



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

## **A G E N D A**

<b>DATE:</b>	<b>30 MAY 2018</b>
<b>VENUE:</b>	<b>TOWN PLANNING COMMITTEE ROOM HERMANUS</b>
<b>TIME:</b>	<b>14:00</b>

# OVERSTRAND MUNICIPALITY

Office of the Municipal Manager  
Civic Centre  
HERMANUS  
7200

**9 May 2018**

**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 **Wednesday, 30 May 2018 at 14:00, 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](mailto:sswart@overstrand.gov.za)) on or before **16 May 2018**.

**STEPHEN 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 H Janser (Member)
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. Mr P Roux (Town Planner)
10. Mr H Olivier (Town Planner)
11. Secretariat

**1. OPENING**

**2. APPLICATIONS FOR LEAVE OF ABSENCE**

**3. CONFIRMATION OF MINUTES**

**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 25 April 2018**

**4. ITEMS FOR CONSIDERATION**

**4.1 ERF 6846, 12 CROSS STREET, HERMANUS, OVERSTRAND MUNICIPAL AREA : REMOVAL OF RESTRICTIVE TITLE DEED CONDITION AND SUBDIVISION: MESSRS PLAN ACTIVE TOWN- AND REGIONAL PLANNERS ON BEHALF OF JA DU TOIT**

Report attached

**4.2 ERF 1772, STANFORD, OVERSTRAND MUNICIPAL AREA : PROPOSED CONSENT USE : MESSRS WRAP ON BEHALF OF SEBUMO TUDE GUEST SERVICES & MORE CC**

Report attached

**4.3 ERF 115, 39 THE CRESCENT, FISHERHAVEN, OVERSTRAND MUNICIPAL AREA : REMOVAL OF RESTRICTONS, CONSENT USE AND DEPARTURE : MESSRS HIGHWAVE CONSULTANT ON BEHALF OF GPN KRUGER**

Report attached

**4.4 ERF 3054, 11 SEAVIEW DRIVE, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA : REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE : MESSRS PLAN ACTIVE ON BEHALF OF ALPAC INVESTMENT CC**

Report attached

- 4.5 ERF 845, CORNER OF END- AND LOUIS TRICHARD STREET, SANDBAAI, OVERSTRAND MUNICIPAL AREA : APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE : MESSRS ROUTE 2EC TOWN PLANNING STRATEGIES ON BEHALF OF AC MURRAY**

Report attached

- 4.6 ERF 238, 4 ROCKLANDS ROAD, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA : PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND DEPARTURE : MESSRS INTERACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF THE KAMMARBIEB FAMILY TRUST**

Report attached

## 4.1

**ERF 6846, 12 CROSS STREET, HERMANUS, OVERSTRAND MUNICIPAL AREA :  
REMOVAL OF RESTRICTIVE TITLE DEED CONDITION AND SUBDIVISION: MESSRS  
PLAN ACTIVE TOWN- AND REGIONAL PLANNERS ON BEHALF OF JA DU TOIT**

6846 HEC (3774)

P Roux

4 April 2018

(028) 313 8900

Hermanus Administration

**1. EXECUTIVE SUMMARY**

To consider an application received on 5 September 2017 from Messrs Plan Active Town- and Regional Planners on behalf of the owner, JA du Toit, of Erf 6846, Hermanus, for the following:

- application in terms of Section 16(2)(f) for the removal of restrictive title condition E (2) in order to subdivide Erf 6846, Hermanus into three (3) portions; and
- application in terms of Section 16(2)(d) for the subdivision of Erf 6846, Hermanus into three (3) portions namely, Portion A  $\pm 1500\text{m}^2$ ; Portion B  $\pm 1500\text{m}^2$  and a Remainder  $\pm 4140\text{m}^2$ .

The Locality Plan of the property concerned is attached as Annexure A, the Motivation Report from the applicant in support of the application is attached as Annexure B and the Subdivisional Plan is attached as Annexure C.

**2. DECISION AUTHORITY**

Municipal Planning Tribunal

**3. BACKGROUND / SITE HISTORY**

Erf 6846 is situated in Fernkloof (i.e. Eastcliff), Hermanus and measures  $7141\text{m}^2$  in extent. The property is zoned for single residential use and is located in one of the historical residential areas of Hermanus. The erf is developed with an existing dwelling and subservient outbuildings. The applicant proposes to subdivide the subject property into three (3) erven in order to create two (2) additional erven. The applicant also proposes to remove a title deed restriction which prohibits the subdivision of the subject property.

**4. SUMMARY OF APPLICANT'S MOTIVATION**

The motivation for the subdivision is summarised as follows:

- ❖ The property owner wishes to subdivide the subject property in order to create a Remainder with two (2) additional portions namely Portion A and B.
- ❖ The applicant motivated the proposed subdivision under the following points;
  - surrounding erf sizes;
  - accessibility;
  - impact on the character of the area;
  - erf shape; and
  - planning principles.
- ❖ The zoning of the properties will remain unchanged.

- ❖ The proposed property sizes are larger than the adjacent single residential zoned property sizes.
- ❖ Access to the Remainder of Erf 6846 will remain from Cross Street and a drive way will therefore be developed between Portions A and B.
- ❖ A title deed restriction is applicable which the applicant wishes to remove as it prohibits the proposed subdivision.

#### 5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Notices	Yes	26/10/2017	01/12/2017
Ward councillor	Yes	26/10/2017	01/12/2017
News paper	Yes	26/10/2017	01/12/2017
Gazette	Yes	27/10/2017	01/12/2017
Total letters of support	<b>None</b>		
Was public participation undertaken in accordance with Section 45 - 49 of the Proposed Draft By-Law on Municipal Land Use Planning?			<b>Yes</b>
Was the application processed correctly (if no, elaborate below):			<b>Yes</b>
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			<b>Yes</b>

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

Name	Date received	Summary of comments	Recommendation
<b>Building Department</b>	30/10/2017	Why does the Arc Street side property need a R.O.W access from Cross Street? They must get access from Arc Street. To comply with Section 38(1) of the Heritage Act for subdivision of 3 or more erven.	<b>Negative</b>
<b>Electro Technical Services</b>	23/11/2017	No objection.	<b>Positive</b>
<b>Fire Services</b>	22/11/2017	No objection, provided that any structural development is in compliance with requirements of National Fire Protection Regulations SANS10400T:2011	<b>Positive</b>

<b>Telkom</b>	12/12/2017	Annexure F.	<b>Positive</b>
<b>Environmental Section</b>	27/12/2017	No objection.	<b>Positive</b>
<b>Heritage</b>	18/01/2018	Supported	<b>Positive</b>
<b>Operational Services</b>	26/02/2018	No objection.	<b>Positive</b>
<b>Engineering Services</b>	04/04/2018	Annexure G.	<b>Positive</b>

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

One (1) objection was received from J Faircliff. The points of the objection can be summarised together.

### **There is no sewerage line from Cross Street**

#### **Applicant's response**

The applicant states that they contacted the Operational Department regarding the availability of a sewer line. It was confirmed that a sewerage line is available for connection.

#### **Town Planner's response**

Refer to the Services Report, services are available.

### **The subdivision of the property will de-value our property and the area in general as the area is of high value due to the large sizes of the properties**

#### **Applicant's response**

The proposed sizes will be in line with the current erf sizes in the residential block (which varies between 1499m<sup>2</sup> to 2864m<sup>2</sup>). Therefore the proposed two (2) erven and the remainder will not have a negative impact on the land value.

#### **Town Planner's response**

The comment regarding the de-valuation of property prices due to subdivision into smaller erven is not substantive as the proposed subdivisions are larger than the objector's property which measure 1196m<sup>2</sup> in size.

**The proposed driveway to the original dwelling goes up from Cross Street to the house at the back (the remainder of Erf 6846). There will therefore be three (3) driveways directly opposite our house where there was only one (1). This will increase traffic and noise pollution. The dwelling already has access from behind (from Arc Street). Should the application be approved then the access must be from Arc Street. Access to the garages can be made from the back.**

**Applicant's response**

The existing entrance is accessed from Cross Street; the access will be moved to the centre of Erf 6846, Hermanus in order to create an avenue towards the entrance of the manor house. Further, due to the width of the erven it is likely that only one (1) access will be in front (Cross Street) of the objector's property, the second will be across and between Erven 5733 and 5734 and the third entrance will be across Erf 5734. As per locality map it is impossible that all three accesses are situated across of Erf 5733.

The current dwelling faces Cross Street; therefore it is most practical to gain access from Cross Street. To access the garages from Cross Street is not feasible.

**Town Planner's response**

The objection is noted; however there are currently fifteen (15) access points to the various properties, the impact of an additional two (2) access points onto Cross Street will be low.

The comment received from the Building Department also stated that the existing entrance from Cross Street must be moved to Arc Street. However, there are various planting and cascades (earth banks) which will have to be removed at the cost of the property owner. The proposed access from Arc Street to the existing garages is not productive or cost effective as there can still be an access accommodated from Cross Street through a panhandle/avenue. It should be noted that the property next to Erf 5733 also has access via a panhandle therefore the proposed access is in line with the current street morphology.

**Object strongly against the subdivision as a whole.****Town Planner's response**

The last point made by the objector is a general statement and can therefore not be directly responded.

Comments from Building Department:**Why does the Arc Street side property need a R.O.W access from Cross Street? They must get access from Arc Street.**

As stated previously there are various planting and cascades (earth banks) which will have to be removed at the cost of the property owner if the access is moved to Cross Street. The proposed access from Arc Street to the existing garages is not productive or cost effective as there can still be an access accommodated from Cross Street through a panhandle/avenue. It should be noted that the property next to Erf 5733 also has access via a panhandle therefore the proposed access is in line with the current street morphology.

**To comply with Section 38(1) of the National Heritage Resources Act for subdivision of three (3) or more erven.****Town Planner's response**

Under Section 38 (1)(c) of NHRA the following is stated:

any development or other activity which will **change the character of a site** -

- (i) exceeding 5 000m<sup>2</sup> in extent; or
- (ii) involving three (3) or more existing erven or subdivisions thereof; or
- (iii) involving three (3) or more erven or divisions thereof which have been consolidated within the past five (5) years.

The comment from the Building Department neglected to mention the first segment of the subject clause. This first segment states that the proposed development/activity is listed in terms of NHRA if it changes the character of the area. After it has been determined that the proposed development/activity changes the character of the area then it must be determined if the development/activity relates to the proposed development as stated in (i) to (iii).

The proposed two (2) additional erven will have the same zoning and allowed the same land uses as the surrounding erven. Further, the erf sizes and pattern created will be of the same morphology as the existing erven, therefore the opinion is held that the proposed development will not change the character.

Further, the comment of the Building Department wrongfully relates to Section 38 (1)(c)(ii) of the NHRA. The Act states that it is a listed activity if it involves the subdivision of three (3) or more **existing erven**. The proposal at hand is the subdivision of one (1) erf to create three (3) erven. Therefore the opinion is held that Section 38 (1)(c) of the NHRA is not triggered.

## 8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

As stated under Section 7 of the item.

## 9. MUNICIPAL ASSESSMENT OF COMMENTS

All the internal departments' comments have been positive. Response to the objection and the comment from Building Department is addressed under Section 7 of the item.

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

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

The impact of the application for the proposed subdivision is limited to the residential area in Mossel Rivier Township (Fernkloof) and is of such a scale that the planning objectives applicable in terms of SPLUMA and LUPA will be maintained.

The applicant's motivation regarding the principles can be summarised in the following manner:

#### **Spatial Justice**

The proposed subdivision and removal of a restrictive title deed condition is in line with the current erf sizes in the vicinity and also conforms to the prescribed minimum erf size applicable to erven within Fernkloof.

**Spatial sustainability**

The application will have no impact on conservation worthy areas of Fernkloof. Only the extent of Erf 6846 will be used to accommodate the proposed subdivisions.

**Efficiency**

The proposed erven will be easily accessible and conveniently located in Fernkloof in close proximity of Fernkloof Nature Reserve, beaches, shops and Hermanus CBD.

**Spatial resilience**

The applicant states that the principle of spatial resilience is not applicable however it must be noted that the application is aligned with Provincial and Local Government's Policies which promote spatial resilience.

**Good administration**

The application followed the required planning procedures to ensure that land use activity is in line with Municipal By-Laws and the public process has been followed.

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

Same as above.

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

The application is sufficiently motived to be in line with the SDF as the planning unit is indicated for residential use and the proposed application will not change the use.

The application is further motivated to be in line with the Overstrand Municipal Growth Management Strategy as Erf 6846 forms part of Planning Unit 2. Incremental densification is promoted through subdivision and the development of second dwellings.

**10.4 (In)consistency with guidelines prepared by the Provincial Minister**

Not applicable.

**10.5 Impact on Municipal engineering services**

The existing services are available. The property owner will have to contribute to the bulk service levy for the additional properties.

Additional access will be developed for the proposed subdivisions from Cross Street.

**10.6 Outcomes of investigations/applications i.t.o other legislation**

Not applicable.

### 10.7 Existing and proposed zoning comparisons and considerations

The zoning of the proposed properties will remain for single residential use.

### 10.8 The desirability of the proposal

The proposed subdivided properties are to be Portion A  $\pm 1500\text{m}^2$ ; Portion B  $\pm 1500\text{m}^2$  and a Remainder  $\pm 4140\text{m}^2$  in extent. Similar sized properties are found in the Fernkloof residential area and similar applications have been approved in the past.

The uses of the properties will remain unchanged and will therefore be allowed to be developed in line with the residential character and topography of the adjacent area. As stated under Section 7 the proposed subdivisions do not trigger Section 38(1)(c) of the NHRA and therefore the application does not need Heritage Western Cape's comment. It should also be noted that there are currently no heritage related structures on the property. The same morphology will be maintained as currently developed.

The impact on traffic will be low as the usage of the properties remaining the same.

Restrictive conditions are found in the Title Deed which prohibits the proposed application and is addressed in Section 10.9 of this item. It should be noted that although an objection was received against the application, the objector did not provide a specific reason why the restrictive conditions cannot be removed.

### 10.9 ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

#### **The financial or other value of the rights**

The Mossel Rivier Estate Company who enforced the restrictive conditions does not exist anymore and their function has now been taken over by the Overstrand Municipality.

Not the Overstrand Municipality or the property owner of Erf 5318 or any other property gains financial or other value from the restrictive conditions.

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

It will allow the property owner to subdivide the property and develop the property in line with the relevant Scheme Regulations. It should be noted that most of the single residential erven in the Overstrand can be developed in line with the relevant Scheme Regulations without having to obtain prior permission from the estate developer. The Scheme Regulations are therefore considered the primary guideline to ensure privacy and that the character of the area is maintained.

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

As stated earlier most single residential erven are solely developed in line with the relevant Zoning Scheme. Therefore restricting a development with out-dated conditions does not promote social cohesion or benefit.

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

The only restrictive condition in the Title Deed which will be removed is pertaining to the subdivision of the property and all other restrictions will be kept.

## 11. RECOMMENDATION

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the removal of restrictive title conditions E (2) which is found in Title Deed No. T62388/1987, **be approved**;
2. that the application for subdivision in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) applicable to Erf 6846, Hermanus (Fernkloof) to subdivide the property into three (3) portions namely, Portion A  $\pm 1500\text{m}^2$ , Portion B  $\pm 1500\text{m}^2$  and a Remainder  $\pm 4140\text{m}^2$ , **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the approvals in paragraphs 1. and 2. above are subject to the following conditions:
  - (a) that the approval is only for the subdivision as indicated on the Subdivisional Plan as submitted with the application;
  - (b) that the conditions compiled in the Services Report (attached as Annexure G), be complied with;
  - (c) that the comment received from Telkom (attached as Annexure F), be noted;
  - (d) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.
2. that the applicant and the 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 conditions of approval

## 12. REASONS FOR RECOMMENDATION

- ❖ The application has followed due procedure.
- ❖ The comments and objections are sufficiently addressed.
- ❖ The proposed application has a limited impact.
- ❖ The character and morphology of the surrounding area will be maintained.

**13. Annexures**

Annexure A: Locality Plan  
Annexure B: Motivation Report  
Annexure C: Subdivisional Plan  
Annexure D: Objection  
Annexure E: Comment on objections  
Annexure F: Telkom  
Annexure G: Services Report  
Annexure H: Title Deed T62388/19 87

**SIGNATURES****AUTHOR**

Name : **P ROUX**

Signature : \_\_\_\_\_

Date: \_\_\_\_\_

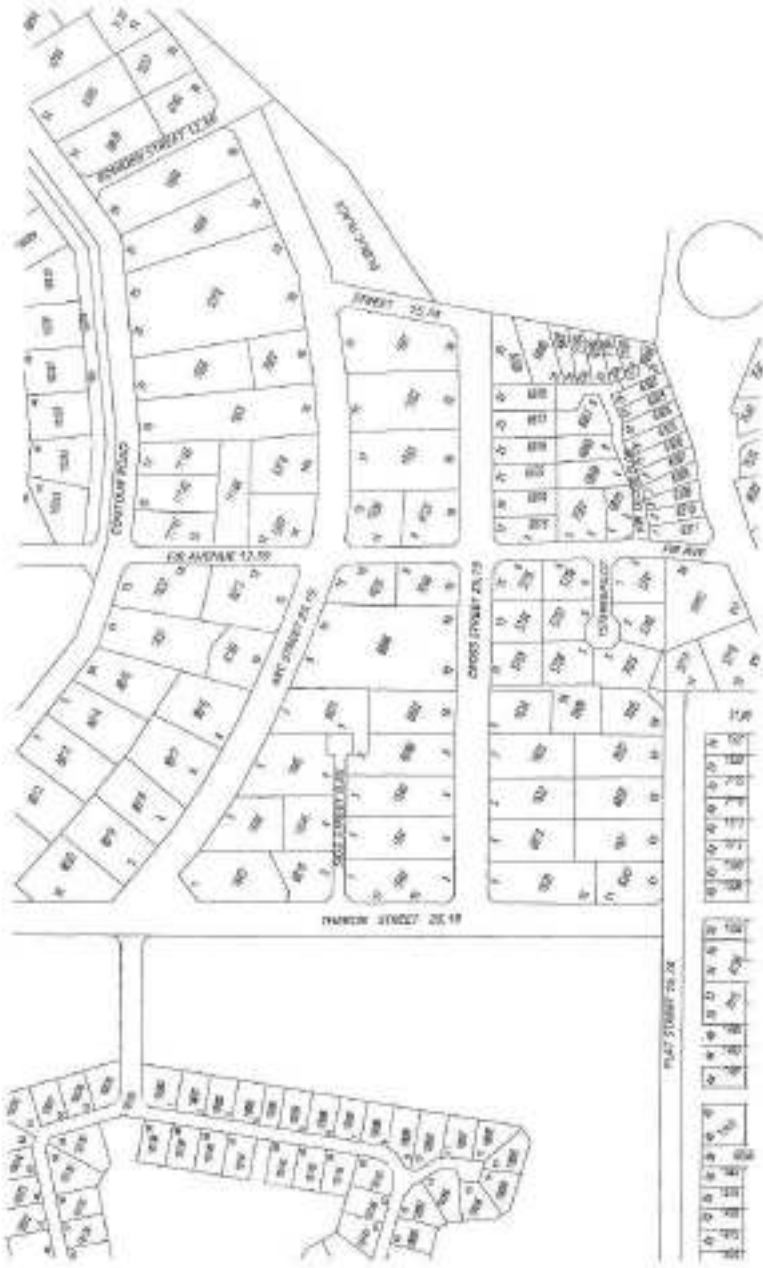
**REGISTERED PLANNER**

Name : **S VAN DER MERWE**

SACPLAN registration number: **A/1850/2014**

Signature : \_\_\_\_\_

Date: \_\_\_\_\_



Scale:	NTS
Drawing No:	HEP6846.dwg
Date:	18/03/17

Plan Description:  
**LOCALITY MAP**

Project Description:  
**ERF 6846  
HERMANUS**

All distances approximate  
and subject to survey.  
COPY RIGHT RESERVED

**PLAN**  
Stads- en Streeksbeplanners  
Town & Regional Planners

**PROPOSED SUBDIVISION AND  
THE REMOVAL OF A RESTRICTIVE  
TITLE DEED CONDITION**

**ERF 6846 HERMANUS**

**DIVISION: CALEDON  
OVERSTRAND MUNICIPALITY**

**MOTIVATION REPORT**

**1. BACKGROUND**

The owner of Erf 6846 Hermanus, Mr. J.A. du Toit, has instructed the company Plan Active to apply for the subdivision and removal of a restrictive Title Deed condition of Erf 6846 Hermanus.

The size of Erf 6846 Hermanus is equal to the average size of 3 erven in the Fernkloof area. The owner wants to subdivide Erf 6846 Hermanus to create 2 additional portions and a remainder.

Erf 6846 Hermanus is 7141m<sup>2</sup> in extent and is held by title deed number T62388/87.

## **2. APPLICATION DETAILS**

Application is made in terms of:

- Chapter 4, Section 16(2)(d) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the subdivision of Erf 6846 Hermanus.
- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the removal of a restrictive Title Deed condition.

## **3. DESIRABILITY**

### **3.1 PROPERTY DESCRIPTION**

The subject property is situated west of Fir Avenue at 14 Cross Street, Fernkloof, Hermanus. Please refer to the locality plan attached. Erf 6846 Hermanus is 7141m<sup>2</sup> in extent and it is situated in a predominantly single residential area.

### **3.2 ZONING**

Erf 6846 Hermanus is zoned Residential Zone I and is utilized as such. Surrounding properties are also zoned for single residential purposes.

### **3.3 LAND USE**

Erf 6846 Hermanus is used for residential purposes. A dwelling and triple garage are situated on the subject property. Please refer to the enclosed proposed subdivision plan. Access to Erf 6846 Hermanus is obtained from Cross Street as indicated on the subdivision plan.

Land uses that surround erf 6846 Hermanus are single dwellings, public roads and public open spaces. It is therefore evident that erf 6846 Hermanus is within a predominantly single residential area.

