a Carriages Building
173 Main Road, Hermanus
- 🌐 www.greeff.co.za



[Click here for the latest Outlook Magazine Edition](#)

FILE NO. Erven 2350 & 2352 - HVM ✓
SCAN NO. Jaco
COLLABORATOR NO. 2109602

From: Loriaan Isaacs <loriaanisaacs@overstrand.gov.za>
Sent: Thursday, August 22, 2024 2:17 PM
To: Loretta Gillion <loretta@overstrand.gov.za>
Subject: Erven 2350 & 2352, Auvergne Residential Estate, Vermont (Revised Application) - Public Participation - You are regarded as a potentially affected property owner

This email is from an unusual correspondent. Make sure this is someone you trust.

To whom it may concern



TOWN & REGIONAL PLANNERS
STADS-EN STREEKSBEPLANNERS

6 Magnolia St / Str
PO Box / Posbus 296
HERMANUS
7200
Tel: (028) 313 1673
Fax / Faks: (028) 312 1351
Email:
planactive@hermanus.co.za
Website: www.planactive.co.za

Our reference: PA22006/ML
Your reference: 2350 & 2352 HVM
Application ID: 4123/2022

8 November 2024

**THE MUNICIPAL MANAGER
OVERSTRAND MUNICIPALITY
P.O. BOX 20
HERMANUS
7200**

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
08 NOV 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

*TP - A Theart
(H Olivier)*

FOR ATTENTION: MR HENK OLIVIER

Sir

ERVEN 2350 AND 2352 VERMONT: PROPOSED SUBDIVISION AND REZONING

- Overstrand Municipality
- Auvergne Residential Estate Homeowners Association

Your email dated 16 October 2024 with one objection and one comment (no-objection) attached thereto, refers.

We acknowledge receipt of the objection submitted. However, we note that no substantive reasons have been provided to support the objection. Specifically, the statement that the application will "improve crime in the area" makes no sense and does not constitute a valid or substantial ground for objection. The objection should therefore be dismissed.

We trust that you find the above in order.

Yours faithfully

**M. LERM Pr. Pln. (A/158/2009)
PLAN ACTIVE**

FILE NO. <i>Erven 2350 & 2352-HVM</i>
SCAN NO.
COLLABORATOR NO. <i>2196850</i>

Divine Inspiration Trading 329 (Pty) Ltd. trading as Plan Active
Reg. No. 2006/030921/07
Vat. No. 4770250340

John Mc Lachlan: Ndip (Town Planning) Tech Witwatersrand; MSAPI Nr.10908; SACPLAN Tch.Pln B/8250/2014
Pauline Spronk: B (Soc Sc) US, BA Hon (UNISA)
Meriké Lerm: B. Art et Scien Cum Laude (Town Planning) UNW; SACPLAN Pr.Pln A/158/2009
Darren Adams: BTech (Town and Regional Planning) CPUT; SACPLAN Pr.Pln A/3002/2021

- 8 NOV 2024

**COMMENTS FROM THE PROJECT MANAGEMENT DIVISION FOR:
APPLICATION FOR SUBDIVISION, REZONING, CLOSURE OF A PUBLIC PLACE
AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: ERVEN 2350 &
2352, VERMONT (4123/2022)**

Stormwater (SW)	:	Refer to Conditions
Electricity	:	Eskom Area
Water	:	Refer to Conditions
Sewer	:	Refer to Conditions
Roads and traffic	:	Refer to Conditions

Conditions

1. that should Overstrand Municipality need to install services on Erven 2350 & 2352 in the future, the municipality shall be entitled to do so upon the provision of prior written notice to the developer;
2. that Erven 2350 & 2352 may only be used for the purpose which complies with the primary uses allowed for in terms of the zoning of the properties and more specifically to incorporate the properties into the adjacent development for security purposes and no structures, excluding a boundary wall or fence, may be erected over, on or under the erven and these conditions shall be registered against the title deed of the erven as conditions imposed by Overstrand Municipality;
3. that the maintenance of the erven, which includes the maintenance, repair or replacement of open spaces, services, roads and the infrastructure (such as internal water distribution network, water meters and internal sewer networks), on or under the erven and/or within the closed development, shall be the responsibility of the developer;
4. that access to the erven will be from the corner of Goshawk and Blue Crane Street, Vermont;
5. that the developer shall establish and convert the erven into and part of a closed development. The developer, and its developer(s), must comply with all legislative and Town Planning requirements towards the conversion to a closed development;
6. that the ownership of all municipal assets (open spaces, roads and the entire internal infrastructure i.e water- and sewer networks) within the closed development, shall be transferred to the developer;
7. that the water consumption in respect of the erven and in due course, the closed development will be determined from the consumption registered by a bulk meter for the entire development and the account will be billed to the developer's municipal account. The developer shall be responsible for its own metering and payment by the individual homeowners;

8. that the existing sewer network and individual sewer connections to the respective erven will be used to service the relevant erven inside the development;
9. that the developer shall provide the proposed closed development with a central refuse collection facility, which shall comply with the standards of the Department: Operational Services;
10. that, should any upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Principal Technologist: Hermanus for written approval.