### 3.4 PROPOSAL

- Chapter 4, Section 16(2)(d) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the subdivision of Erf 6846 Hermanus.
- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the removal of a restrictive Title Deed condition.

It is the intention of the owner of erf 6846 Hermanus to subdivide the subject property in order to create 2 additional erven and a remainder. The Title Deed has a restrictive clause that needs to be removed in order to subdivide the property.

The detail of the application can be described as follows:

#### 3.4.1 Proposed Subdivision

Erf 6846 Hermanus is 7141m<sup>2</sup> in extent and is equal to 3 average size Fernkloof erven. The owner intends to subdivide Erf 6846 Hermanus in order to create 2 additional erven. Please refer to the enclosed proposed subdivision plan. The subdivision will fit in with the current character of the residential erven in the same residential block and would also be of a similar size.

The existing house is situated on the northern portion of Erf 6846 Hermanus as indicated on the subdivision plan. The garages obtain access via a driveway from Cross Street.

Illustration of erf 6846 Hermanus

The subdivision of erf 6846 Hermanus can be summarised as follows:

Proposed Portions	Size	Structures
Remainder	±4140m <sup>2</sup>	Dwelling & Outbuilding
Portion A	±1500m <sup>2</sup>	Vacant
Portion B	±1500m <sup>2</sup>	Vacant

The 2 proposed erven are located on the southern vacant portion of Erf 6846 Hermanus and are 1500m<sup>2</sup> each. The dimensions of each erf are 29.7m x 50.4m. A panhandle is created between Portions A and B that is 3.5m wide. The existing driveway will be relocated from where it bisects Portion B to the proposed panhandle. This would create an avenue towards the existing thatched roof house, thus creating a focal point. Access to the Remainder Erf 6846 Hermanus and Portions A & B will therefore gain access from Cross Street.

The coverage of the Remainder Erf 6846 Hermanus will be ±7% (±300m<sup>2</sup>) and Portion A and B will be vacant erven.

#### 3.4.2 Proposed Removal of A Restrictive Title Deed Condition

The enclosed Title Deed, T62388/57 contains the following Title Deed restriction that has to be addressed:

- Page 4, paragraph (E )(2.): "That the above lot be not subdivided"

We are applying for the subdivision of Erf 6846 Hermanus and in order to subdivide Erf 6846 Hermanus it will be required that paragraph (E )(2.) of the said Title Deed be removed that prohibits the subdivision of the erf.

#### 3.5 ACCESS

Vehicular and pedestrian access to erf 6846 Hermanus and the existing dwelling and garages are gained from Cross Street via the proposed panhandle. Proposed Portions A & B will also gain access from Cross Street. The exact position of the

access point to Portions A & B will be confirmed with building plan submission, when the new owners intend to build.

### 3.6 SERVICES

Due to the fact that Erf 6846 Hermanus is within an already developed residential area municipal services already exist to which the newly created erven, Portions A and B, could connect to. With the creation of 2 additional erven is it our opinion that there would be enough capacity within the existing services structures to sufficiently service the proposed additional erven and that bulk services levies will be paid for the future upgrade of municipal services.

### 3.7 TITLE DEED

The title deed T62388/87 has a restriction that needs to be removed in order for this application for subdivision to be approved.

The Title Deed restrictions that we are applying for to have them removed are:

- Page 4, paragraph (E.)(2): "That the above lot be not subdivided"

The reasons for the removal of the restrictive Title Deed conditions have already been covered as per paragraph 3.4.2 above.

### 3.8 FORWARD PLANNING

#### **Overstrand Municipal Wide Spatial Development Framework**

In terms of the Overstrand Wide Spatial Development Framework the subject property is earmarked for residential purposes. The residential zoning of the

subject erf will be retained after subdivision has taken place. The proposed minimum erf size for erven in Fernkloof is currently 1500m<sup>2</sup>.

#### **Overstrand Growth Management Strategy**

With reference to the Overstrand Growth Management Strategy the subject erf falls within planning unit 2 that consists of the high value low density Fernkloof residential area. The following residential densification is proposed in terms of the Overstrand Growth Management Strategy:

- Residential Densification

Increases development through subdivision, to allow a wider and finer dwelling unit respectively (proposing typologies R1 and R2), is proposed for an assumed 20% of the areal extent of this Planning Unit. Based on this assumption, this proposal is essentially calculated to be 26 additional dwelling units.

With reference to the above mentioned it our opinion that our proposal for the subdivision of Erf 6846 Hermanus is in line with forward planning strategies and also the current land use trends for the area and should be supported.

Each subdivision application should be dealt with on its own merit. In this instance Erf 6846 Hermanus is much larger in extent than the surrounding erven and even after subdivision it will still be compatible with the areas of the residential erven in the vicinity and can therefore be supported.

### **3.9 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION**

#### **3.9.1 HERITAGE VALUE**

Erf 6846 Hermanus is not situated within the Heritage Overlay Zone as determined by the Overstrand Municipality Growth Management Strategy (2010). The existing

dwelling situated on Erf 6846 Hermanus is not earmarked for heritage conservation purposes in terms of the Overstrand Heritage Survey Report (2009).

The subject property is not associated with any important persons or groups or important events and activities.

In the light of the above mentioned it is evident that the proposed subdivision and removal of a restrictive Title Deed condition will not have a negative impact on the heritage value of the subject property or the Greater area of Hermanus.

### 3.9.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed subdivision and removal of a restrictive Title Deed condition do not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

### 3.10 PLANNING PRINCIPLES

The planning principles of spatial justice, spatial sustainability, efficiency and spatial resilience of this application can be described as follows:

Spatial Justice: The proposed subdivision and removal of a restrictive Title Deed condition is in line with the current erf sizes in the vicinity and also conforms to the prescribed minimum erf size applicable to erven within the Femkloof area.

Spatial sustainability: The proposed subdivision and removal of a restrictive Title Deed condition is in line with the current character of the established residential area. The proposed application will have no impact on the conservation worthy areas of

Fernkloof: Spatially the land use and erf size of the remaining extent of Erf 6846 and Portions A and B will be in line with the residential character of the area.

Efficiency: The proposed additional erf is easily accessible and conveniently located in Fernkloof in close proximity of the Fernkloof Nature Reserve, beaches, shops and Hermanus CBD.

Spatial Resilience: Spatial resilience is not applicable to this application.

Our firm 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.

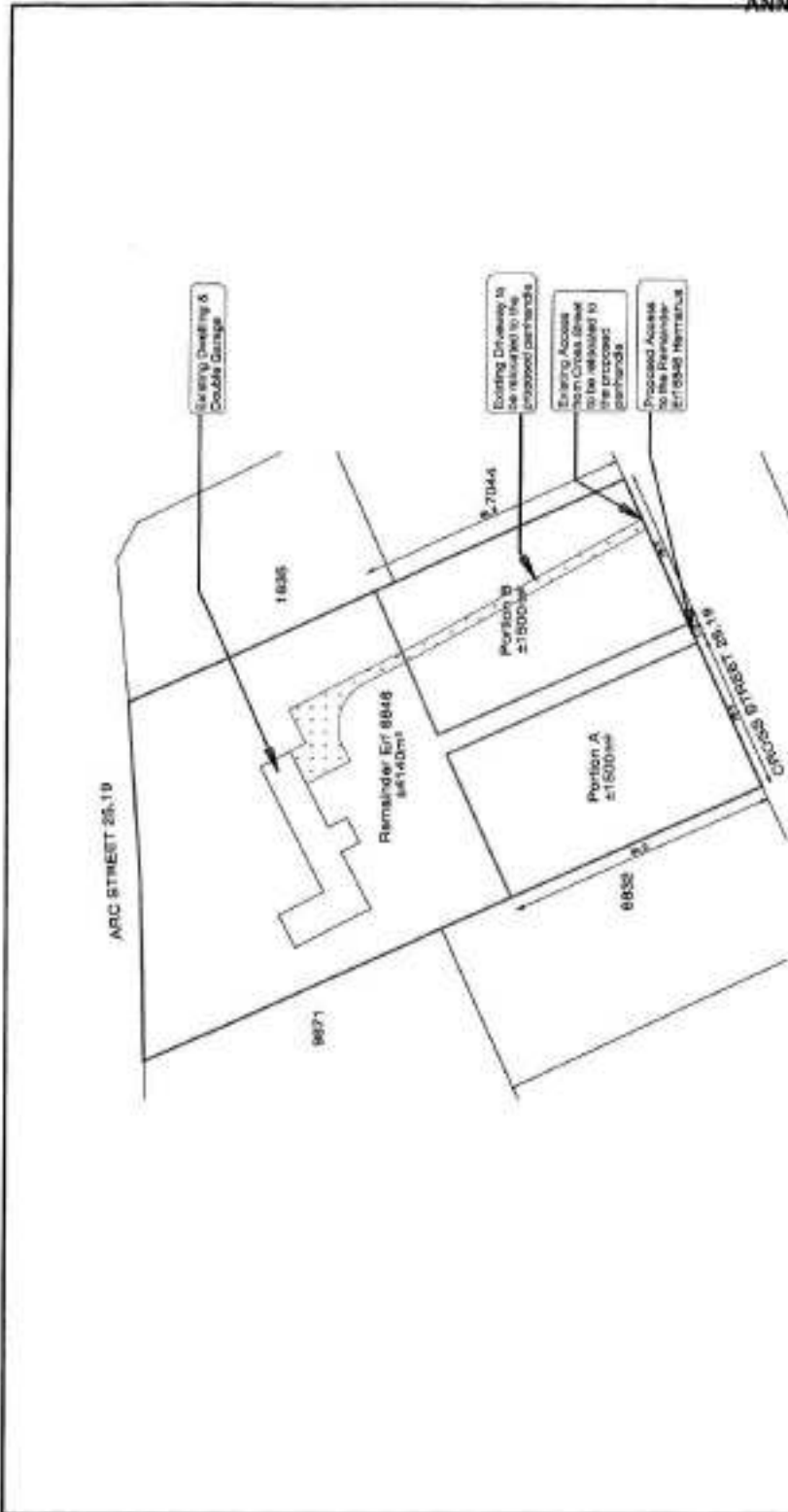
#### 4. RECOMMENDATION

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

- The proposed subdivision and removal of a restrictive Title Deed condition of Erf 6846 Hermanus falls within the existing land use tendencies in the area;
- The proposal is compatible with the existing erf sizes in the area;
- The impact on services will be minimal;
- The proposed subdivision and removal of a restrictive Title Deed condition will not have a negative impact on the current character and land values of the surrounding erven.

With regards to the above mentioned it would be appreciated if the application is consider favourably for the subdivision and removal of a restrictive Title Deed condition of Erf 6846 Hermanus.

*[Handwritten signature]*



Scale: 1:1000  
 Drawing No: 1420642.276  
 Date: 08/2017

Plan Description:  
**SUBDIVISION  
 PLAN**

Property Description:  
**ERF 6846  
 HERMANUS**

All distances approximate  
 and subject to survey.  
 COPY RIGHT RESERVED

**Plan**  
**Active**

Stads- en Streeksbeplanners  
 Town & Regional Planners

TRA Theart  
(M Olivier)



Alida Conradie - Objections to application of subdivision of ERF 6846 Hermanus

**From:** Jessica Faircliff <jess@entry.co.za>  
**To:** "aconradie@overstrand.gov.za" <aconradie@overstrand.gov.za>  
**Date:** 2017/11/24 02:24 PM  
**Subject:** Objections to application of subdivision of ERF 6846 Hermanus  
**Attachments:** 1511283702-logo.jpeg

Dear Mes Conradie,

We have some concerns around the proposed subdivision of land at ERF 6846

1. We have concerns around sewerage solutions for the two new proposed dwellings as there is no sewerage line from Cross St.
2. We believe that the subdivision of the property which is directly opposite our property will devalue our property and the area in general as the area is of high value due to the large sizes of the properties within it.
3. **The driveway:** The proposed subdivision includes a driveway to the original dwelling that goes up the middle of the current property from Cross St to the house at the back. There will therefore be three driveways directly opposite our house where before there was only one. This will increase traffic and noise pollution to our area. The current dwelling already has access from the road behind (No 9 Arc St) and as that dwelling will now only be on No 9 Arc Street, we propose that - should the subdivision go through - that access to the original property be moved to No 9 Arc St. Access to the three garages could be created as a driveway around the back of the house rather than through the subdivided properties. **In short we object strongly to the proposed driveway.**
4. **We object strongly to the subdivision as a whole.**

Thank you and kind regards,

Jessica Faircliff

id:1511283702-  
logo.jpeg@dnm  
entry.co.za

JESSICA FAIRCLIFF // Copy Editor and PR

email: jess@entry.co.za  
cell: +27 83 469 2965  
tel: +27 28 312 4799  
fax: +27 86 508 5171

Website | Twitter | Facebook | Instagram

FILE:	EL-6846
	Hermanus
CAN NO:	
COL:	RATCH NO:
	1105881

JESSICA FAIRCLIFF // Copy Editor and PR

email: jess@entry.co.za

24 NOV 2017

**PLAN** Town & Regional Planners  
Stads- en Streeksbeplanners  
**Active**



## ANNEXURE E 1/2

# Magnolia 11 / 101  
PO Box / Postbus 298  
HERMANUS

7200  
Tel: (026) 312 3273  
Fax / Faks: (026) 312 3351

Email: [planactive@hermanus.co.za](mailto:planactive@hermanus.co.za)

Website: [www.planactive.co.za](http://www.planactive.co.za)

13 December 2017

Your reference: 6846 HEC (3774)  
Our reference: PA17071

The Municipal Manager  
Overstrand Municipality  
PO Box 20  
HERMANUS  
7200

For attention: Mr. Petrus Roux

EL 6846
HERMANUS
ERF 6846 - ON NVOS
112755
FILE NO.

TRATHART  
(Hollister)

Sir,

**COMMENTS ON OBJECTION: ERF 6846 HERMANUS; PROPOSED SUBDIVISION AND REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS**

Your e-mail dated 17 October 2017 with an objection from Jessica Faircliff refers. We would like to make use of the opportunity to comment on the objection received.

Our comments on the objection are as follow:

- Our telephone conversation today with the Operations Department of the Overstrand Municipality refers. This Department confirmed that there is a sewer line that the proposed 2 erven could connect to. It would however be the owner's choice to make use of the existing sewer line or to construct a conservancy tank. The disposal of sewage would therefore not be a concern for the creation of 2 additional erven.
- The sizes of erven in the same residential block as Erf 6846 Hermanus varies in size from 1499m<sup>2</sup> to 2864m<sup>2</sup> with the exception of Erf 6846 Hermanus that is 7141m<sup>2</sup> in extent. Erven south of Cross Street are much smaller. The objector owns Erf 5733 that is 1196m<sup>2</sup> in extent.

With our application we are creating 2 erven of 1500m<sup>2</sup> each and a remainder of 4140m<sup>2</sup>. The remainder will still be one of the largest erven in the residential block and the proposed 2 erven of 1500m<sup>2</sup> are in line with the current erf sizes in the residential block. The proposed 2 erven and the remainder will definitely not have a negative impact on the land value of surrounding residential erven.

- With our application it is proposed that the existing driveway that is accessed from Cross Street be moved to the centre of Erf 6846 Hermanus in order to create an avenue towards the entrance of the major house located on the remainder of Erf 6846 Hermanus. It is further proposed that the 2 proposed erven of 1500m<sup>2</sup> each also gain access from Cross Street. Due to the width of Erf 6846 Hermanus it is highly likely that

Divine Inspiration Trading 329 (Pty) Ltd, trading as Plan Active  
Reg. No. 2006/031621/07  
Vol. No. 4770250340

John Mc Lachlan: N03 (Town Planning) Tech Witwatersrand, MSAP/Nr.10908, SACPLAN Tch. No B/8250/2014  
Pauline Sprank: B (Sec 50) MS, BA Hon (UNISA)  
Merleé lemm: B. Art et Scien Curm (Grade) (Town Planning) UMW, SACPLAN Tch. No A/156/2009

**ANNEXURE E 2/2**

one access will be across of the objectors property, Erf 5733 Hermanus, the second access point will be between erven 5733 and 5734 Hermanus and a third access across Erf 5734 Hermanus. As per the locality map that accompanied our application it is clear that it is impossible to have all three accesses situated across of Erf 5733 Hermanus only.

The existing dwelling and garages situated on Erf 6846 Hermanus face Cross Street and is it most practical to access the property from Cross Street. We are proposing that the existing access from Cross Street be moved to the centre of the site as indicated on the subdivision plan. To access the garages from Arc Street is not a feasible option.

We trust that you would find our comments on the objection in order and trust that the application will dealt with favourably.

Yours faithfully



John Mc Lachlan

ANNEXURE F 1/4



TR-A Theart  
C Molinar

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\_WHMN0076\_17  
Your Ref.: 6846 HEC 3774

11 December 2017

Attention: S Muller

Overstrand Municipality  
HERMANUS

**PLANT AFFECTED:**

**PROPOSED SUBDIVISION AND REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS: ERF 6846, 12 CROSS STREET, EASTCLIFF, HERMANUS**

With reference to your application received October 2017.

As important COPPER AND OPTIC FIBRE cables are affected, please contact our representative **Frederik Swart** at telephone number **028 514 1199 / 081 363 7815 / Frederik5@openserve.co.za** at least 48 hours prior of commencement on construction work.

I hereby inform you that Open Serve 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, Open Serve infrastructure will be affected, consequently the conditions below and on the attached legend will apply.

61 Oak Avenue, Highveld, Techno Park, Centurion 0157,  
Private Bag 2881, Pretoria, Gauteng, 0001

12 DEC 2017

FILE NO:	62-6846
	Hermanus r
SCAN NO:	ERF 6846
COLLABORATOR NO:	1111941

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.

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

  
\_\_\_\_\_  
Selwyn Bowers  
Operations Manager  
Wayleave Management: Western Region

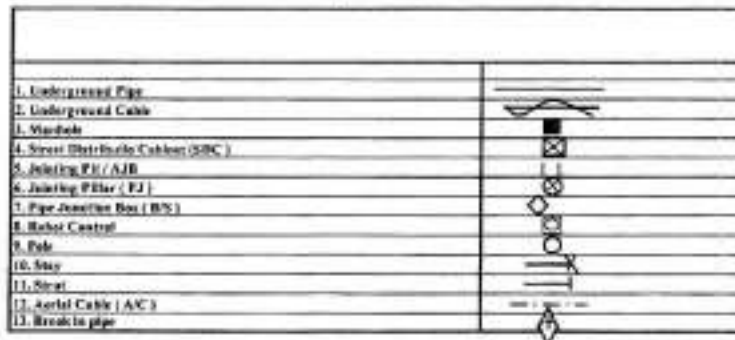
This wayleave, Reference Number **WWIP\_WHMN4076\_17** is valid for 12 months from date here of and is subject to the following conditions:

1. No mechanical plant or vibrator type compactors may be used within three metres of any Open Service plant (i.e. any Telecoms installation equipment above or below ground level.)
2. The position of any plant affected by the proposal is indicated on appendices and **Frederik Swart** at telephone number **081 363 7815** must be contacted at least 48 hours prior to commencement of the work, upon which the actual location of Open Serve Plant will be indicated on site.
3. A written request must be submitted to Open Serve for confirmation should the applicant require any 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 Open Serve immediately, should the applicant locate any Open Serve plant indicated on the provided plans.
5. Should the applicant expose any Open Serve plant, the safeguard thereof will be the applicant's full responsibility.
6. Failing to comply with the above conditions or any special conditions set forth herein will be regarded as gross negligence and the applicant will be held responsible for the damage or loss as a result thereof.

Date: 11 December 2017

By: C Spammer

For Regional General Manager  
Western Cape (N2W3T1B)

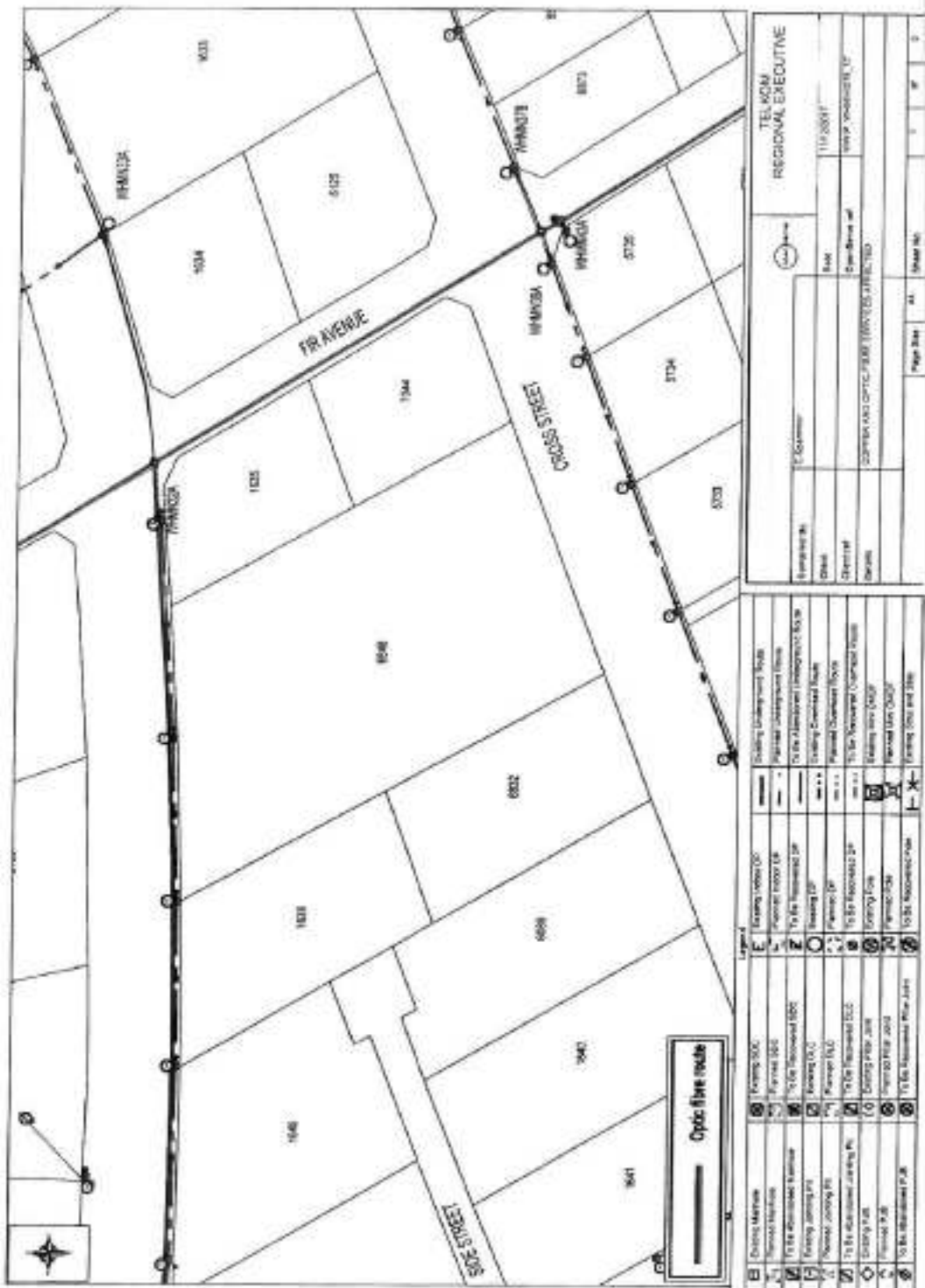


The pipeline indicated contains **OPTIC FIBRE** cables.

F Swart - telephone 028 514 1199 must be contacted at least 48 hours before commencement of work.



ANNEXURE F 4/4



TELKOM REGIONAL EXECUTIVE	
Project No:	10/0001
Client:	TELKOM
Contract No:	10/0001/01
Contract Name:	OPTIC FIBRE ROUTE
Page No:	4
Sheet No:	1

<input checked="" type="checkbox"/> Existing Mainline <input checked="" type="checkbox"/> Proposed Mainline <input checked="" type="checkbox"/> To Be Abolished Mainline <input checked="" type="checkbox"/> Proposed Joining Pit <input checked="" type="checkbox"/> Proposed Joining Pit <input checked="" type="checkbox"/> To Be Abolished Joining Pit <input checked="" type="checkbox"/> Existing Pit <input checked="" type="checkbox"/> Proposed Pit <input checked="" type="checkbox"/> To Be Abolished Pit	<input checked="" type="checkbox"/> Existing 1000V DP <input checked="" type="checkbox"/> Proposed 1000V DP <input checked="" type="checkbox"/> To Be Abolished 1000V DP <input checked="" type="checkbox"/> Existing DP <input checked="" type="checkbox"/> Proposed DP <input checked="" type="checkbox"/> To Be Abolished DP <input checked="" type="checkbox"/> Existing Cable <input checked="" type="checkbox"/> Proposed Cable <input checked="" type="checkbox"/> To Be Abolished Cable	<input checked="" type="checkbox"/> Existing Underground Route <input checked="" type="checkbox"/> Proposed Underground Route <input checked="" type="checkbox"/> To Be Abolished Underground Route <input checked="" type="checkbox"/> Existing Overhead Route <input checked="" type="checkbox"/> Proposed Overhead Route <input checked="" type="checkbox"/> To Be Abolished Overhead Route <input checked="" type="checkbox"/> Existing Air-Over <input checked="" type="checkbox"/> Proposed Air-Over <input checked="" type="checkbox"/> To Be Abolished Air-Over	<input checked="" type="checkbox"/> Existing 100V DP <input checked="" type="checkbox"/> Proposed 100V DP <input checked="" type="checkbox"/> To Be Abolished 100V DP <input checked="" type="checkbox"/> Existing DP <input checked="" type="checkbox"/> Proposed DP <input checked="" type="checkbox"/> To Be Abolished DP <input checked="" type="checkbox"/> Existing Cable <input checked="" type="checkbox"/> Proposed Cable <input checked="" type="checkbox"/> To Be Abolished Cable
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**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS &  
SUBDIVISION: ERF 6846, EASTCLIFF (3774)**

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

**Conditions:**

- 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:

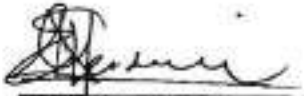
**Freehold erven:**

Water	R 21 500.00 x 2	=	R 43 000.00
Sewerage	R 14 496.00 x 2	=	R 28 992.00
Roads	R 6 500.00 x 2	=	R 13 000.00
Stormwater	R 7 500.00 x 2	=	R 15 000.00
Solid Waste	R 1 300.00 x 2	=	R 2 600.00
Electricity	R 31 859.98 x 2	=	<u>R 63 719.96</u>
<b>TOTAL (inclusive of VAT)</b>		<b>=</b>	<b>R166 311.96</b>

Note:

- 1.3 **The above figures are estimates**
- 1.4 **The above figures do not include connection fees**
2. that only the standard water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the developer's cost;

3. that each individual erf be provided with its own water and sewerage connections;
4. that any part of the existing water- and sewer services on Remainder of Erf 6846 that crosses the common boundary of Remainder of Erf 6846 and proposed Portion A and B of Erf 6846 be disconnected and sealed off;
5. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 10400 – P: 2010: Drainage*;
6. that only a standard 60 Amp single phase electricity connection will be available per erf;
7. 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 Area Manager; Hermanus for written approval;
8. that stormwater be allowed to discharge through Erf 6846, Eastcliff, unobstructed.



**DENNIS HENDRIKS**  
**SENIOR MANAGER:**  
**ENGINEERING SERVICES**

04 / 04 / 2018  
DATE

JANIS DE VILLIERS EN SEUN (GSM)  
POSBUS 1474  
HOOD KAAPSTAD

1748

23707-89 18 06 93

B. 4 600 191 /19.....

VERBIND/MORTGAGED

vir  
for R. 70 000,00

25 06 1991

Akteskantoor  
Deeds Office

registateur/ Registrar

KAAPSTAD/CAPE TOWN

VERBIND  
MORTGAGED

vir  
for R. 70000,00 (met voorkeure  
- in) preference

vir 'n verder bedrag nie te oorgaan  
for an additional amount not exceeding

R. 14000,00 P.R. BK.  
P.R. BK.

Akteskantoor  
Deeds Office

registateur/ Registrar

Vir ENDOSSEMENTE KJK BLADSY  
FOR ENDORSEMENTS SEE PAGE 7

36184 (32)

OPKANSKRIJF  
CANCELLED

REGISTRATEUR/REGISTRAR

18 06 93

T 62388-87

Opgestel deur my  
Aktesbesorger  
C. F. HAASBROEK

SERTIFIKAAT VAN VERENIGDE TITEL

(Uitgereik kragtens Artikel 40 van die Registrasie van Aktes Wet nr 47 van 1937)

NADEMAAL

JULIAN ANDRÉ DU TOIT

Identiteitsnommer 460522 5041 00 5

Getroud buite gemeenskap van goedere

aansoek/.....

2.

aansoek gedoen het vir die uitreiking van 'n Sertifikaat van Verenigde Titel kragtens Artikel 40 van Wet 47 van 1937:

EN NADEMAAL hy die geregistreerde eienaar is van -

1. ERF 1637 HERMANUS in die Munisipaliteit van Hermanus, Afdeling Caledon,

GEHOU kragtens Transportakte nr T49095/1987,

2. ERF 1636 HERMANUS in die Munisipaliteit van Hermanus, Afdeling Caledon,

GEHOU kragtens Transportakte nr T49095/1987;

wat verenig is tot die grond hieronder beskryf;

SO IS DIT dat ingevolge die bepalings van genoemde Wet, ek die Registerateur van Aktes te Kaapstad hierby sertifiseer dat voornoemde

JULIAN ANDRÉ DU TOIT

Identiteitsnommer 460522 5041 00 5

Getroud buite gemeenskap van goedere

BLANKE GROEP

sy Erfgename, Eksekuteurs, Administrateurs of Regverkrygendes, die geregistreerde eienaar is van:

ERF 6846 HERMANUS in die Munisipaliteit van Hermanus, Afdeling Caledon;

GROOT 7 141 (SEWEDUISEND EENHONDERD EEN EN VEERTIG) vierkante meter;

S00S/.....

WHITE GROUP  
BLANKE GROEP

3.

SOOS aangedui op aangehegte Kaart nr 6390/87.

1. WAT betref die figuur ABfe op Kaart nr 6390/87 -

A. ONDERHEWIG aan die voorwaardes verwys na in Sertifikaat van Geregistreerde Titel nr T3907/1932.

B. ONDERHEWIG aan die spesiale voorwaarde vervat in Gewysigde Grondbrief uitgereik kragtens die bepaling van Wet nr 9 van 1879 op 22 November 1904 (Caledon Erfpagte Boekdeel 10 Nr 19) wat as volg lees:

"that the land granted thereby shall be subject to all such duties and regulations as either are already or shall in future be established with regard to such lands."

D. ONDERHEWIG aan die volgende spesiale voorwaardes vervat in Transportakte nr T6228/1943 opgelê deur The Mossel River Estate Company Limited vir hul voordeel en die van hul opvolgers in titel as eienaars van die restant van Mossel River West Township gehou deur hulle kragtens Sertifikaat van Geregistreerde Titel Nr T3907/1932:

"(a) That shall not be erected on the said lots any buildings, the plan and specifications of which have not been submitted and approved by the Transferor in writing prior to the commencement of building operations.

(b) All the buildings being dwelling houses shall be so placed that the front line of such building (including any stoep or porch) shall coincide with the building line laid down by the Transferor. Outbuildings shall be erected behind the building line in such position as shall be approved by the Transferor. The sides of every building shall be parallel to the boundaries of the said lots, unless the transferee or his successors in title be specially exempt by the transferor in writing.

In the case of irregular lots the relation between the sides of the building and the boundaries of the property shall be subject to the approval of the transferor.

(c) No building shall be erected within 1,57 metres of the common boundary of any lot in the above Township

save/.....

4.

save where such lots are owned by one and the same individual.

(d) No obligation shall rest upon the transferor under any circumstances, to construct, repair or maintain any streets laid down in the plan of the Township, save that it shall provide practical roadway access to the said Lots.

E. ONDERHEWIG aan die volgende spesiale voorwaardes vervat in Transportakte nr T6288/1943 opgelê deur die Administrateur by goedkeuring van die gesegde Mossel River West Township, naamlik:

1. That the above lot be used for residential purposes only.
2. That the above lot be not subdivided.
3. That not more than one building be erected on the above lot and that not more than one-half the area of the above lots be built upon.
4. That all buildings to be erected on the above property shall stand back not less than 3,15 metres from the line of the street on which the said lot abuts. Such space may be used as gardens but shall not be built upon.
5. That all outbuildings to be erected on the above property shall stand back not less than 6,30 metres from the line of the street on which the lot abuts.

F. GEREKTIG op die voordeel van 'n sekere servituut, 'n verwysing waarna op 27 November 1934 geëndosseer is op vermelde Sertifikaat van Geregistreerde Titel nr T3907/1932, wat as volg lees:

"By Deed of Transfer No 10530/1934 the owner of the land held hereunder has acquired the right to divert certain water across the land conveyed by the said transfer (Para 2) as will more fully appear on reference to the said transfer".

II. WAT betref die figuur BCdf op Kaart nr 6390/87 -

A. ONDERHEWIG/.....



5.

A. ONDERHEWIG aan die voorwaardes verwys na in Sertifikaat van Geregistreeerde Titel nr T3907/1932.

B. ONDERHEWIG aan die spesiale voorwaarde vervat in Gewysigde Grondbrief uitgereik kragtens die bepalinge van Wet nr 9 van 1879 op 22 November 1904 (Caledon Erfpagte Boekdeel 10 nr 19) wat as volg lees:

"that the land granted thereby shall be subject to all such duties and regulations as either are already or shall in future be established with regard to such lands."

D. ONDERHEWIG aan die volgende spesiale voorwaardes vervat in Transportakte nr T5460/1943 opgelê deur die Transportgewer Maatskappy (THE MOSSEL RIVER ESTATE COMPANY LIMITED) vir hul voordeel en die van hul opvolgers in tittel as eienaars van die restant van Mossel River West Township deur hulle gehou kragtens Sertifikaat van Geregistreeerde Titel nr T3907/1932, welke voorwaardes lees soos meer volledig uiteengesit in komponent I D hierbo.

E. ONDERHEWIG aan die volgende spesiale voorwaardes vervat in Transportakte nr T5460/1943, opgelê deur die Administrateur by goedkeuring van die gesegde Mossel River West Township, welke voorwaardes lees soos meer volledig uiteengesit in komponent I E hierbo.

F. GEREGTIG op die voordeel van 'n sekere servituut, 'n verwysing waarna op 27 November 1934 geëndosseer is op vermelde Sertifikaat van Geregistreeerde Titel nr T3907/1932, wat as volg lees:

"By Deed of Transfer No 10530/1934 the owner of the land held hereunder has acquired the right to divert certain water across the land conveyed by the said Transfer (Para 2) as will more fully appear on reference to the said Transfer."

EN/....



6.

EN dat, kragtens hierdie sertifikaat, genoemde JULIAN ANDRÉ DU TOIT, sy Erfgename, Eksekuteurs, Administrateurs of Regverkrygendes, nou en voortaan daartoe geregtig is ooreenkomstig plaaslike gebruik, maar behoudens die regte van die Staat;

TEN bewyse waarvan ek, die voornoemde Registrateur, hierdie Akte onderteken en met die ampseël bekragtig het.

ALDUS GEDOEN EN GETEKEN op die kantoor van die Registrateur van Aktes te KAAPSTAD op hede die 21<sup>ste</sup> dag van Desember in die jaar van Ons Heer, eenduisend negehonderd sewe en tagtig (1987).

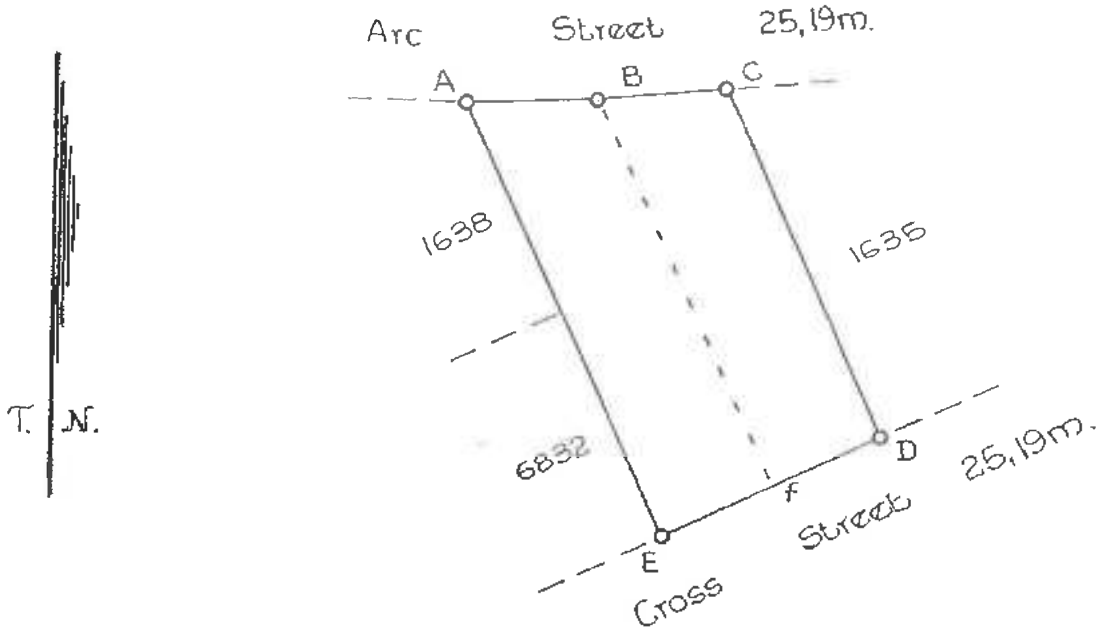
  
REGISTRATEUR VAN AKTES



	SIDES Metres	ANGLES OF DIRECTION	35		CO-ORDINATES System	X
			Y			
AB	34,10	A 67 24 30				
BC	33,56	B 182 21 00				
CD	101,42	C 110 14 30				
DE	62,987	D 90 00 00				
EA	126,13	E 90 00 00				

S.G. No.  
6390-87

Approved  
*J. P. J. P.*  
Surveyor-General  
1987-09-18



NO.	FIGURE	REPRESENTS	DIAGRAM NO.	DEED OF TRANSFER NO.
1.	AB/E	Erf 1637 HERMANUS	1069/1943	1943,126,6288
2.	BCDF	Erf 1636 HERMANUS	84/1943	1943,110,5460

Scale 1: 2000

The figure A B C D E represents 7141 square metres of land, being ERF 6846 HERMANUS comprising the properties as specified above situate in the Municipality of Hermanus

Administrative District of Caledon Province of Cape of Good Hope.

Compiled in September 1987

Surveyed in September 1987

by me, *P. J. P.* Land Surveyor

This diagram is annexed to	The original diagrams are as specified above	File No. S/2479/90
	No. dated 62388-87	S.R. No. Compiled
i.f.o. 1987-12-21	annexed to	Comp. AINW-1221(M3776)
	Transfer/Grant No	
Registrar of Deeds		

SPECIAL POWER OF ATTORNEY

I, the undersigned,

MR. J.A. DU TOIT

The registered owners of:-

ERF 6846 HERMANUS

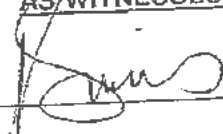

Do hereby nominate, constitute and appoint

PLAN ACTIVE TOWN & REGIONAL PLANNERS

Of 6 Magnolia Avenue, Hermanus, with power of Substitution, to be our lawful agents in our name, place and stead to appear before the Overstrand Municipality and any other officials of Government Departments, which may be necessary in order to make application for the subdivision and removal of title deed restrictions and all other relevant applications of Erf 6846 Hermanus and to sign documents and to perform all such acts which may be necessary in connection with the application and generally for effecting the purposes aforesaid, to do or cause to be done whatsoever shall be requisite, as fully and effectually, for all intents and purposes as we might or could do if personally present and acting herein – hereby ratifying, allowing and confirming and promising and agreeing to ratify, allow and confirm all and whatsoever our said Agent shall lawfully do, or cause to be done, by virtue of these presents.

SIGNED AT HERMANUS on this the 22<sup>nd</sup> day of August, 2017.

  
MR. J.A. DU TOIT

AS WITNESSES:  
1.   
2. 

## CONVEYANCER'S CERTIFICATE

I/we, Willem Johannes Andre' du Toit  
(conveyancer's name)

hereby wish to certify that a search was conducted in the Deeds Registry, Cape Town regarding the following property(ies) (including both current and earlier title deeds / pivot deeds / deeds of transfer) :

Erf 6846 Hermanus in the Municipality of  
Hermanus, Division Caledon  
In extent 7141 square metres  
(property description(s))

in respect of which it was found that there ~~are~~ / ~~are no~~ restrictive conditions registered against such property(ies) prohibiting it from being utilised / developed for the following purposes (as elaborated on in more detail in the accompanying application) :

Subdivision  
(proposed use / development / zoning of property)

(\* please delete whichever not applicable)

## LIST OF RESTRICTIVE TITLE CONDITIONS (if applicable)

Deed no	Clause no	Description
T62338/87	E 2	That the above plot be not subdivided

PROCESS BY WHICH RELEVANT CONDITIONS WILL BE ADDRESSED  
(please tick appropriate box)

Removal / suspension / amendment of restrictions in terms of Act 84/1967 <input checked="" type="checkbox"/> (Submit separate application)	Notarial Deed of Cancellation (Submit copy of signed agreement)	Consent (Submit copy of signed consent)	Expungement by means of 'rule nisi' application to High Court (Submit copy of Court order)
---	--	--	---

Signed at Hermanus on this 23<sup>rd</sup> day of August 2017

Signature 

Kindly endorse certificate by affixing firm's official stamp here and initialling it.

GUTHRIE & THERON  
ATTORNEYS NOTARIES  
2017-08-23  
& CONVEYANCERS  
HERMANUS 7200

## 4.2

**ERF 1772, STANFORD, OVERSTRAND MUNICIPAL AREA : PROPOSED CONSENT USE :  
MESSRS WRAP ON BEHALF OF SEBUMO TUDE GUEST SERVICES & MORE CC**

1772 SSS (3543)

P Roux

6 April 2018

(028) 313 8900

Hermanus Administration

**1. EXECUTIVE SUMMARY**

An application has been received on 7 December 2016 from Messrs WRAP Consultancy on behalf of the owners of Erf 1772, Stanford, Sebumo Tude Guest Services & More CC, for a consent use in terms of Section 16(2)(o) in order to accommodate the following:

- guest house with five (5) lettable rooms;
- intensive horticulture;
- plant nursery;
- additional dwelling unit;
- tourist facilities that include a lecture room, gift shop, restaurant, picnic area and restrooms; and
- farm store.

The Locality Plan of the property concerned is attached as Annexure A, the Motivation Report from the applicant in support of the application is attached as Annexure B and the Site Development Plan is attached as Annexure C.

**2. DECISION AUTHORITY**

Municipal Planning Tribunal

**3. BACKGROUND / SITE HISTORY**

Erf 1772 is situated next to the R326, on the outskirts of Stanford and it is not contained within the urban edge of Stanford. The subject property is zoned for agricultural use and approximately 3,3306 ha in extent.