RICARDO ANDREW
PRINCIPAL TECHNOLOGIST:
DEVELOPMENT CONTROL

05/03/2025
DATE



295 Annexure G 1/3

OVERSTRAND MUNISIPALITEIT
REKORDBEHEER
1 2 NOV 2024
DOCUMENT CONTROL
OVERSTRAND MUNICIPALITY

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

TP-A Theart
(H Olivier)

Our reference: WWIP_WCPT3944_24
Your reference: 2350 & 2352 HVM
Enquiries: P. Ngqakayi
TEL: 0437056236/0813922403
EMAIL: Portian@openserve.co.za

11 NOVEMBER 2024

Attention: Loriaan Isaacs

Overstrand Municipality
16 Paterson St
Hermanus
7200
P O Box 20, Hermanus, 7200

FILE NO. Erven 2350 &
2352 - HVM
SCAN NO.
COLLABORATOR NO.
2375440

OPTIC FIBRE & COPPER PLANT AFFECTED

Re: ERVEN 2350 & 2352 AUVERGNE RESIDENTIA ESTATE, VERMONT. APPLICATION FOR SUBDIVISION, REZONING, CLOSURE- OF A PUBLIC PLACE AND DETERMINATION OF AN ADMINISTRATIVE PENALTY
With reference to your application received 14 September 2024.

As important cables are affected, please contact our representative **Marius Makier** telephone number **081 348 2317**, I hereby inform you that Open Serve approves the proposed work indicated on your drawing in principle. This approval is valid for **6 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, Open Serve 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.

Telkom SA SOC Limited: Reg no 1991/005476/30. Directors: MS Moloko (Chairperson), SN Maseko (Group Chief Executive Officer), D Reyneke (Acting Group Chief Financial Officer), N Kapila*, PCS Luthuli, DD Mokgatle, KW Mzondeki, F Petersen-Cook, KA Rayner, A Samuels, SP Sibisi, H Singh, RG Tomlinson, LL Von Zeuner.
Company Secretary: AC Ceba *India

Internal Use

5 12 NOV 2024



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.

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.

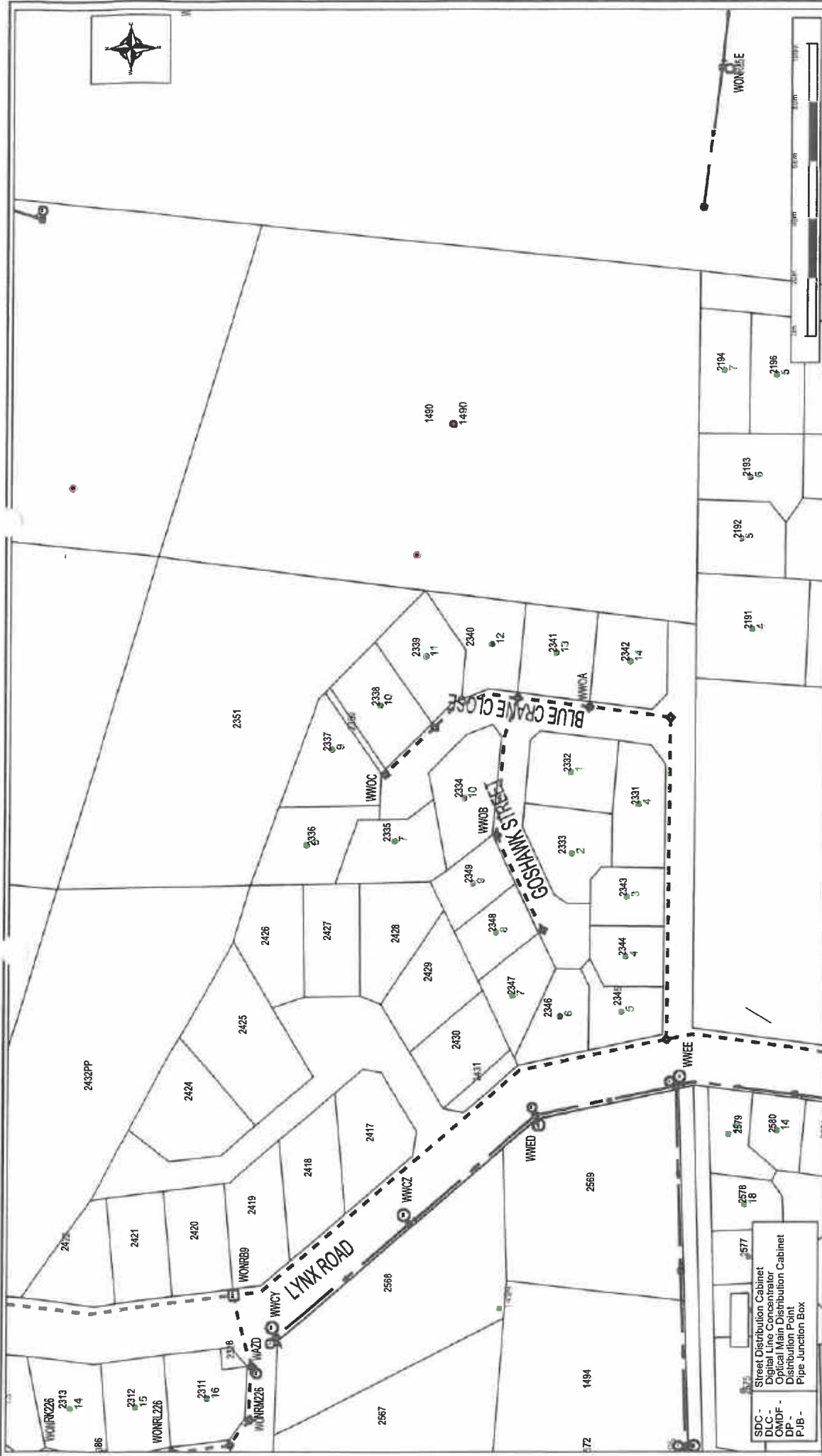
Should Open Serve infrastructure be damaged while work is undertaken, kindly contact our representative immediately.