The applicant proposes to conduct the following uses:

**Primary uses**

- primary dwelling - 500m<sup>2</sup>
- three (3) farm labourers cottages - 50m<sup>2</sup> each
- agricultural barn (used for storing of farm implements and equipment and the packing of agricultural produce grown on the property) - 900m<sup>2</sup>
- chicken run (free range, not intensive animal farming) - 200m<sup>2</sup>

**Consent use**

- guest house with five (5) lettable rooms (part of main dwelling)
- additional dwelling unit (used for short term accommodation) - 250m<sup>2</sup>
- lecture room - 500m<sup>2</sup>
- restaurant - 300m<sup>2</sup>
- gift shop - 100m<sup>2</sup>

- farm shop - 300m<sup>2</sup>
- intensive horticulture - 200m<sup>2</sup>
- restroom for picnic area - 60m<sup>2</sup>
- picnic area

Total size of the development is approximately 3 360m<sup>2</sup>.

#### 4. SUMMARY OF APPLICANT'S MOTIVATION

The comprehensive and detailed motivation for the proposed application is attached as Annexure B and must be read together with this summary below:

- ❖ the applicant seeks to attain development rights for the following consent uses:
  - guest house with five lettable rooms (part of main dwelling)
  - additional dwelling unit (used for short term accommodation) - 250m<sup>2</sup>
  - lecture room - 500m<sup>2</sup>
  - restaurant - 300m<sup>2</sup>
  - gift shop - 100m<sup>2</sup>
  - farm shop - 300m<sup>2</sup>
  - intensive horticulture - 200m<sup>2</sup>
  - restroom for picnic area - 60m<sup>2</sup>
  - picnic area.
- ❖ the proposed consent uses will seek to contribute to Stanford which increasingly functions as a tourist destination. Travellers seeking, guest houses to stay will spend time at the guest house making use of the amenities available on the subject property and the other tourism amenities of Stanford. Therefore, contributing to the economic development in the town and rural areas, beyond the benefits that will be derived by the property owner and employees;
- ❖ there are no title deed restrictions on the property;
- ❖ the use is desirable as there is a need for additional tourist related facilities in Stanford – the proposed uses area aligned with the Spatial Development Framework (SDF) and Integrated Development Framework (IDF) of the Overstrand;
- ❖ the proposal will not negatively impact on sensitive natural or cultural areas;
- ❖ water from well points will be used in terms of general authorisation to irrigate the agricultural crops;
- ❖ water harvested will be used of other uses;
- ❖ access will be gained from the R326 opposite from the Birkenhead Brewery. Parking provisions will be in line with the requirements of Overstrand Municipality.
- ❖ the proposed development complies with the parameters as set out in the Zoning Scheme and the consent uses are provided for under agricultural land use, and
- ❖ the application is compliant with the principles as stated in SPLUMA and LUPA.

#### 5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Notices	Yes	10/03/2017	13/04/2017
Ward councillor	Yes	10/03/2017	13/04/2017
Hermanus Times	Yes	09/03/2017	13/04/2017

Total letters of objection	<b>Three (3)</b>
Was public participation undertaken in accordance with Section 45 - 49 of the Proposed Draft By-Law on Municipal Land Use Planning?	<b>Yes</b>
Was the application processed correctly? (if no, elaborate below):	<b>Yes</b>
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)	<b>Yes</b>

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

Name	Date received	Summary of comments	Recommendation
<b>Electro Technical Services</b>	13/03/2017	No comment.	<b>Positive</b>
<b>Operational Services</b>	13/03/2017	No objection.	<b>Positive</b>
<b>District Health</b>	24/03/2017	Annexure F.	<b>Positive</b>
<b>Stanford Heritage Committee</b>	06/04/2017	Annexure D.	<b>Positive</b>
<b>Building Department</b>	12/04/2017	No objection.	<b>Positive</b>
<b>Environmental Services</b>	13/04/2017	The abovementioned application does not trigger any listed activities and therefore has no application on the NEMA Regulations.	<b>Positive</b>
<b>Telkom</b>	20/04/2017	Annexure G.	<b>Positive</b>
<b>Eskom</b>	20/04/2017	Annexure H.	<b>Positive</b>
<b>Fire Department</b>	24/4/2017	Annexure I.	<b>Positive</b>
<b>Department of Environmental Affairs and Development Planning</b>	12/05/2017	Annexure J.	<b>Positive</b>
<b>Department of Agriculture</b>	06/06/2017	Annexure K.	<b>Positive</b>
<b>Breede-Gouritz Catchment Management Agency</b>	10/04/2017, 17/07/2017 and 16/03/2018	Annexure L.	<b>Positive</b>
<b>Department of Transport and Public Works</b>	04/10/2017	Annexure M.	<b>Positive</b>

<b>Cape Nature</b>	07/11/2017	Annexure N.	<b>Positive</b>
<b>Engineering Services</b>	21/02/2018	Annexure O.	<b>Positive</b>

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Two (2) comments were received from the Stanford Conservation Committee on 3 April 2017 and 12 April 2017 respectively, and a late objection was received from Mr Chris Wolf on 15 April 2017. The objection from Mr Chris Wolf is considered invalid as the objection is submitted two (2) days after the closing date of the commenting period. The letter was still referred to the applicant for comment. The objector will however not be allowed to automatically qualify for the right to appeal the decision.

### Mr C Wolf's objection is as follows

#### The application is a misuse/abuse of consent use

- i) the vacant land was recently purchased;
- ii) adjacent properties conduct viable farming activities;
- iii) the motivation states that the land is unviable for farming. Economic viability in itself is not sufficient reason for a change of use;
- iv) the property owner bought the farm for the distinct reason to start a business venture with farming being last on the list. This is a brand new commercial development and must be treated as such;
- v) if the property is zoned correctly then it would attract the correct rates and taxes for a business premises;
- vi) the application must be withdrawn and denied and a new submission should be made under rezoning; and
- vii) it is a mystery how Overstrand Town Planning Department even contemplated never mind accepted the application under the guise of consent use.

### Response from applicant

The applicant states that the objection should be rejected as it was received late and does not adhere to the requirements of the Overstrand By-Law on Municipal Land Use Planning. A response was provided as summarized below:

- i) first point is a statement and not an objection;
- ii) second point is not disputed;
- iii) the motivation states that the land is unviable for farming due to the size, the soils and availability of water, but this is a less important aspect and other issues mentioned in the report are more important.
- iv) any business entrepreneur can buy a suitable property and apply for rights to develop the property. The Municipality must then consider such an application on its merits and make a decision;
- v) a consent use application was done as per the Zoning Scheme Regulations, if approved new valuation will be put on the land considering the rights and the rates and taxes adjusted accordingly, the same would have occurred if a rezoning would have taken place;
- vi) a rezoning application is not necessary as the rights can be applied for by means of a consent use application; and

vii) the comment provided was not addressed by the applicant.

#### **Town Planner's response**

- i) this is noted;
- ii) this is noted;
- iii) the motivation submitted by the applicant states other aspects which will also have bearing on the desirability of the proposal, the mentioned point is only one aspect which will be considered;
- iv) any person purchasing a farm or property may seek to have financial gain from the property. Any rights which are approved on the property are to be in line with the Zoning Scheme Regulations;
- v) the applicable rates and taxes will be adjusted by the finance department in accordance with the development rights that will accrue;
- vi) the objector does not understand the working of the Zoning Scheme. Additional uses are allowed under Agricultural Zone 1 which any respective owner may apply for without the requirement of rezoning. Further, simply rezoning the property will have other effects on the surrounding agricultural landscape;
- vii) a complete land use application submitted to the Municipality must be considered by the Town Planning Department.

#### **Stanford Conservation Committee's objection dated 3 April 2017 is as follows**

The relevant committee has no objection towards the application but requests that working drawings and building plans are submitted to them for evaluation and discussion, after which they will be in a position to comment fully on the application.

#### **Response from applicant**

The applicant states that the plans, style and elevations of the proposed buildings that were submitted with the application are sufficient for the Municipality to consider as part of the land use application. Building plans are only submitted after approval has been obtained as the compilation of the plans is a huge expense. The committee can consider the application on the available plans.

#### **Stanford Conservation Committee's objection dated 12 April 2017**

The relevant committee states that they support the consent use application, however list a few concerns. Their concerns are summarised as follows:

**The property and development is in close proximity to Stanford which is a proclaimed heritage village. The design has an industrial design submitted with the application which is not supported. The developers should consult with the Stanford Heritage Committee (SHC) regarding the style. Further plans must be submitted to SHC before submitting to Heritage Western Cape (HWC).**

#### **Applicant's response**

The applicant maintains that plans, style and elevations of the proposed buildings that were submitted with the application are sufficient for the SHC to provide comment. The committee will be able to comment on the building plans submitted after approval.

**The R326 is part of the scenic route overlay which is being finalised. Various design recommendations are part of the Overlay Zone and it is recommended that town planning approval subject to these recommendations being incorporated in the final design.**

**Applicant's response**

This aspect will be dealt with by an architect and incorporated in the building plans to be submitted after approval of the land use application.

**The other buildings which are not of agricultural use be limited to 8m in height.**

**Applicant's response**

The 8m height restriction will be adhered to.

**The entire development footprint is larger than 5000m<sup>2</sup> and should therefore be approved by HWC.**

**Applicant's response**

It is important to note and measure the impact of the consent use applied for which include the buildings and parking area. Primary uses such as the primary dwelling, barn, labourer's cottage, etc. should therefore be excluded from the calculation. The footprint being applied for in the consent use is 3338m<sup>2</sup>, which is below the 5000m<sup>2</sup>.

**It is stated that the 3 (three) labourer's cottages of 50m<sup>2</sup> each is a primary right. This is not in accordance with the 2014 Zoning Scheme Regulations.**

**Applicant's response**

The labourer's cottages are provided for in the definition for agriculture as a primary right.

**The applicant requests a guest house of 5 (five) lettable rooms. The Zoning Scheme only stipulates 2 (two) lettable rooms are allowed.**

**Applicant's response**

The application is for the consent use to operate five (5) lettable rooms in terms of the Zoning Scheme and for one (1) additional dwelling.

**The applicant requests an additional dwelling for short to long term accommodation – SHC requests that the correct name (i.e tourist accommodation) be used.**

SHC indicates that the proposal (3 labourers cottages and additional dwelling) exceeds the number of additional dwellings per 10 ha.

**Applicant's response**

The application is in line with the parameters of the Zoning Scheme.

**The SHC supports the application, but does not agree with the desirability comment that the proposed development will not have an influence on the proclaimed historical town and its heritage character – especially the intent to develop 10m from the R326, hence a request is made for the developer to meet with the SHC.**

**Applicant's response**

The architect will discuss this issue with SHC when building plans are submitted.

**Water availability on site is an issue, how will a farm and tourist destination be run with this regard?**

**Applicant's response**

A water and sewerage connection will be allowed for household purposes.

- **Notice 40243 of Government Gazette dated 2 September 2016 states that general authorisation is only applicable for Schedule 1 (domestic) use. There is also no existing land use registered on this property. The development therefore requires a licence application from BGMCA.**
- **The use of well points for a development will not be viable.**
- **The Environmental Authorisation has lapsed and should be ignored. If the application triggers the National Environment Management Act it will afford the Stanford community to provide comments.**

**Applicant's response**

The inclusion of the previous Environmental Authorisation is for background information for other interested and affected parties.

**Town Planner's response**

The comments received from the Stanford Conservation Committee dated 3 April 2017 and 12 April 2017 will be dealt with under the same heading. It should however be noted that the SHC is only mandated to provide comment regarding heritage related aspects. All comments in the letters received are noted and addressed by the applicant; however the comments made regarding none heritage related aspects will not be responded to as these comments are dealt with by the relevant departments and under other headings of this report.

**The property and development is in close proximity to Stanford which is a proclaimed heritage village. The design has an industrial design submitted with the application which is not supported. The developers should consult with the SHC regarding the style. Further plans must be submitted to SHC before submitting to HWC.**

**Response**

Even though the development is in close proximity to Stanford, the site itself is not graded as being heritage significant. Further, it is not contained in the proclaimed Heritage Overlay of Stanford. It should therefore be noted that the site is situated outside of Stanford on the rural periphery, the proposed design and concepts presented reflects a rural character with building design being sympathetic to Cape Dutch architecture style blended with modern design elements. Parking and dwellings are situated at the back of the layout and therefore obscured from view by the grape vines, tree lanes and the main building.

**The R326 is part of the scenic route overlay which is being finalised. Various design recommendations are part of the Overlay Zone and it is recommended that town planning approval subject to these recommendations being incorporated in the final design.**

**Response**

The scenic route overlay which is being finalised is not yet adopted by Council and the decision in this report cannot be made subject to a document which currently has no legal standing.

**The entire development footprint is larger than 5000m<sup>2</sup> and should therefore be approved by HWC.**

**Response**

In a meeting held on 11 December 2017 between Overstrand Municipality and HWC the issue regarding how Section 38 (1)(c)(i) of South Africa Heritage Resources Act (SAHRA) must be interpreted and how the 5000m<sup>2</sup> development/activity must be considered had been discussed. At the meeting consensus was reached that if the development does not change the character of the site (building plans/consent use) as it does not trigger Section 38 (1)(c)(i) of the Act. The structures which will be constructed as part of the primary use of the site has a footprint of approximately 1550m<sup>2</sup>, the structures which will be constructed as part of the consent use of the site has a footprint of approximately 2110m<sup>2</sup>. The primary uses are in keeping with the definition of the primary right which the property owner may act upon, additionally the consent uses is to ensure that the property (and the primary use) is economically viable. The consent uses are additional rights which the applicant may request to access and in effect it will enhance the primary character and not detract from it. The proposed uses is considered to be in line with the rural character of Stanford and based on the discussion with HWC on 11 December 2017. Section 38 1(c)(i) of the SAHRA is not triggered.

**8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS**

See comment above.

**9. MUNICIPAL ASSESSMENT OF COMMENTS**

See comment above.

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

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

#### **Spatial Justice**

The proposed development will seek to address past spatial development imbalances by providing unemployment for residents in Stanford.

#### **Spatial sustainability**

The application is considered spatially sustainable as the current property will be developed in order to promote farming activities and job security without adversely affecting the environment and biodiversity rich areas.

#### **Efficiency**

The property is 3.3 ha in extent and therefore it is considered to have limited agricultural potential due to its size. The tourist facilities will be developed in harmony with the proposed agricultural setting, while the intensive agricultural activities will maximise on the available resources.

#### **Spatial resilience**

The application will ensure that the existing resource, land, is used to its maximum in an affordable manner and in line with the Overstrand Municipality's forward planning documents.

#### **Good administration**

The application followed the required planning procedures to ensure that land use activity is in line with Municipal By-Laws and the public process has been followed.

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

Same as above

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

The primary uses are in line with the land use parameters in terms of the Zoning Scheme. The proposed consent uses is in line with the Overstrand Municipality Wide Spatial Development Framework, 2006 (SDF) as non-agricultural uses can be considered on agricultural land, but such land should not be high potential agricultural land, must be near access roads, must be at locations where aesthetics will be minimally impacted on and it will have minimum disturbance on agricultural activities.

The Overstrand Municipality Integrated Development Framework, 2014 (IDF) also make reference to these factors under Objective MO1: *"The diverse character of Overstrand's rural and natural environment is maintained and enhanced."*

**10.4 (In)consistency with guidelines prepared by the Provincial Minister**

Not applicable.

**10.5 Impact on Municipal engineering services**

A GLS Report was done on request of the Overstrand Engineering Department in order to identify whether or not water and sewerage services on Erf 1772 can be accommodated in the existing municipal services which runs past Erf 1772. The Overstrand Engineering Department supports the findings of the report that water and sewerage services on Erf 1772 can be connected to the bulk services of the Municipality subject to conditions as listed in the Services Report.

A Transport Impact Assessment (TIA) was done in response to the comment received from the Department of Transport and Public Works. The recommendation submitted in the TIA report is supported by the Department of Transport and Public Works and the Overstrand Engineering Department. It should be noted that the access to the property will occur via existing access to the site and therefore no additional access are proposed.

**10.6 Outcomes of investigations/applications i.t.o other legislation**

The proposed application does not trigger any listed activity in terms of NEMA.

**10.7 Existing and proposed zoning comparisons and considerations**

The subject property is zoned Agricultural Zone 1 and therefore Agricultural Zone 1 parameters as described in the relevant Zoning Scheme are applicable. The applicant proposes to develop the property in line with the parameters as stated in the relevant Zoning Scheme.

**10.8 The desirability of the proposal**

Erf 1772 is currently vacant and measures 3,3 ha in extent. Historically the property was created to be used as an industrial site in order to produce bricks for the up and coming private estates. The approval was never acted upon and the zoning for industrial use lapsed however, the property was registered. The property is situated in the rural periphery and is zoned for agricultural use.

As stated earlier the consent use (additional rights) being applied for is as follows:

**Consent use**

- guest house with five lettable rooms (part of main dwelling)
- additional dwelling unit (used for short term accommodation) - 250m<sup>2</sup>
- lecture room - 500m<sup>2</sup>
- restaurant - 300m<sup>2</sup>
- gift shop - 100m<sup>2</sup>
- farm shop - 300m<sup>2</sup>
- intensive Horticulture/plant nursery - 200m<sup>2</sup>
- restroom for picnic area - 60m<sup>2</sup>

- picnic area

It is noted that the subject property has an agricultural zoning. However due to the small size it is not viable to use the property exclusively for agricultural purposes. Further, due to the property being vacant it will take time for the farm to develop its own produce meaning that the property owner will require additional uses in order to develop the farm economically sustainable especially from the early stage of the development. The proposal which is submitted by the applicant does not deter the agricultural land use, but embraces the primary land use as foundation for the additional uses. The proposed additional uses are to enhance the economic viability of the primary uses and to promote agri-tourism for the property and for Stanford.

The Site Development Plan (SDP) submitted with the application indicates the placement of the primary use structures and the additional use structures. The different types of structures are clustered in the middle of the site with the farm house and picnic ablution situated respectively on the eastern and western side of the proposed layout. The primary and additional uses are therefore mixed together to be developed as a single entity. The proposed character depicted in the draft design proposals is that of a rural/agricultural character and the proposed uses that of agri-tourism.

In the Motivation Report of the application the applicant further sets out that all the proposed structures are compliant with the Zoning Scheme Regulations. However, the applicant states that a gift shop is contained in the definition of tourist facilities and can therefore be provided additionally to the maximum footprint permitted of a farm shop/stall which is 300m<sup>2</sup>. The definition of a farm shop/stall reads as follows: "*means a building, located on the farm, where a farmer sells produce and other goods, to the public*". Inherently the use of a gift shop is contained in the definition of a farm shop/stall as other goods may be sold out of the farm shop. The additional size requirement of the gift shop of a 100m<sup>2</sup> is therefore not supported as the applicant did not request a deviation from the maximum footprint of 300m<sup>2</sup> stipulated for a farm shop/stall. The property owner will still be able to access the desired use; however the SDP will have to be amended should the application be approved.

Subject to the above being stated the proposal submitted by the applicant can be considered desirable due to the following reasons:

- Local and provincial departments have provided supporting comments for the development.
- The development will be able to utilise existing bulk services (water and sewerage) for household use.
- The proposal is compliant with the spatial policies contained in the SDF and IDF.
- The proposal is consistent with the spatial principles as set out in SPLUMA and LUPA.
- The Title Deed does not hold any restrictive conditions preventing the proposed development.
- The subject property is optimally located close to Stanford and other tourist facilities in the surrounding area.

- The character depicted in the design proposal is that of a rural/agricultural character which contributes positively towards the character of the area.

#### 10.9 ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

**The financial or other value of the rights**

N/A

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

N/A

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

N/A

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

N/A

#### 11. RECOMMENDATION

1. that the objections be noted;
2. in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) application for a consent use on Erf 1772, Stanford in order to accommodate the following:
  - ❖ guesthouse with 5 lettable rooms;
  - ❖ intensive horticulture;
  - ❖ plant nursery;
  - ❖ additional dwelling unit;
  - ❖ tourist facilities that include a lecture room, gift shop, restaurant, picnic area and restrooms; and
  - ❖ farm store

**be approved** in terms of the provisions of Section 61 of the By-Law, subject to the following conditions;

- (a) that a revised Site Development Plan (SDP) be submitted indicating the following:
  - the placement of water storage units for the harvesting of rain water;
  - the placement of water and sewerage circulation;
  - the placement of a refuse collection area/room;
  - light fixtures;
  - contours;
  - storm water management;

- details of renewable energy (solar energy), and
  - the removal of the proposed gift shop.
- (b) that a Landscape Plan be submitted for approval to the satisfaction of the Senior Manager: Town and Spatial Planning;
- (c) that the conditions compiled by District Health, Telkom, Eskom, Fire Department, Department of Environmental Affairs and Development Planning, Department of Agriculture, Breede-Gouritz Chatchment Management Agency (BGCMA), Department of Transport and Public Works and CapeNature (Annexures F-N), be complied with;
- (d) that should ground water be utilized then BGCMA comment dated 3 April 2018 must be complied with;
- (e) that the conditions compiled in the Services Report (Annexure O), be complied with;
- (f) that no municipal water may be used for the irregation of crops;
- (g) that should ground water be used for irregation purposes, then the developer must obtain the neccasary license;
- (h) that building plans be submitted to the Building Department for approval and that approval conditions 2(a), (b) and (e) contained in this approval be complied with;
- (i) that a maximum of five (5) bedrooms to be let in the main dwelling, be permitted;
- (j) that the barn be limited to a height of 8m from the base level to the top of the structure and used solely for the use of bone fide agricultural activities;
- (k) that only the additional dwelling unit may be used for self-catering purposes;
- (l) that the selling or serving of liquor on the premises will be subject to the applicant obtaining the necessary liquor licence;
- (m) that no place of entertainment may be conducted on the premises before obtaining approval from the Municipality;
- (n) 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;
- (o) that the accommodation facility 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;
- (p) that any proposed sign to be displayed complies with the Municipal By-Law on Signage, may be displayed on the premises;

- (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.
3. that the applicant and the 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 conditions of approval

## 11. REASONS FOR RECOMMENDATION

- ❖ Comments received were sufficiently addressed by the applicant.
- ❖ The application has followed due procedure.
- ❖ None of the internal departments have any objection.
- ❖ Local and provincial departments have provided supporting comments for the development.
- ❖ The development will be able to utilise existing bulk services (water and sewerage) for household use.
- ❖ The proposal is compliant with the spatial policies contained in the SDF and IDF.
- ❖ The proposal is constant with the spatial principles as set out in SPLUMA and LUPA.
- ❖ The Title Deed does not hold any restrictive conditions preventing the proposed development.
- ❖ The subject property is optimally located close to Stanford and other tourist facilities in the surrounding area.
- ❖ The character depicted in the design proposal is that of a rural/agricultural character which contributes towards the character of the area.
- ❖ The gift shop as requested is accommodated in the definition and use of the farm shop which is limited to a maximum footprint of 300m<sup>2</sup>. The applicant did not request to depart from the maximum footprint and therefore no additional footprint will be allowed for the gift shop.