All Open Serve rights remain reserved.

Yours faithfully

P Ngqakayi

For Selwyn Bowers
Operations Manager
Wayleave Management: Southern and Western Region



Region	Exchange area	Drawn By	Checked By	Approved	Details	Drawing No.	Scale
TELKOM REGIONAL EXECUTIVE							
Selected a drawing		Date		Project No.		Sheet No	
		08/11/2024				1 of 1	
						Page Size	A4
						1:1761	

Legend		Existing Indoor DP	Existing Underground Route
	Existing Manhole		Existing Underground Route
	Planned Manhole		Planned Underground Route
	To Be Abandoned Manhole		To Be Abandoned Underground Route
	Existing Joining Pit		Existing Overhead Route
	Planned Joining Pit		Planned Overhead Route
	To Be Abandoned Joining Pit		To Be Recovered Overhead Route
	Existing PJB		Existing Mini OMDF
	Planned PJB		Planned Mini OMDF
	To Be Abandoned PJB		Existing Strut and Stay

SDC - Street Distribution Cabinet
 DLC - Digital Line Concentrator
 OMDF - Optical Main Distribution Cabinet
 DP - Distribution Point
 PJB - Pipe Junction Box

Quotation

Bogone Investments
Auverne
Vermont

GK Construction

cell: 082 8951138

Address: 69 Berg street, Onnusrivier, 7201

gehardkr@gmail.com

DATE: **12/08/2023**
12/08/2023 INVOICE NO. 2015
 GK: 2015

ITEM	DESCRIPTION	QTY	unit	Rate	Amount
	Entrance gate				
	Material				
1	Bricks	200	item	R 12,90	R 2 580,00
2	Sand	1	m3	R 380,00	R 380,00
3	Cement	10	sak	R 102,00	R 1 020,00
4	Paint	10	liter	R 550,00	R 5 500,00
5	Plaster sand	1	m3	R 398,00	R 398,00
6	Concrete	1,5	m3	R 1 825,00	R 2 737,50
	LABOUR				
1	Brick work	8	m2	R 380,00	R 3 040,00
2	Paint	32	m2	R 24,00	R 768,00
3	Pleister	32	m2	R 90,00	R 2 880,00
4	Foundations	4	m	R 280,00	R 1 120,00
	Gate				
	Gate complete	2	item	R 16 800,00	R 33 600,00
	MANAGEMENT 15%				R 7 364,03

G.P. Kruger STANDERDBANK
 Acc.no: 201765667
 Looking forward to being of service to you again soon!

Sent PROOF of Payment to gehardkr@gmail.com

NB: PLEASE use Inv.No. As reference .

OUT STANDING

Sub-Total	R 56 457,53
VAT	
TOTAL	R 56 457,53