## 12. Annexures

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Plan
Annexure D:	Objections received
Annexure E:	Applicant's response to objections received
Annexure F:	District Health
Annexure G:	Telkom
Annexure H:	Eskom
Annexure I:	Fire Department
Annexure J:	Department of Environmental Affairs and Development Planning
Annexure K:	Department of Agriculture
Annexure L:	Breede-Gouritz Catchment Management Agency
Annexure M:	Department of Transport and Public Works
Annexure N:	CapeNature
Annexure O:	Engineering Services

**SIGNATURES****AUTHOR:**Name: **PETRUS ROUX**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**REGISTERED PLANNER**Name : **S VAN DER MERWE**SACPLAN registration number: **A/1850/2014**

Signature : \_\_\_\_\_

Date: \_\_\_\_\_

ANNEXURE A 1/1





## 2. OWNER'S INTENT

Erf 1772 Stanford (the subject property) is situated on the R326, close to the intersection with the R43. The subject property is zoned Agriculture Zone 1: Agriculture.

The owners bought the property in order to develop it within its current zoning potential. As the property is too small and with limited water availability to make it agriculturally viable, the intention of the owner is, in addition to primary agricultural development, to develop the subject property for purposes of agri-tourism to include a guest house, conference facility, farm store, restaurant and other related facilities to cater to guests/tourists. This is to provide goods and services to guests on the subject property while not adversely departing from the agricultural zoning of the subject farm by planting some crops. It is also the intention to sell products from the area in the farm store, such as cheese, olives and wine and other local products. The restaurant will also cater for cuisine made from local ingredients of which some will be grown on the subject property.

The owner also intends to develop a small conference facility that can also be used as an exhibition room that can cater for small conferences, educational presentations, seminars etc.

The owner intends to develop the subject property with the following:

Description	Land use
Farmhouse (primary dwelling)	Dwelling house/guesthouse
Staff cottages	Bona fide staff housing
Hydroponic tunnels	Intensive horticulture and plant nursery
Additional dwelling unit	Additional dwelling
Conference facility (60 seats)	Lecture room
Gift Shop	Gift shop
Farm store	Farm store
Restaurant	Restaurant
Agricultural barn	Storage of agricultural machinery and equipment / packing of agricultural products
Picnic area	Picnic area
Ablution and restrooms	Ablution and restrooms
Chicken run	Agriculture
Petting farm	Agriculture
Vines and olives	Agriculture

In light of the above WRAP was appointed to compile and submit an application in terms of Section 15(2)(e) the Overstrand By-Law on Municipal Land Use Planning, 2015, for the following:

- **Consent use** for a guest house with 5 lettable rooms;
- **Consent use** for intensive horticulture;
- **Consent use** for a plant nursery;
- **Consent use** for an additional dwelling unit;
- **Consent use** for tourist facilities to accommodate a lecture room, gift shop, restaurant, picnic area and restrooms;
- **Consent use** for a farm store.



### 3. BACKGROUND TO THE PROPERTY

During 2001, approval was granted for the subdivision of Erf 1772, Stanford from Portion 13 of the Farm Riverside 844, Caledon and rezoning from Agriculture Zone 1 to Industrial Zone 1, for purposes of the operation of a brick making plant. All bricks required for the then called "Suncoam" residential development next to the Birkenhead Brewery, would have been manufactured on this site.

The industrial development included approximately 8000 m<sup>2</sup> of industrial buildings that would have consisted of the following:

- Office and sales (± 280 m<sup>2</sup>)
- Plant and equipment shed (± 630 m<sup>2</sup>)
- Raw material holding area (± 875 m<sup>2</sup>)
- Product storage area (± 2100 m<sup>2</sup>)
- Drying and storage shed ± 1800 m<sup>2</sup>)
- Production shed (± 2300 m<sup>2</sup>)

An Environmental Authorisation was also granted for the brick making plant by the Department of Environmental Affairs and Development Planning.

Both the aforementioned approvals were made subject to certain conditions which had to be adhered to by the applicant.

The applicant (previous owner) did however not comply with some of the conditions of approval within the specified periods and according to the Overstrand Municipality the approval for rezoning has lapsed and the current zoning of the subject property is Agriculture Zone 1 - Agriculture.

The Department of Agriculture however, in their consent made it a condition of approval that agricultural land may be rezoned to a non-agricultural zoning on condition that the jurisdiction area of Stanford Municipality be enlarged by incorporating therein the agricultural land in respect of which a township may be established.

The subdivision was registered in the Deeds Office and a access servitude was registered over an adjacent property to make the access to the subject property opposite the access to the Birkenhead Brewery on the R 326.

Due to the aforementioned non-compliance with the conditions of approval of the rezoning, the property was also not included in the urban edge of Stanford with the compilation of the Overstrand Spatial Development Framework.



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#### 4. DEVELOPMENT PROPOSAL

The development proposal consists of two categories of land use, namely:

##### Category 1: Primary rights:

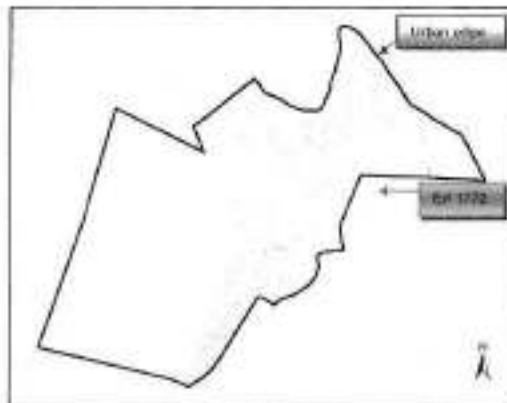
- a. Primary dwelling house of  $\pm 500 \text{ m}^2$ ;
- b. Three farm labourers cottages of  $\pm 50 \text{ m}^2$  each;
- c. Agricultural barn of  $\pm 900 \text{ m}^2$  to be used for the storing of farm implements and equipment and the packing of agricultural produce grown on the property;
- d. Chicken run of  $\pm 200 \text{ m}^2$  (free range, not intensive animal farming).

##### Category 2: Consent uses:

- a. Guest house with 5 lettable rooms (part of primary dwelling house)
- b. Additional dwelling unit of  $\pm 250 \text{ m}^2$  to be used for short and long term renting purposes as per definition;
- c. Lecture room of  $\pm 500 \text{ m}^2$ ;
- d. Restaurant of  $\pm 300 \text{ m}^2$ ;
- e. Gift shop of  $\pm 100 \text{ m}^2$ ;
- f. Farm shop of  $\pm 300 \text{ m}^2$ ;
- g. Intensive horticulture and plant nursery, 3 structures of  $\pm 200 \text{ m}^2$  each;
- h. Restroom of  $\pm 60 \text{ m}^2$  for picnic area;
- i. Picnic area within almond orchard.

#### 5. CHARACTER OF ENVIRONMENT

The zoning of the surrounding properties within a 550m radius range from agricultural, residential, business and industrial zonings (refer **Plan 2**).



Source: Overstrand Municipality Zoning Scheme 2013.

The subject property borders the urban edge to the north, across the R 325 and to the west adjacent to the subject property. To the south and west of the subject property the subject property borders the rural area of Stanford, dominated by agricultural land uses. The

WRAP

MOTIVATION

proposed development seeks to create a transition from the urban edge with some agricultural activities and tourist related facilities on the subject property to the rural areas of Stanford.

#### 6. TITLE DEED AND PROPERTY DETAILS

A copy the subject properties' title deed has been attached as Annexure B and a study of the deeds revealed that there are no restrictive conditions that may prohibit the approval of this application.

PROPERTY DESCRIPTION	APPROX. EXTENT	OWNERSHIP	TITLE DEED NO
Erf 1772 Stanford, in the Overstrand Municipality, Division of Caledon Western Cape Province.	3.3306ha	Sebumo Tude Guest Services & More CC (Reg Nr 2003/065850/23)	T23937/2016

#### 7. DESIRABILITY

In terms of Section 55 (b) and (c) of the Land Use Planning Act, 2014 an application can be refused based on it being undesirable. The measure to assess the desirability of the application is the consistency of the application with spatial development frameworks, applicable structure plans, the principles referred to in Chapter VI and guidelines issued by the Provincial Minister regarding the desirability of the proposed development.

The proposed development needs to be desirable and consistent with the logic character of the rural area and add value to the owner and the community. The Department of Environmental Affairs and Development Planning (DEADP) published a Guideline on Need and Desirability as part of the EIA Guideline and Information Document Series.

In terms of the above, a number of questions need to be asked with regard to the need and desirability of a proposal, which include the following:

Need and desirability measure	Yes/ No	Applicability to the subject farms
Is the land use considered within the timeframe intended by the existing approved SDF agreed to by the relevant environmental authority?	Yes	The proposed development is well aligned with the PSDF (Western Cape Provincial Spatial Development Framework) and the SDF (Overstrand Spatial Development Framework). The spatial planning initiatives section of this report will elucidate this in detail.
Does the community/area need the activity and the associated land use concerned?	Yes	There is a definite need for additional tourist related facilities to enhance the role of Stanford which functions increasingly as a tourist destination. The community needs the facility not only for their own use, but also for the additional number of jobs that will be created.
Are the necessary services with adequate capacity currently available.	Yes	The access servitude will be used to access the subject property from the

## ANNEXURE B 5/19

WRAP	MOTIVATION	
or must additional capacity be created to cater for the development.		R326. Water capacity will be created on the property by means of well points for agricultural irrigation requirements and rainwater will be harvested for domestic water requirements. Electricity will be supplied by Eskom and the development will be connected to the municipal sewerage line traversing the property.
Is this development the best practicable environmental option for this land/site?	Yes	The proposed development will not lead to environmental degradation and is the most practical environmental option. Approval was granted for rezoning of the subject property to Industrial Zone 1 for purposes of a brick making plant in the past and we are of the opinion that the proposed consent uses are much more desirable for the area and are sustainable.
Would the approval of this application compromise the integrity of the existing approved and credible municipal IDP and SDF as agreed to by the relevant authorities?	No	The proposed development is well aligned with the IDP and SDF as this motivation will prove in the spatial planning initiatives section.
Do location factors favour this land use?	Yes	The subject property is ideally located close to the intersection of the R326 and the R43 that would ensure that the proposed development taps into the potential customers that pass on these roads.
How will the activity or the land use associated with the activity applied for, impact on sensitive natural and cultural areas?	No	The proposed development will not in any way negatively impact on sensitive natural areas. The subject property is not located within the urban edge of Stanford and therefore also not situated in the historic core of Stanford. Although the development will be visible from Stanford town, the architecture is of such a nature that it will blend in with the environment.
Will the proposed activity or the land use associated with the activity applied for, result in unacceptable opportunity costs?	No	The proposed consent uses will not in any way result in unacceptable opportunity costs.
Will the proposed land use result in unacceptable cumulative impact.	No	The proposal will not have any adverse impact on the society and the environment.

### 7.1 Services

The subject property is located outside the urban edge of Stanford and can therefore not connect to all municipal services provided by the Overstrand Municipality.

A water main line to and sewerage main line from the Stanhaven development, located across the R326 is traversing the property and the required servitudes were registered for this purpose.

#### 7.1.1 Water

As the subject property falls outside the urban edge of Stanford, no municipal water will be provided for the development and water will have to be supplied from the following two sources:

##### 7.1.1.1 Ground Water:

A General Authorization of 275 m<sup>3</sup> of water per hectare per annum is applicable to the subject property. The availability of groundwater was investigated and the owners appointed Cape Geophysics to do a study in this regard and the following provisional report has been received from Mr De Klerk of Geophysics:

*Brecciatorp sediments (mostly sands) reach a depth of approximately 4m in some areas on the property. Three positions were targeted for well point jacking.*

*Well points were drilled and two of them were pumped giving a cumulative yield of 500 litres per hour.*

Most of the agricultural crops proposed to be planted on the subject property will be dry-land crops such as vines, olives and almonds.

The water available under the General Authorisation will mainly be used for the hydroponic farming and plant nursery operations proposed in the tunnels.

##### 7.1.1.2 Rainwater:

A system will be installed on the property whereby all the rainwater from the roofs of all buildings (3000m<sup>2</sup>) will be collected and directed into an underground tank located under some of the buildings and to be used for the non-agricultural uses in the development.

Stanford receives an annual rainfall of approximately 500 mm per year and with sufficient storage facilities, will be able to supply the demand of the non-agricultural uses on the subject property.

#### 7.1.2 Sewage

Although the subject property is situated outside the urban edge of Stanford, the main sewerage line from the Stanhaven development across the R 326 traverses the subject property. In preliminary discussions with the engineering department of the Overstrand Municipality it was indicated that the connection of a sewerage line to the main line will be allowed and will be much more cost effective than rendering a service to empty conservancy tanks on the property.



### 7.2 Traffic impacts, parking access and other transport related considerations

Access to the subject property from the R 326, is gained from via access servitude. The parking configuration has been designed to comply with the Overstrand Zoning Scheme requirements and also to ensure maximum vehicular and pedestrian safety.

The Western Cape Government released a report with the title 'Basic Assessment for the Proposed Rehabilitation and Upgrading of Trunk Road 25 Section 2 (TR28/2) between Hermanus and Stanford' (refer Annexure C). The proposed rehabilitation and upgrading also includes a traffic circle at the Queen Victoria Street / TR28/2 intersection in Stanford for traffic calming and safety purposes.

Below is an extract from the document



The implication that this proposed rehabilitation has on the proposed development is that there is already a traffic calming mechanism proposed for the area. The additional traffic which will be generated on the subject property will benefit from this proposal.

### 7.3 Electricity

Electricity to the subject property will be provided by Eskom, but will be supplemented by solar energy.

## 8. ZONING

The subject property is zoned Agriculture Zone 1: Agriculture in terms of the Overstrand Municipality Zoning Scheme, 2013. The proposed development was evaluated for compliance with the development parameters of the zoning of the property:

Agricultural Zone 1: Agriculture (AGR1)			
	Zoning Scheme Parameters	Development proposal	Comply/deviate
Primary use	Agriculture, day care centre, dwelling house, guest rooms and home occupation.	Farmhouse, agricultural barn, staff accommodation	Comply
Consent use:	Additional dwelling units, agricultural industry, aquaculture, animal care centre, crèche, farm shop/stall, guest house, hotel, institution, intensive animal farming, intensive horticulture,	Guest house, intensive horticulture, plant nursery, additional dwelling unit, farm store	Comply

## ANNEXURE B 8/19

WRAP	MOTIVATION	
	mining, place of assembly, place of entertainment, place of instruction, plant nursery, riding stables, rooftop base station, service trade, tourist accommodation, <b>tourist facilities</b> , transmission tower, utility services, wellness centre and 4x4 trials.	Tourist facilities that includes a lecture room, gift shop, restaurant, picnic area and restrooms.
<b>Development rules</b>		
<b>Floor space</b>	The total floor space of all buildings on the land unit, may not exceed 5 000m <sup>2</sup> , provided that Council may relax this requirement if it is satisfied that such buildings are required for genuine farming activities on the land unit.	Dwelling house/guest house = 500m <sup>2</sup> Workers cottage = 3 x 50m <sup>2</sup> = 150 m <sup>2</sup> Additional dwelling unit = 250m <sup>2</sup> Lecture room = 500m <sup>2</sup> Gift shop = 100m <sup>2</sup> Farm store = 300m <sup>2</sup> Restaurant = 300m <sup>2</sup> Agricultural barn = 900m <sup>2</sup> Restroom = 60m <sup>2</sup> Chicken run = 200m <sup>2</sup> Horticulture and plant nursery = 3 x 200m <sup>2</sup> <b>Total extent of buildings and structures = 3660 m<sup>2</sup></b>
<b>Building lines</b>	Street building line is 10m Common boundary building line is 10m	10m Comply
<b>Height</b>	(i) The maximum height of a building, measured from the base level to the top of the roof is 8.0m provided that; (ii) Agricultural buildings other than dwelling units shall not exceed a height of 12m measured	(i) 8m (ii) 12m comply (ii) Comply Comply

## ANNEXURE B 9/19

WRAP		MOTIVATION	
	<p>from the base level to the top of the roof, and where Council is satisfied that a greater height is necessary for the agricultural function of the building, it may permit such greater height, and</p> <p>(ii) Earth banks and retaining structures shall comply with 16.6, provided that earth banks and retaining structures, which in the opinion of Council are associated with bona fide agricultural activities, are exempt from the requirement of 16.6.</p>		
Parking	<p>Parking and access shall be provided on the land unit in accordance with 17.1</p> <p>Guest house 1 bay per bedroom/2 persons accommodated</p> <p>Dwelling 2 onsite parking bays per dwelling unit provided that on erven less than 400m<sup>2</sup> only one onsite parking bays needs to be provided.</p> <p>Conference centre 1 bay per 2 seats</p> <p>Shop 6 bays per 100m<sup>2</sup> GLA</p> <p>Restaurant 6 bays per 100m<sup>2</sup> GLA</p>	<p>Guest house 5 bedrooms = 7 bays</p> <p>Workers cottages 3 cottages = 6 bays</p> <p>Additional dwelling unit = 2 bays</p> <p>Conference centre/lecture room 50 seats = 30 bays</p> <p>Gift shop 100m<sup>2</sup> = 6 bays</p> <p>Farm store 300m<sup>2</sup> = 18 bays</p> <p>Restaurant 300m<sup>2</sup> = 18 bays</p> <p><b>Total bays required = 85 bays</b></p> <p><b>Total bays provided = 89 bays.</b></p>	Comply
Additional dwelling units	<p>The Council may approve additional dwelling units in Agricultural Zone I provided that:</p> <p>(a) The additional dwelling units shall remain on the same cadastral units as the primary dwelling unit.</p> <p>(b) The number of additional dwelling units shall not exceed the 1 unit per 10.0 ha, up to a</p>	<p>(a) The additional dwelling unit is on the same cadastral unit.</p> <p>(b) 1 additional dwelling unit is proposed.</p> <p>(c) N/A</p>	Comply

## ANNEXURE B 10/19

WRAP		MOTIVATION
Farm shop/stall	<p>maximum of 5 additional dwelling units per land unit; and</p> <p>(c) No additional dwelling units may be erected within 100m of the high water mark on the coast, other than where additional dwelling units are provided as an integral part of an existing farmstead or with the special consent of Council.</p> <p>The council may approve a farm shop provided that:</p> <p>(a) The maximum floor area is 300m<sup>2</sup></p> <p>(b) The maximum height does not exceed 8,0m, measured from the base level to the top of the roof;</p> <p>(c) Sufficient parking is provided to the satisfaction of Council; and</p> <p>(d) The access requirement of the relevant roads authority must be complied with.</p>	<p>(a) The proposed farm shop is 300m<sup>2</sup></p> <p>(b) The height shall not exceed 8m.</p> <p>(c) More parking than the minimum is provided.</p> <p>(d) The proposal will be forwarded to the Department of Transport for comment.</p> <p>Comply</p>
Agricultural Industry	<p>The Council may approve an agricultural industry, if it is satisfied that the proposed use or activity is desirable, provided that:</p> <p>(a) The area affected by the agricultural industry must be clearly identified on a land survey diagram or other plan prepared by a suitably qualified person to Council's satisfaction, and endorsed by Council; and</p> <p>(b) The following development rules apply</p> <p>(i) A site development plan, must be submitted to Council's satisfaction in terms of 16.3, for all new development or extensions within an area determined in terms of (a) above; and</p> <p>(ii) Parking and access shall be provided on the identified portion in terms of Chapter 17, provided that Council may require additional parking and loading requirements in response to the operational requirements of a particular agricultural industry</p>	<p>No agricultural industry is proposed.</p> <p>Comply</p>
Guest rooms	<p>The following provisions shall apply where a portion of a</p>	<p>(a) Comply</p> <p>(b) Comply</p> <p>Comply</p>

## ANNEXURE B 11/19

WRAP		MOTIVATION	
	<p>property is used for the purposes of guest rooms or where rooms are let by an occupant of that property to paying guests or lodgers.</p> <p>(a) No more than two rooms per property shall be used for the bedroom accommodation for paying guests or lodgers, and no more than 5 guests or lodgers shall be supplied with lodging of meals at any one time.</p> <p>(b) Guest rooms may not be converted to, or used as, separate dwelling units, and there shall be no cooking facilities in the guest rooms, apart from a kettle.</p> <p>(c) Meals shall only be supplied by the landowner or manager to guests or lodgers who are staying at the property.</p> <p>(d) No advertising sign shall be displayed without the written approval of Council other than a single un-illuminated sign or notice affixed to the building or boundary wall or fence, and such sign must be in line with the Overstrand Signage By Law; and</p> <p>(e) One on-site parking bay shall be provided per guest room.</p>	<p>(c) Comply (d) Comply (e) Comply</p>	
Day care centre	<p>The following provisions shall apply where a portion of the property is used by the occupant of the property for the purposes of a day care centre:</p> <p>(a) No more than 5 children are permitted at any one time;</p> <p>(b) A register of children must be kept, and completed, and the register must be produced for inspection on the request of Council;</p> <p>(c) The services shall be primary day care or educational and not medical;</p> <p>(d) The hours of operation shall be restricted to 07h00 and 18h00 from Mondays to Friday and from 07h00 to 13h00 on Saturdays;</p> <p>(e) The proprietor of the day care centre shall reside on the property;</p> <p>(f) No more than two assistants</p>	N/A	N/A

## ANNEXURE B 12/19

WRAP			MOTIVATION
Home occupation	<p>may be employed at the day care centre; and</p> <p>(g) The minimum indoor and outdoor play space shall be provided as follows: Indoor play space is 1,5m<sup>2</sup> per child. Outdoor play space is 2,0m<sup>2</sup> per child.</p> <p>The following provisions shall apply where a portion of the property is used for the purposes of home occupation:</p> <p>(a) The dominant use of the dwelling house or dwelling unit shall be for the living accommodation of a single family;</p> <p>(b) The total area used for a home occupation shall not exceed 25% of the total floor area of the buildings on the property;</p> <p>(c) No more than 5 persons in total shall be engaged in home occupation activities on the property, including the occupants or the occupant and any assistants;</p> <p>(d) No portion of such dwelling, and no home occupation shall be used for the purposes of noxious trade, risk activity or sale of alcoholic beverages;</p> <p>(e) No advertising sign shall be displayed without the written consent of the Council other than a single un-illuminated sign or notices affixed to the building or boundary wall or fence, and such sign must be in line with the Overstrand by-law relating to outdoor advertising and signage;</p> <p>(f) The storage of products, goods, or supplies connected to the home occupation shall be inside a building or screened from neighbours and public streets;</p> <p>(g) The hours of operation are restricted to 07h30 and 17h30 Monday to Friday and 7h30 to 13h00 on Saturdays;</p> <p>(h) Onsite parking must be provided to the satisfaction of Council, provided that at least two onsite parking bays are provided;</p>	N/A	N/A

WRAP	MOTIVATION		
	(i) No more than one vehicle, not exceeding 3 500 kg gross weight, shall be utilised for the home occupation; and (j) The Council may impose additional conditions in order to minimise any potential public nuisance.		
Site development plan	Council may require that a site development plan be submitted for approval in accordance with 16.3.		

#### 9. SPATIAL PLANNING INITIATIVES

The consistency of the proposed consent use application was assessed within the existing spatial planning initiatives. This is to ensure that the development does not deviate from the spatial planning initiatives and is in line with the structure form that is envisaged by Local and Provincial Authorities.

##### Provincial Spatial Development Framework 2014 (PSDF)

The aim of the PSDF is to give spatial expression to the national and provincial development agendas and serves as a basis for coordinating, integrating, and aligning ground delivery of national and provincial departmental programmes. The framework also aims to communicate the government's spatial development intentions to the private sector and civil society. This section will outline how the proposed consent use application is aligned with the aims of the PSDF.

The PSDF outlines that the rural space economy is not only about agricultural development but is about a broad based agrarian transformation, diversifying rural economic activities, tourism and not harming functional eco systems. In line with the PSDF strategy for opening up opportunities in the rural space economy the following dimensions exist.

Dimensions	Alignment of the proposal with the dimensions
Accommodating a greater diversity of compatible land use activities on farms and in the rural landscape in general. Compatible activities are those that do not compromise biodiversity, farming activities, cultural and scenic landscapes, and are of an appropriate scale and form to fit in with their context in the rural landscape (as specified in the to be updated 2009 PSDF Rural Land Use Planning and Management guidelines).	The intention of the proposed development is to diversify the land uses on the subject property with agricultural zoning in the rural landscape of Stanford. The proposed intensive agriculture, plant nursery, guest house, lecture room, gift shop, farm store, restaurant and picnic area seeks to create compatible land use activities that will add value to the agricultural zoning of the property. It is also proposed that some crops be planted on the farm and also in the proposed intensive agriculture area to complement the other proposed land uses. The buildings proposed are designed to fit into the rural character of the town and the rural zoning of the land (refer <b>Plan 5</b> ). The proposed land uses will not compromise on the cultural landscape that exists in the area.

WRAP

MOTIVATION

<p>Channeling public investment in rural development initiatives to areas where it can offer real and sustained improvements to beneficiaries and the rural community.</p>	<p>The proposal does not include the channeling of any public investment into the subject property but does include the channeling of private investment into the subject property with the intention of providing real and sustained improvements to beneficiaries and the rural economy. Below are the benefits that the proposal will offer to those that are unemployed.</p> <ul style="list-style-type: none"> <li>• The construction phase of the proposal would lead to the creation of temporary jobs.</li> <li>• The proposed guesthouse, intensive horticulture, plant nursery, lecture room, gift shops, farm store and restaurant will lead to the creation of permanent jobs.</li> <li>• The skills development of the employees will also potentially contribute to the unlocking of the entrepreneurial skills of the workers.</li> <li>• The employees that would have been unemployed would also have a sustainable income that would lead to the livelihoods of the employees and their families improving.</li> <li>• The proposed development will also contribute to making the rural area more prestigious with some tourist related activities.</li> </ul> <p>The prime objective of the proposed development is to channel private investment into this rural community and create real and sustained improvements to the beneficiaries and the rural economy.</p> <p>The proposed development will also result in the circulation of fresh capital into the rural economy that would have positive economic spinoffs for the broader value chain of the town and rural area.</p>
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#### Overstrand Spatial Development Framework (SDF)

The objective of the SDF is to formulate strategic spatially based policy guidelines and proposals where the needs, changes and growth in the area can be managed to benefit the inhabitants and the environment in the Overstrand Municipality. The SDF is guided by a set of objectives and this section will assess the consistency of the proposed consent use application with these core objectives.

The SDF describes Stanford as a historical rural village, which increasingly functions as a tourism destination and retirement town. The intention of the proposed development is for



## MOTIVATION

the proposed tourist facilities, guest house, intensive horticulture and plant nursery to complement the character of the rural village.

This table contains the local spatial development principles:

Local spatial development principles	Alignment of the proposal with the local spatial development principles
Promote conservation of the historic townscape	Stanford is a historical rural village which increasingly functions as a tourist destination. The intention of the application is to provide some tourist facilities, a guest house and have farming activities on the property with the intention that the proposed development contribute to maintaining the historic townscape of the area. The location of the subject property adjacent to the urban edge is also ideal as the proposed agricultural land uses and tourist facilities will contribute to creating a transition from inside the urban edge to the farms of Stanford. The historic townscape will not be affected.
Promote rural tourism development based on the ecological and heritage value of the region.	The application seeks to promote rural tourism and also have some crops on the subject property to ensure that the rural character that exists on the subject property is not scarred.
Promote a balanced mix of residential development.	The proposal includes a dwelling house with 5 lettable rooms for the guest house, additional dwelling and workers cottages which will provide accommodation that is appropriate and balanced within the context of the agricultural zoning of the subject property.
Promote Stanford as a retirement and tourism village.	The proposal does not include a retirement village but does seek to contribute to enhancing and capitalising on the tourism potential that exists on the subject property and contribute to promoting Stanford as a tourism destination.

## 10. PLANNING PRINCIPLES

The proposal was analysed for consistency with planning principles and also to provide a recommendation to the Municipality for the development. These spatial planning principles are in terms of Section 42 of the Spatial Planning and Land Use Management Act, 2013 and also Chapter VI of the Land Use Planning Act, 2014.

Below are the spatial principles and the consistency of the proposed development with these planning principles:

Planning principles	Consideration and impact
<b>Spatial Justice</b> "Refers to the need to redress the past apartheid spatial development imbalances and aim for equity in the provision of access opportunities, facilities, services and land."	The intention of the proposed development is to contribute to addressing past apartheid spatial development imbalances by providing the unemployed residents in Stanford with employment opportunities within close proximity instead of the prospective employees travelling an extended distance to Hermanus to access employment opportunities.
<b>Spatial Sustainability</b> "A spatially sustainable settlement will be one which has an equitable land market,	The proposal can be deemed to be spatially sustainable as it as it intends on promoting

## ANNEXURE B 16/19

WRAP	MOTIVATION
<p>while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscape and ultimately limits urban spread."</p>	<p>farming activities on subject property without adversely impacting on environmentally sensitive and biodiversity rich areas and cultural landscape.</p>
<p><b>Efficiency</b> "Efficiency refers to the need to create settlements that optimise the use of space, energy, infrastructure, resources and land."</p>	<p>The subject property is ±3.3ha in extent and has little agricultural potential due to its size and the limited availability of water. It is however the intention of the application, in addition to some farming activities on the subject property, to have some tourist related facilities that are designed in a manner of being in harmony with the proposed agricultural setting. The intensive agriculture proposed will maximise on the available resources.</p>
<p><b>Spatial Resilience</b> Spatial resilience in the context of land use planning refers to spatial plans, policies and land use management systems should enable the communities to be able to resist, absorb and accommodate these shocks and to recover from these shocks in a timely and efficient manner.</p>	<p>The Department of Environmental Affairs and Development Planning (DEADP) and the Overstrand Municipality have compiled spatial policies that promote resilience in land use management. As the motivation in the spatial planning initiatives has proven the proposed development is well aligned with the different planning frameworks as set out by the competent authorities and promotes resilience. The fact that the subject property is spatially resilient will enable it to absorb and accommodate shocks whether they are economic or environmental in a timely and efficient manner.</p>
<p><b>Good Administration</b> Good administration in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure a joint planning approach is pursued.</p>	<p>The Overstrand Municipality has integrated consultative planning processes whereby the application is advertised to the general public and comments on the application are made. All relevant departments are also afforded the opportunity to comment on the application. WRAP will respond to such comments and this will ensure that a joint planning approach is pursued.</p>

## 11. ARCHITECTURE

It is the intention of the owners that the buildings proposed on the property are to be aesthetically, in no way contrary, to or inappropriate with the existing architectural character in the context of Stanford, the Overberg and the greater rural Southern Cape region.

To this end, buildings will comprise of major and/or minor built forms. Major forms being in excess of 5,00 in width with double pitched roofs of 35 degrees. Minor forms to be roofed with "Lean-to" structures not exceeding 15 degrees in pitch.

Roof coverings to be Victorian profile or Kliplok sheeting and charcoal in colour.

WRAP

MOTIVATION

Fenestration, in the main, to be of vertical proportion, with fenestration voids not exceeding 30% of solid elements.

Masonry to be plastered and painted in no more than pale shades of "earth tones" or broken white, or white.

Site paving will either be local gravel, local quarry stone chips, brick or "concrete grass".

The planting of indigenous plants will be encouraged.

#### 12. VALUE CHAIN

The proposed development of a guest house, intensive horticulture, plant nursery, additional dwelling unit, lecture room, gift shop, farm store and restaurant seeks to contribute to Stanford which increasingly functions as a tourist destination. The value chain analysis comprises of travellers who plan their trips, spend on travelling, would stay at the proposed guest house, consume food at the proposed restaurant and other restaurants in the town, and make use of the proposed conference facility, purchase items at the proposed gift shop, farm shop and other local markets in Stanford. This is the broader value chain of tourism that the proposed development will contribute to and will lead to additional income streams of other businesses in Stanford and will contribute to broader economic development in the town and rural areas of Stanford, beyond the financial benefits that will be derived by the property owner and employees.

The proposed development will therefore contribute to broader economic development in Stanford and surrounding rural areas and enhance the increasing role that Stanford plays as a tourist destination. This is therefore aligned with the intention of the Overstrand Municipality of having infrastructure within the municipal area that will contribute to economic development in a manner that is within the parameters of sound town planning principles.

#### 13. EVALUATION AND CONCLUSION

The following essential elements make the proposed development viable and practical on the subject property:

##### Title deed

- There are no title deed restrictions that prohibit the proposed development.

##### Desirability

- The proposal is desirable as there is a need for additional tourist related facilities in Stanford. The approval of the application will not compromise on the existing SDF and IDP and the proposal will not negatively impact on sensitive natural or cultural areas and will not result in unacceptable opportunity cost.

##### Services

##### Water:

- Water from well points will be used within the abstraction capacity allowed in terms of the General Authorisation to irrigate the agricultural crops planted on the land and in the hydroponics tunnels.
- Water for all other uses will be provided from harvested and stored rainwater.



MOTIVATION

#### Traffic considerations

- Access to the subject property will be gained from R326 by means of existing access servitude opposite the access to the Birkenhead Brewery. The parking configuration proposed is compliant with the parking requirements of the Municipality and is designed in a manner to ensure maximum pedestrian and motorist's safety.

#### Electricity

- Electricity to the subject property will be provided by Eskom, supplemented by solar energy.

#### Zoning

- The proposed land uses are provided for under the consent uses of the agricultural zoning of the subject property and the proposal also complies with all development parameters such as floor space, building lines, height, parking, additional dwelling unit and farm shop.

#### Spatial planning initiatives

- The vision of the proposal is to diversify the rural economy with the proposed tourist facilities, guest house, intensive horticulture and plant nursery with the intention of making the subject property more resilient during times of economic volatility as prescribed by the PSDP. The proposal also seeks to offer real and sustained improvements to the beneficiaries and rural economy by creating jobs and contributing to economic growth in the rural town.
- The proposal is aligned with the SDF and seeks to preserve the character of Stanford which increasingly functions as a tourist destination. The proposal seeks to promote rural tourism and have some land available for agricultural purposes on the subject property.
- The proposal is well aligned with the planning principles as to promote spatial justice, spatial sustainability, efficiency, spatial resilience and good administration.

The proposed development will contribute to economic development in Stanford through having a development that will contribute to the increasing role of the town as a tourist destination and also have some agricultural land uses on the subject property. The proposed development can therefore be seen as practical, viable and within sound town planning principles.



## RECOMMENDATION

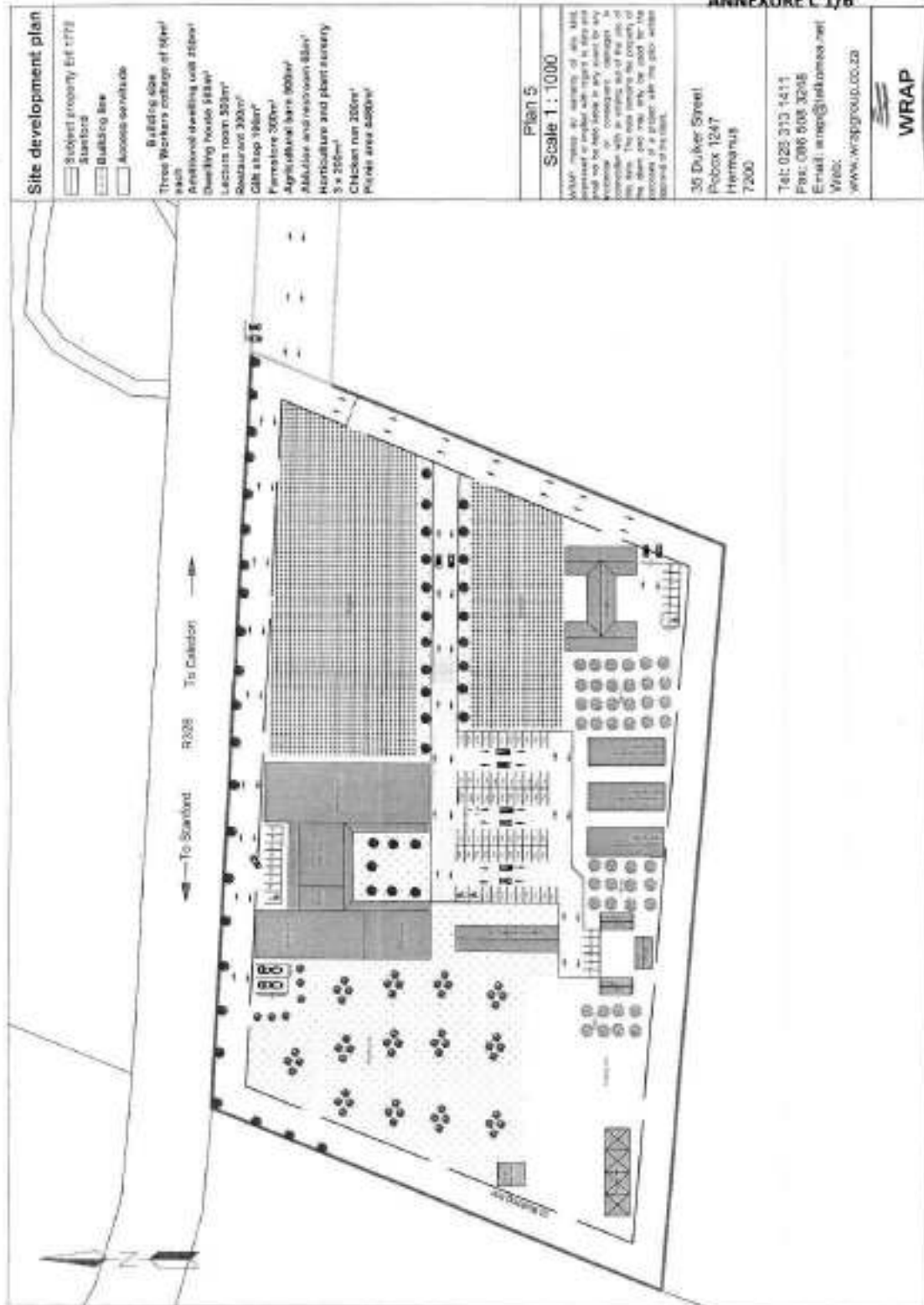
## 14. RECOMMENDATION

This motivation report has provided a clear analysis of the owner's intention to have a primary dwelling house, bona fide staff housing, intensive horticulture, plant nursery, additional dwelling, conference facility, gift shop, farm store, restaurant, agricultural barn, restrooms and a picnic area. It was also motivated why the proposed land uses create a complementary linkage with each other. The location of the proposed development adjacent to the urban edge will also create a transition into the rural area of Stanford. The proposal has also been proven to be viable and has tangible benefits for the community.

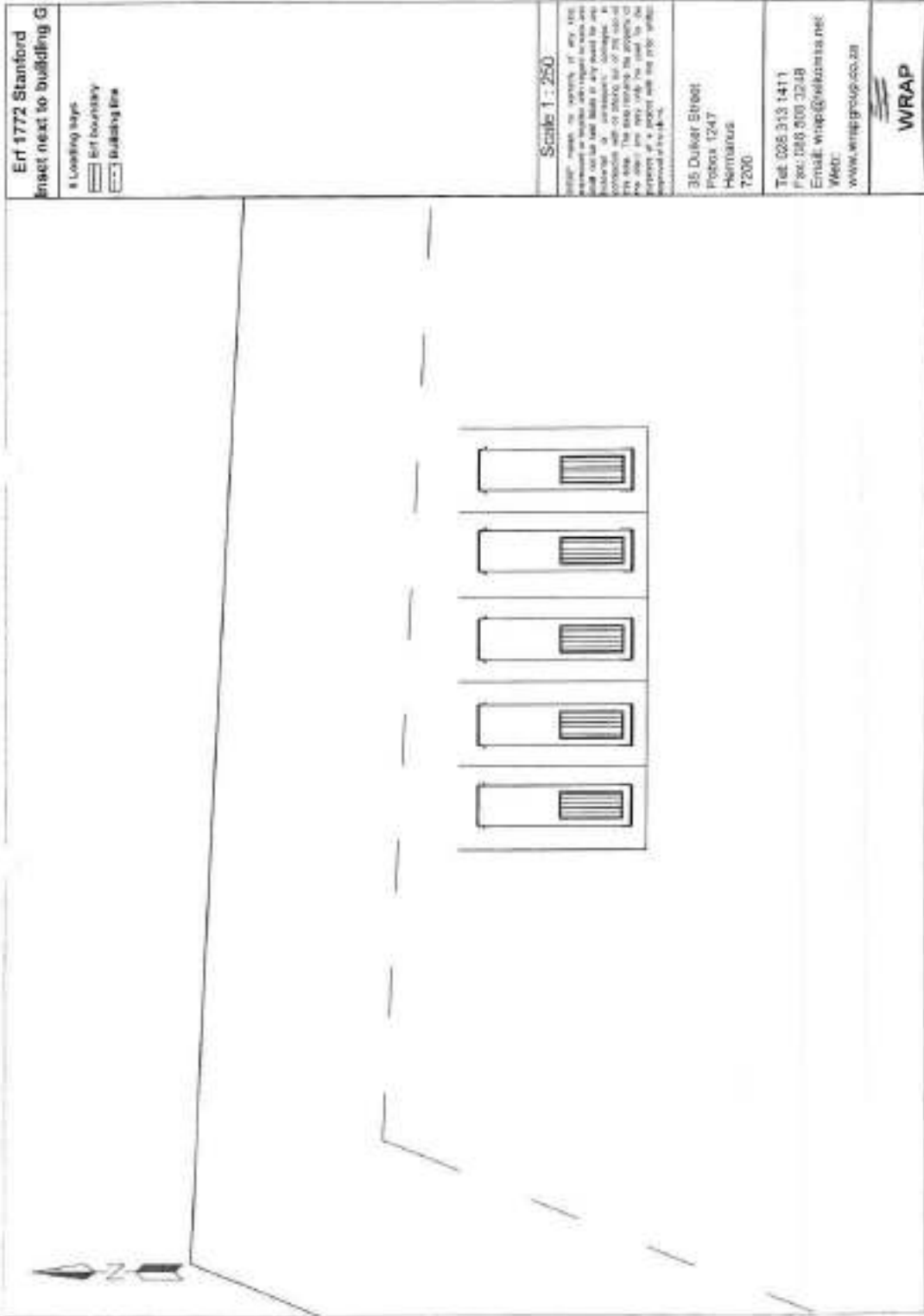
It was also motivated that the proposal is well aligned with the PSDF and SDF and can therefore be deemed to be in line with the spatial structure form that is envisaged by the Department of Environmental Affairs and Development Planning and the Overstrand Municipality Town Planning Department.

In light of the above, it is recommended that the following application be approved in terms of Section 16(2)(e) of the Overstrand By-Law on Municipal Land Use Planning, 2015:

- **Consent use** for a guest house with 5 lettable rooms;
- **Consent use** for intensive horticulture;
- **Consent use** for plant nursery;
- **Consent use** for an additional dwelling unit;
- **Consent use** for tourist facilities to accommodate a lecture room, gift shop, restaurant, picnic area and restrooms; and
- **Consent use** for a farm store.



ANNEXURE C 1/6



**Erf 1772 Stanford Street next to building G**

■ Loading bays  
 ▨ Erf boundary  
 ▭ Building line

Scale 1:250

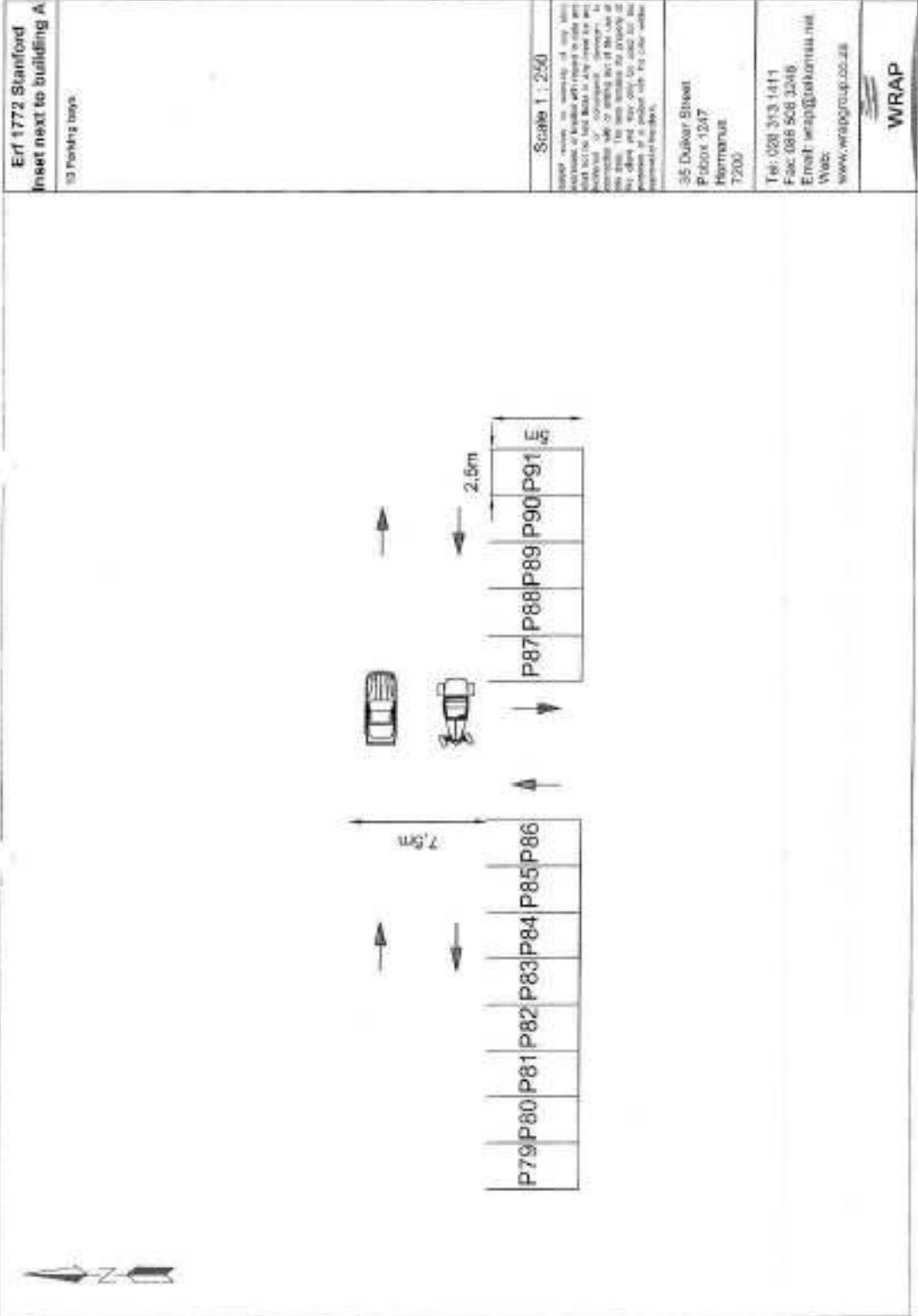
WRAP makes no warranty of any kind, express or implied, in regard to the accuracy or completeness of the information contained in this plan. It is provided for information only and should not be used as a basis for any decision. The user should consult a professional engineer or architect for advice on the use of this plan. The user shall be responsible for any errors or omissions in this plan. WRAP is not liable for any loss or damage, including consequential, arising from the use of this plan. The user shall indemnify and hold WRAP harmless from and against all claims, damages, costs and expenses, including reasonable attorneys' fees, arising from the use of this plan.

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 Postbox 1247  
 Helderberg  
 7200

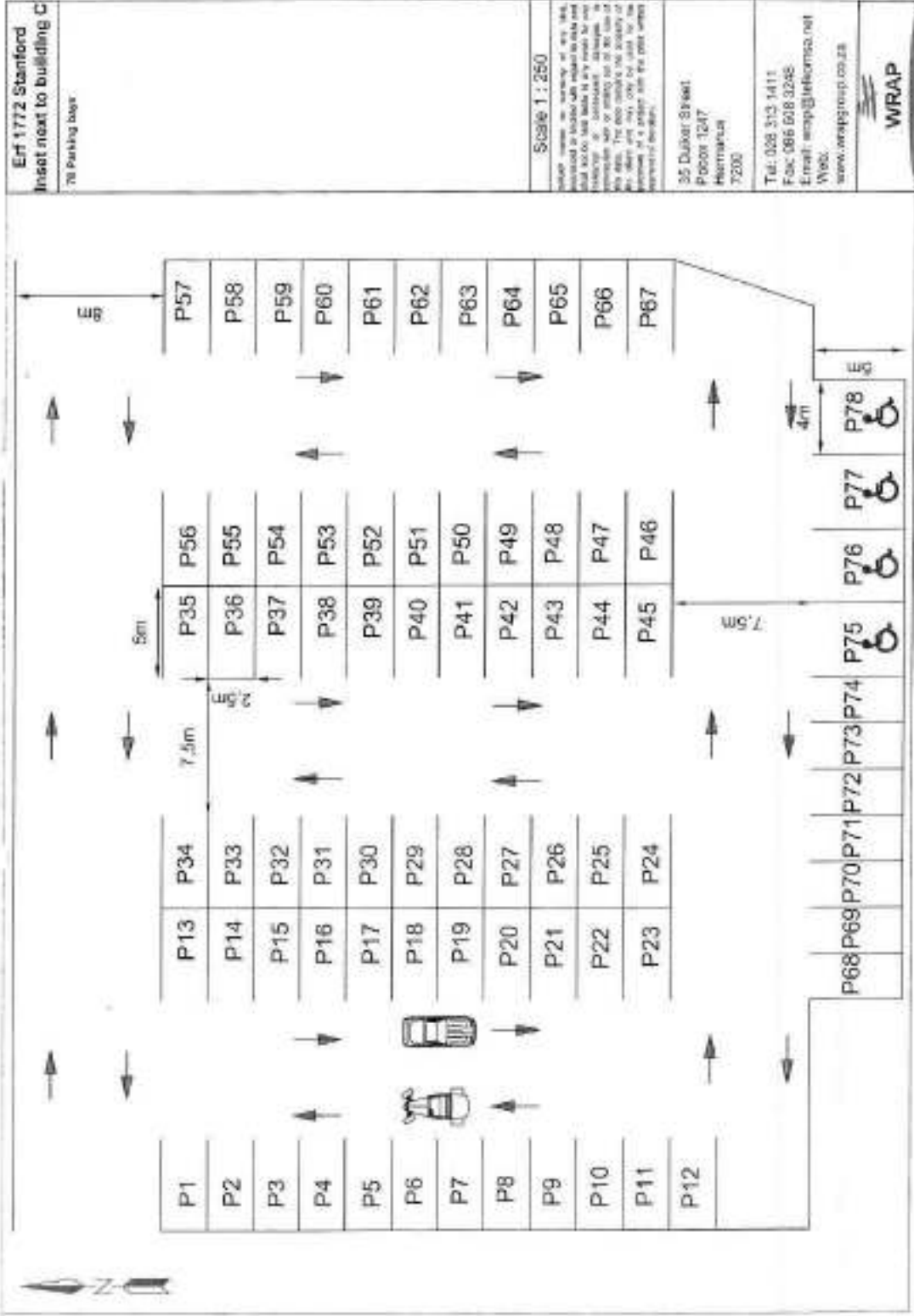
Tel: 028 313 1411  
 Fax: 028 313 3248  
 Email: [wrap@welkams.net](mailto:wrap@welkams.net)  
 Web: [www.wrapgroup.co.za](http://www.wrapgroup.co.za)

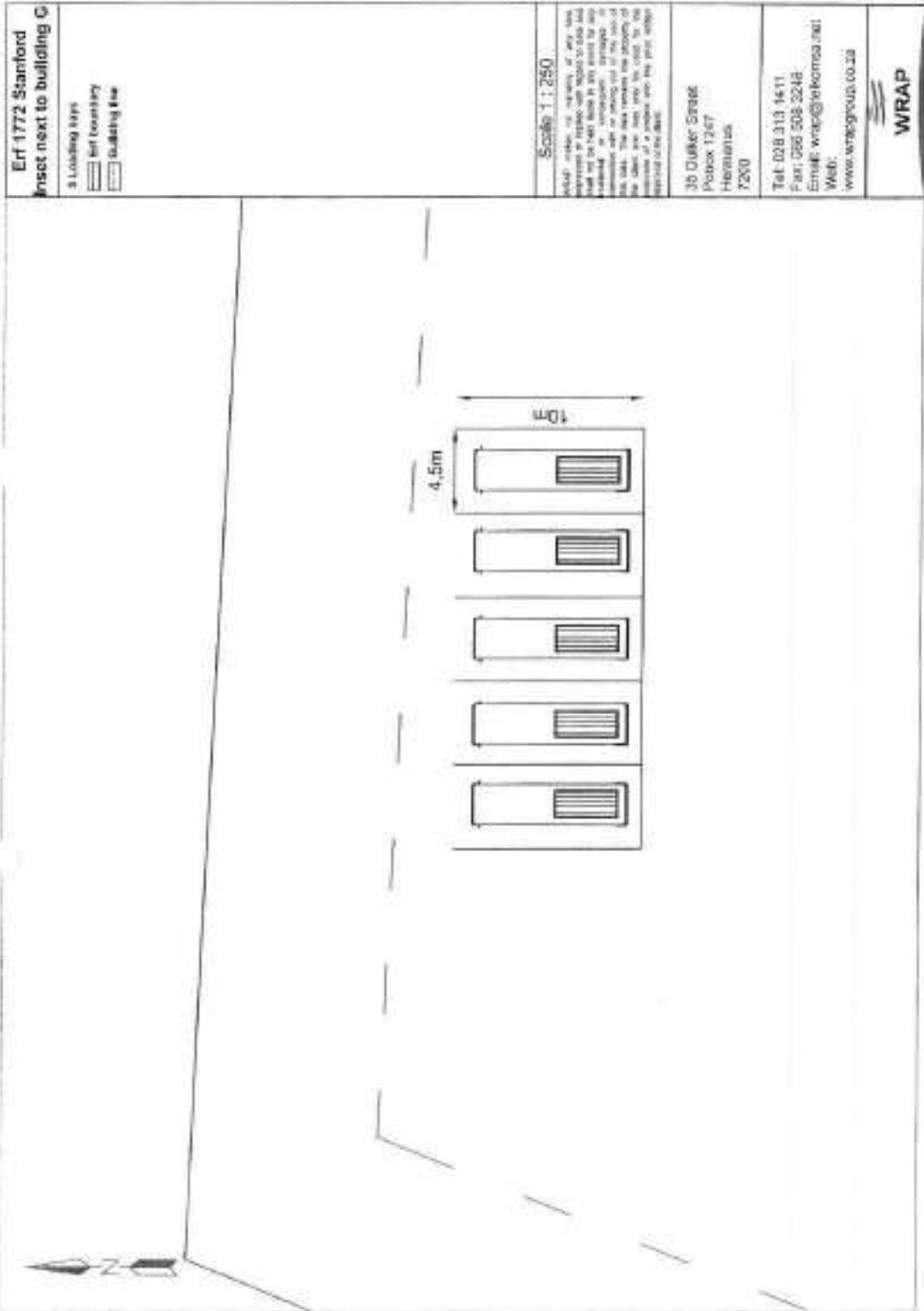


ANNEXURE C 3/6



ANNEXURE C 4/6





ANNEXURE C 6/6



**Access plan**

- Subject property RFR 1772
- Surround
- Access route to the property

Plan 4  
NTS

WRAP GROUP OF COMPANIES  
 35 Duker Street  
 P.O. Box 1247  
 Hemmant  
 7200

Tel: 020 113 1411  
 Fax: 086 503 5349  
 Email: [wrap@elkomsa.net](mailto:wrap@elkomsa.net)  
 Web: [www.wrapgroup.co.za](http://www.wrapgroup.co.za)



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 Hemmant  
 7200

TR A Theart  
(S vol 1/100)



Alida Conradie - Erf 1772 ,R326 road , Stanford

**From:** Chris Wolf <chris@ips.co.za>  
**To:** "alida@overstrand.gov.za" <alida@overstrand.gov.za>; "petrusroux@overstr..."  
**Date:** 2017/04/15 10:38 AM  
**Subject:** Erf 1772 ,R326 road , Stanford  
**Cc:** "Liz Hochfelden (lizhochfelden@gmail.com)" <lizhochfelden@gmail.com>; "1..."

Reference – Municipal notice No. 4/2017 published in the Hermanus Times.

Object in the strongest terms to the inappropriate submission being made under 'consent use'. It is a misuse/abuse of consent use.

- The vacant land was recently purchased
- Adjacent properties conduct viable farming activities
- The applicant submits, in motivation, that the land is unviable for farming. Economic viability, in itself, is not sufficient reason for a change of use.
- Given the above points and the detail of the submission it is abundantly clear that the applicant bought the land with the distinct intention of a business venture with 'farming' being the last on the list. This is a brand new commercial development and should be treated as such.
- If properly zoned the development would attract the correct rates and taxes as business premises.
- The current application, as submitted, should be withdrawn/ denied and a fresh submission should be made under REZONING, accompanied by detailed drawings including the position and layout of all proposed buildings.

It is a complete mystery how Overstrand Town Planning Department even contemplated, never mind accepted, the application under the guise of 'consent use'

Kind regards

Chris Wolf  
083 455 3605

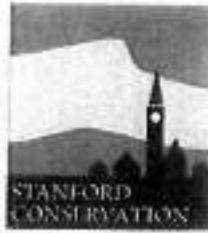
FILE NO:	E2 1772
	Stanford
SCAN NO:	01
COLLABORATOR NO:	1014465

15 APR 2017

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ANNEXURE D 2/6

FILE NO:	EL1772 Stanford
SCAN NO:	14
COLLABORATOR NO:	1011429



Heritage Committee



TR A Theart  
(S. v. d. v. e. v. e.)

PO Box 539 STANFORD 7210 lizhochfelden@gmail.com 028 341 0164 www.stanfordconservation.co.za

3<sup>rd</sup> April, 2017

Overstrand Municipality  
Town Planning  
Hermanus

Attention: Ms A. Conradie, by e-mail: [aida@overstrand.gov.za](mailto:aida@overstrand.gov.za)

Dear Sirs

Erf 1772, R326 Road, Stanford: Town Planning – Consent Use

We refer to Municipal Notice no. 42/2017 published in the "Hermanus Times".

This undeveloped site is located within the rural area managed by Overstrand Municipality's Stanford Administration office.

We have reviewed the Notice of an application for consent use, together with the motivation report presented by Wright Approach Consulting on behalf of the owner, to accommodate:

- A guesthouse with 5 lettable rooms (incorporated as part of the primary dwelling house);
- Intensive horticulture;
- A plant nursery;
- An additional dwelling unit;
- Tourist facilities that include a conference facility or lecture room, a gift shop, a farm shop, a restaurant, a picnic area, and rest-rooms; and
- A farm store.

The proposal includes primary farm rights to accommodate:

- A primary dwelling (to incorporate the guesthouse);
- Three staff cottages;
- An agricultural barn; and
- A chicken run.

We have the following comments on this proposal:

1. We have, in principle, no objection to the granting of consent use;
2. However, we have not seen a formal presentation of working drawings (building plans) relating to this proposal; and

8 APR 2017

## ANNEXURE D 3/6

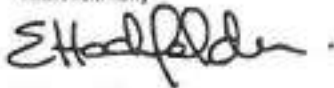
3. This site is highly visible from the road and is visible from Stanford's Urban Conservation Area (UCA) (deemed a Heritage Area in terms of Section 58 (1) of the National Heritage Resources Act (NHRA) of 1999). The proposed construction of the tourist facilities to a height of 8 Metres and the agricultural barn to a height of 12 Metres will significantly alter the views of and from the UCA. In addition, there are various other aspects of the proposed structures as illustrated in this consent use application that we would not support. These could be dealt with upon presentation of building plans.

The Stanford Heritage Committee is a registered Conservation Body in terms of the National Heritage Resources Act, and must be afforded the opportunity to comment on all development proposals on sites greater than 5000 Square Metres in extent within the rural area managed by Overstrand Municipality's Stanford Administration office. We expect to see a full set of working drawings (building plans) relating to this proposal. Only then will we be able to comment properly on the proposal.

The proposal will then have to be presented, together with our comments, to Heritage Western Cape (HWC) for a ruling in terms of the National Heritage Resources Act.

The local authority will not be able to issue the requested consent use permit until such time as HWC have made a ruling.

Yours faithfully



**Liz Hochfelden**  
Chair

c.c. Ms N. Cornelius, Stanford Administration

FILE NO:	EL 1772 Stanford
SCAN NO:	02
COLLABORATOR NO:	1014490



P O Box 539, Stanford 7210  
Email: stanfordconservation@gmail.com



TP: A Theart  
(S. de Merwe)

2017-04-17

Overstrand Municipality  
PO Box 20  
Hermanus  
7210

Attention: Ms A. Conradie, by e-mail: [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)

Dear Ms Conradie

Erf 1772, R326 Road, Stanford: Town Planning – Consent Use

We refer to Municipal Notice no. 42/2017 published in the "Hermanus Times".

Stanford Conservation has reviewed the application and supports the application for consent use.

We do, however, have a number of concerns regarding the motivation, site plan and design sketch plans attached to the proposal. The following is of grave concern and is requested to be addressed before approval is granted (especially as the said property has an ERF number and not a farm portion number). A reply on the concerns would also be appreciated, if possible.

1. Stanford is a proclaimed heritage village and any development on an Erf in close proximity of the village will have a direct bearing on the character of the historical village. The proposed industrial design submitted with the application is not supported and it is recommended that the developers consult with the Stanford Heritage Committee (SHC) regarding a more sympathetic style. It is recommended that the developers present their proposals for discussion with the SHC and that town planning approval is subject to these discussions. Furthermore, because of its close proximity to a heritage village, it is requested that the final plans should be submitted to SHC for comment before being submitted to Heritage Western Cape for approval.
2. The R326 on which the development is located is part of the Overstrand scenic route overlay zone being finalised at the moment. Various design recommendations (including signage, height, form and rural landscape) are part of the overlay zone and it is recommended that town planning approval is subject to

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Stanford Conservation Trust is a registered NPO No. 024-867

17 APR 2017

## ANNEXURE D 5/6

these recommendations being incorporated into the final design – especially as the development is set very close to the R326 and will have an immediate visual impact that cannot easily be mitigated.

3. The existing town planning height restrictions for buildings other than agriculture on land zoned Agriculture 1 is 8m, and it is requested that all tourism-related designs (which includes the lecture room, farm stall, restaurant and dwelling units) adhere to this stipulation.
4. Although the footprint of the buildings is less than 5 000m<sup>2</sup>, the entire development footprint (parking included) is greater than 5 000m<sup>2</sup> and should therefore be approved by Heritage Western Cape (this excludes the approval of building plans, which follows a different process).
5. The development proposal states that 3 labourer's cottages of approximately 50m<sup>2</sup> each is a primary right. This is not in accordance with the 2014 zoning scheme regulations, which stipulate the following:
  - (a) **Primary uses** are: agriculture, dwelling house, day care centre, guest rooms, home occupation;

The developer furthermore requests a guest house with 5 lettable rooms. The zoning scheme stipulates that only 2 lettable rooms are allowed;

#### Guest rooms

- 5.1.6 The following provisions shall apply where a portion of a property is used for the purposes of guest rooms or where rooms are let by an occupant of that property to paying guests or lodgers:
  - (a) No more than two rooms per property shall be used for the bedroom accommodation for paying guests or lodgers, and no more than 5 guests or lodgers shall be supplied with lodging or meals at any one time;

It furthermore requests consent use for an additional dwelling unit of about 250m<sup>2</sup> for short and long term rentals – please use the correct name, which is tourism accommodation.

Furthermore, the zoning scheme states the following (3 labourer's cottages and 1 additional dwelling unit = 4 dwelling units on 3,3 hectare!)


- 5.1.3 The Council may approve additional dwelling units in Agricultural Zone I provided that:
  - (a) The additional dwelling units shall remain on the same cadastral units as the primary dwelling unit;
  - (b) The number of additional dwelling units shall not exceed the 1 unit per 10,0 ha, up to a maximum of five additional dwelling units per land unit, and
6. We do not agree with the desirability comment that the development will not have an impact on a sensitive cultural area. Stanford is a **proclaimed** heritage area, and any development within such close proximity thereto will have an impact. Please note that, although the type of development is supported, the development should complement the adjacent heritage character – especially as the intent is to start the development in within 10 metres from the R326, and not way back on the property where it can blend in with the environment. Hence the request for the developer to meet with the Stanford Heritage Committee before any final building plans are drawn up.
7. The owner's intent states that the property has limited water availability, which makes it not viable for agricultural development. How is it then viable to develop a major tourism development which uses much

## ANNEXURE D 6/6

more water? It also states that the rest of the land will be used for dry-land crops such as grapes, almonds and olives. Apart from the contradiction of not being viable for agriculture but then (also) being used for agriculture, it is impossible to not have to irrigate any of the proposed crops in summer (especially on the sandy Bredasdorp sediments/soil present on the property)]

8. Is the developer aware of the groundwater monitoring being done in the catchment area of the subsurface aquifer feeding The Eye? Unfortunately we do not have the time to access the developer's groundwater report, but the municipality should take note that a development of this nature proposed could affect the groundwater resource and should therefore request that it becomes part of the present monitoring programme and that all water abstraction (including from well points and/or boreholes on the property) must be metered with the information being provided to the monitoring committee/ municipality.
9. Notice 40243 of Government Gazette dated 2 September 2016 (Notice 538 of 2016 and effective as from March 2017) states that a general authorisation is only applicable for Schedule 1 (domestic) use. There furthermore is no existing lawful water use registered on the property. The development therefore requires a licence application from the B-G CMA.
10. It must be noted that the rainfall quoted in the report is an average. It does not rain in summer when the proposed crops require water. It also coincides with the busiest summer tourism season. All of this will place an additional burden on the area, which is mainly dependent on groundwater – hence the aquifer monitoring committee. We are of the opinion that the use of well points for a development of this nature will not be viable. How will this be addressed in future?
11. The report also states that there will be enough water because of sufficient storage facilities, but no mention is made of the type of storage facilities apart of the harvesting of rainwater. How large will the underground rainwater harvesting tanks be to store winter rainwater for use in from December – April when it is needed? Once again your attention is drawn to the afore-mentioned Government Gazette with regard to the storage of water.
12. Municipal water is available on site (albeit at cost). Has this been considered as an option?
13. All reference to a lapsed environmental authorisation on the property is irrelevant and should be ignored.
14. As it seems that the proposed development does not trigger any listed activity in terms of the National Environment Management Act (NEMA) which would afford the Stanford community the opportunity to provide comments as part of a public participation process, it is of paramount importance that the town planning approval is subject to, or the developers are requested to consult with the local community, the Stanford Heritage Committee, DHAC and Heritage Western Cape to obtain their input into a development that will have a direct bearing on Stanford.

Yours faithfully



Bea Whittaker

Chair, Stanford Conservation Trust



ANNEXURE E 1/4



TP-A Theart  
(S vld Merwe)

ESTABLISHED  
2002

Town and  
Regional  
Planning

Municipal  
Legislation  
and Procedures

Liquor  
Licensing

Development  
Management

30 Dulker Street  
P.O. Box 1247  
Hermanus  
7200

Tel: +27 (0)28 315 1411

Fax: +27 0655033248

Email:  
[wrap@telkomsa.net](mailto:wrap@telkomsa.net)

Web:  
[www.wiandrusp.co.za](http://www.wiandrusp.co.za)

Wright Approach  
Investments 136 CC

Reg No  
CX 2002/020745/23

Our Reference: 16/007  
Your Reference: 1772 SSS (3543)

26 June 2017

The Municipal Manager  
Overstrand Municipality  
P.O. Box 20  
HERMANUS  
7200

Sir

FILE NO:	EL 1772 Stanford
SCAN NO:	15
COLLABORATOR NO:	1046711

**ERF 1772 STANDFORD: APPLICATION FOR CONSENT USE; COMMENT ON OBJECTIONS**

Your letter dated 26 April 2017, refers.

Objections/comments were received from the following persons and organisations/departments and we would like to respond as follows:

**Mr C Wolf, letter dated 15 April 2017.**

The objection was received late and was also not submitted according to the requirements contained in the Overstrand By-Law on Municipal Land Use Planning and should be rejected, but if you decide to still accept the objection, we would kindly submit the following response on each of the points raised.

- The vacant land was recently purchased.*  
This is a statement and not a point of objection.
- Adjacent properties conduct viable farming activities.*  
We don't dispute this statement.
- The applicant submits in motivation that the land is unviable for farming. Economic viability, in itself, is not sufficient reason for a change of use.*

Our motivation in the report that the land is unviable for farming is based on the size of the land, the soils and availability of water but this is a less important aspect and other issues as mentioned in the motivation is of far more importance.

TP  
2x-jim.02



4. *Given the above points and the detail of the submission it is abundantly clear that the applicant bought the land with the distinct intention of a business venture with farming being the last on the list. This is a brand new commercial development and should be treated as such.*

It is the privilege of any business entrepreneur to buy a property which is suitably situated and to apply for certain rights which will enable him to do a certain development. It is then for the Municipality to consider such an application on its merits, considering existing guidelines, studies and frameworks, and then to approve or turn down such an application.

5. *If properly zoned the development would attract the correct rates and taxes as business.*

In this case, a consent use application was done as prescribed in the Municipal Zoning Scheme but if approved a new valuation will be put on the land considering the rights that has been granted. The same procedure will be followed as in the case of a rezoning.

6. *The current application, as submitted, should be withdrawn/denied and a fresh submission should be made under REZONING, accompanied by detailed drawings including the position and layout of all proposed buildings.*

The rights applied for can be obtained by means of a consent use application in terms of the Municipal Zoning Scheme and it is therefore not necessary for a rezoning application. A comprehensive site development plan with sufficient information was included in the application.

#### **Stanford Heritage Committee letter dated 3 April 2017**

*The relevant Committee, in principle, has no objection to the application but requests that detail working drawings and building plans of the proposed development be submitted to them for evaluation and discussion, after which they will be in a position to comment fully on the application.*

The plans, style and elevations of the proposed buildings that were submitted with the application are sufficient for the Municipality to consider an application and detail working drawings and building plans will only be submitted when the application is approved and submission thereof forms part of the conditions of approval. As the compilation of such plans are a huge expense it is unreasonable to expect a developer to prepare such plans before the application is approved. We would therefore urge the Committee to consider the application based on the available plans.

#### **Stanford Conservation Committee, letter dated 12 April 2017**

*Due to the length of the letter we will comment on the various points separately:*

1. *The architect responsible for the drafting of the site development plan and artists impressions unfortunately died, but we believe it is sufficient for the Stanford Heritage Committee to provide comment on the style of the buildings in the proposed development. The building plans to be submitted after approval of the planning application will be available for scrutiny.*



2. This aspect will be dealt with by an Architect and incorporated in the building plans to be submitted after approval of the land use application.
3. The 8m height restriction will be adhered to.
4. The objector indicated that the development footprint is greater than 5000 m<sup>2</sup> and therefore a Notice of Intent should be submitted to Heritage Western Cape.

It is however important to note and measure the impact of the consent uses applied for which include the buildings and parking area. Primary uses such as the primary dwelling, agricultural barn, labourers cottages etc. should therefore be excluded from the calculation.

The footprint of the buildings for which a consent use is applied for, including the parking area is 3338 m<sup>2</sup>, which is below the 5000 m<sup>2</sup> which triggers the submission of a Notice of Intent in terms of the Heritage Resources Act.

5. The three labourers cottages are provided in terms of the definition for agriculture which makes provision for labourer's cottages and are considered as part of the primary rights.

What the objector doesn't understand is that we are applying for consent to operate a guest house with 5 lettable rooms in terms of the Zoning Scheme. Any owner of a dwelling house can use two rooms in his house for guests as stated in the letter but this is not applicable in this instance. Application for consent for an additional dwelling unit is also made and again this is in terms of the provisions of the Zoning Scheme.

Although we appreciate the objector's quotes from the Zoning Scheme we can assure her that our application is correctly done in terms of the parameters of the Zoning Scheme.

6. The objector supports the development but have concerns that the development will not complement the heritage character of Stanford. Here again it is for an Architect to discuss this with SHC when building plans are submitted for approval.
7. After submission of the application, the applicant further investigated the provision of services to the site and it was confirmed by Mr Harré Bignaut, Deputy Director Infrastructure and Planning, that a water and sewerage connection will be allowed to the premises for household purposes.
8. Noted
9. With the approval of a water- and sewerage connection to the premises, this comment is not relevant anymore.
10. Dealt with under paragraph 7.
11. Dealt with under paragraph 7.



12. As stated in paragraph 7, the Overstrand Municipality gave approval that a water and sewerage connection may be made to the property.
13. This provides background information to prevent questions from other interested and affected parties and should not concern the objector.
14. All the mentioned parties will be consulted in the public participation process.

**Department of Transport and Public Works, letter dated 3 April 2017**

Comment was received from the Department of Transport with regards to the provision of a Traffic Impact Statement (TIS). DECA Consulting Engineers were appointed to do a Traffic Impact Statement to address the concerns of the Department of Transport.

The TIS was submitted to the Department of Transport and their comment is awaited.

**Breede-Gouritz Catchment Management Agency, letter dated 10 April 2017,**

1. A letter of support is required from the Overstrand Municipality that Erf 1772, Stanford can be connected to the municipal sewerage network. This was confirmed in an e-mail from Mr Hanré Bignaut – see attached.
2. With the approval of the municipal water connection by the Overstrand Municipality, the provision of a Water Management Plan is not required.
3. Water to be used for domestic use will be supplied by the Overstrand Municipality.

We trust that you will accept our response as adequate to enable you to take an informed decision in this regard.

Yours faithfully

A handwritten signature in black ink, appearing to read "Pine Pienaar".

**PINE PIENAAR**  
 PRINCIPLE TOWN PLANNER (Pr. Pln. A409/B5)

ANNEXURE F 1/1



File reference:	3543
Date:	13.03.2017

## INTERNAL MEMORANDUM

From	: Town Planning Department
Town Planner	: P Roux

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 (D Coetsee)	Waste Management

Applicant	Wrap obo Sebume Tude Guest Services & More CC
Property Details	Erf 1772, Stanford
Application Description	Proposed Consent Use

ATTACHMENTS :

1. Notice	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.
2. Locality Plan	
3. Site & Ground Floor Plans	
4. Motivation	

YOUR DEPARTMENT'S COMMENTS:

Applicant should apply for a Health Certificate from oom for Accommodation Establishment in accordance with the Municipal Health By-Law. An application for a COA also needs to be completed for the Restaurant and preparation/selling of food	
Signature:	
Date:	24/03/2017

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 letter to accompany this memo. 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 Municipal 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: 13 April 2017
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ANNEXURE G 1/4



TR A Thant  
(Holivier)

Division of Telkom SA SOC Ltd

10 Jan Smuts Drive  
Pinelands  
7404

Candice Spammer

Tel: 021 414 5582  
Fax: 086 480 0617  
Email: spammecl@telkom.co.za

Our Ref.: WWP\_WSF02165\_17  
Your Ref.: 3543

20 April 2017

Attention: S Muller

Overstrand Municipality  
HERMANUS

**WAYLEAVE: PROPOSED CONSENT USE- ERF 1772, STANFORD**With reference to your application received 13 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 Dak Avenue, Highveld, Techno Park, Centurion 0157,  
Private Bag X881, Pretoria, Gauteng, 0001

S. S. S. S.

FILE NO:	EL 1772
	Stanford ✓
SCAN NO:	
COLLABORATOR NO:	1015917

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 OPTIC FIBRE 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

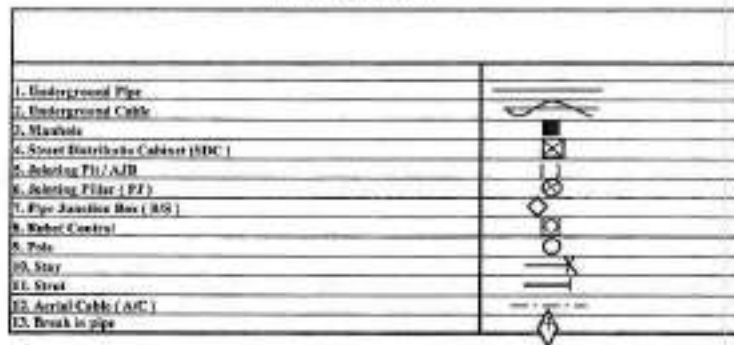
This wayleave, Reference Number **WWIP WSFD1165 17** is valid for 12 months from date here of and is subject to the following conditions:

1. No mechanical plant or vibrator type compactors may be used within three metres of any Telkom/Open Serve plant (i.e. any Telecommunication equipment above or below ground level).
2. The position of our plant affected by the proposal is indicated as approval mark and **Frederik Swart** at telephone number **081 363 7815** must be contacted at least 48 hours prior to commencement of the work, upon which the actual location of Telkom plant will be indicated on site.
3. A written request must be submitted to Telkom for consideration should the applicant require any 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 provided plans.
5. Should the applicant repair 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 indicated herein will be regarded as gross negligence and the applicant will be held responsible for the damage or loss as a result thereof.

Date: 20 April 2017

By: C Spammer

For Regional General Manager  
Western Cape (R2W371B)

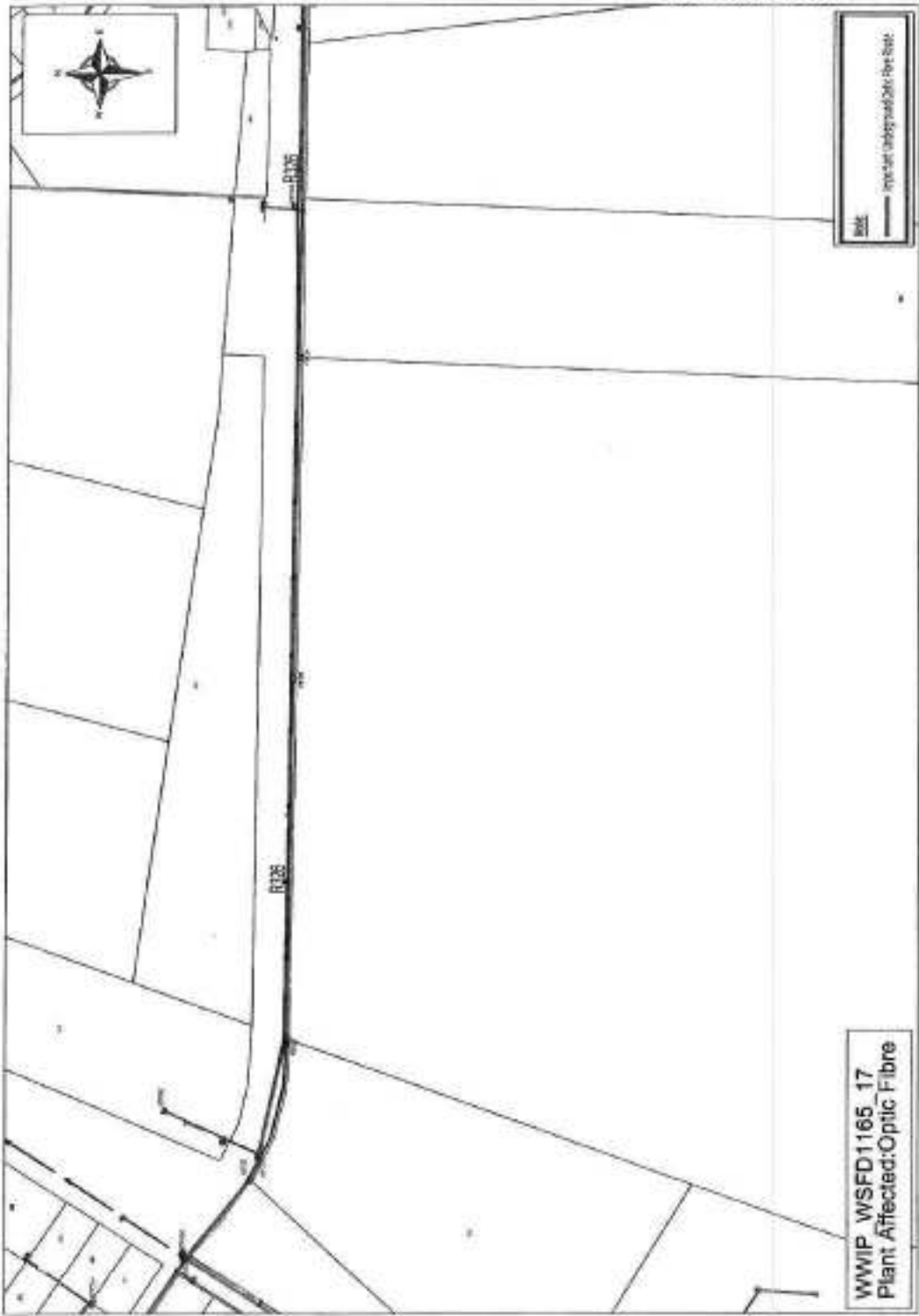


The pipeline indicated contains **OPTIC FIBRE** cables.

F Swart - telephone 028 514 1199 must be contacted at least 48 hours before commencement of work.



ANNEXURE G 4/4





ANNEXURE H 1/2

OVERSTRAND MUNICIPALITY  
P.O.Box 20  
HERMANUS  
7200



*Tr. A Theart  
C H Oliver*

Date:  
11/04/2017

Enquires:  
Mr. Antonio Coerecus  
Tel: 021 980 3866  
Fax: 021 980 3053

**Attention: CHARLENE PIETERS**

Dear Madam

**ERF 1772, STANFORD, OVERSTRAND MUNICIPAL AREA: PROPOSED CONSENT USE:  
WRAP ON BEHALF OF SEBUMO TUDE GUEST SERVICES & MORE CC**

YOUR REF: 1772 SSS (3543)  
OUR REF: 00916/17

I refer to your email dated 13 March 2017.

Eskom Distribution has no objection to the proposal.

Kindly contact Antonio Coerecus at Tel 021 980-3866, Land Development, Brackenfell should you require any further information.

Yours faithfully

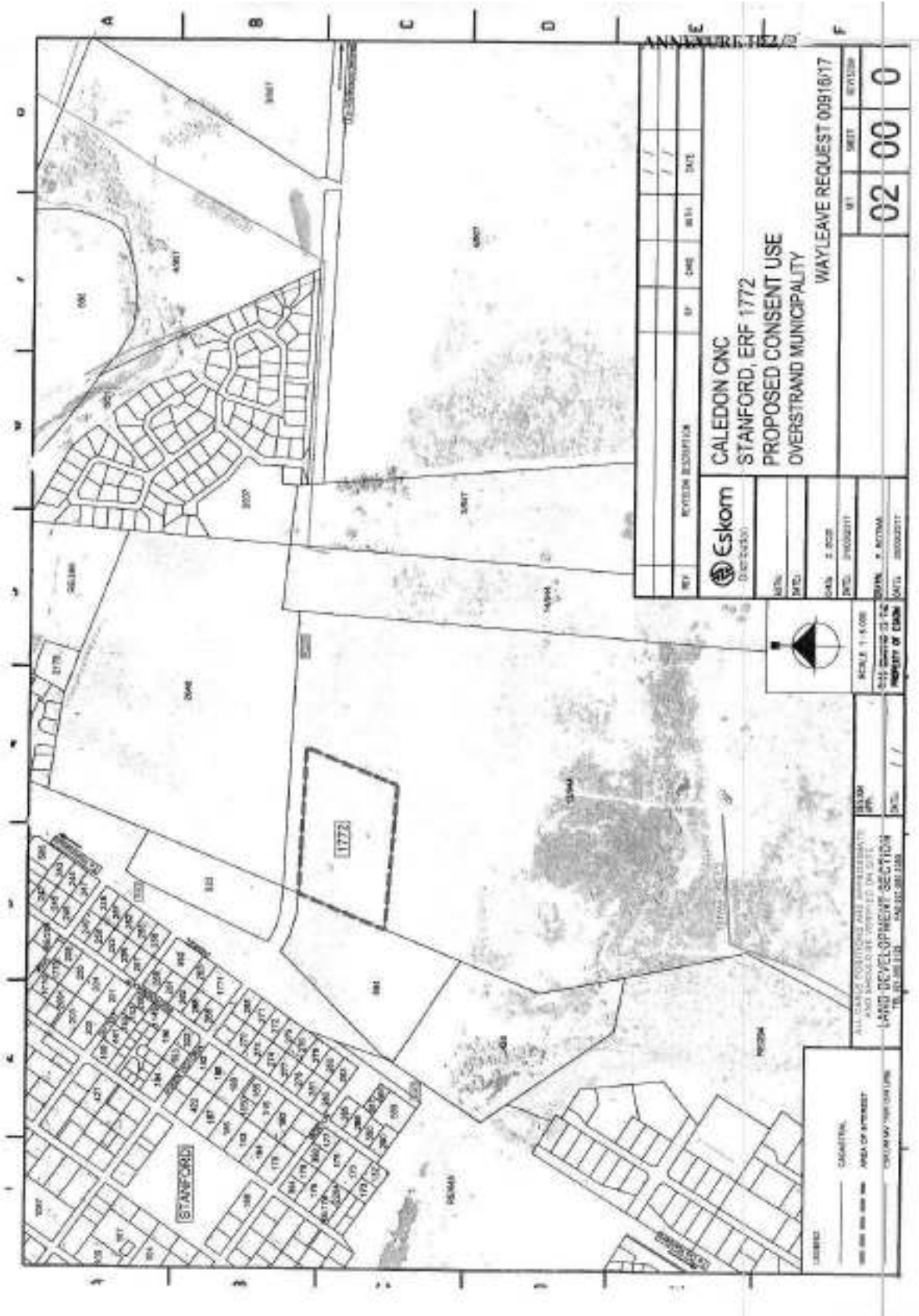
ANTONIO COERECUIS  
LAND DEVELOPMENT - BRACKENFELL

FILE NO:	<i>EL 1772</i>
	<i>Stanford</i>
SCAN NO:	
COLLABORATOR NO:	<i>1015537</i>

Western Region  
Eskom Road, Brackenfell, 7561 P.O. Box 222, Brackenfell, 7560 SA  
Tel: 00 27 (0)85 003 7566 www.eskom.co.za

Eskom Holdings SOC Limited Reg No 2002/015527/30

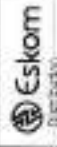




REF	REVISION DESCRIPTION	BY	CHKD	DATE

**CALEDON CNC**  
**STANFORD, ERF 1772**  
**PROPOSED CONSENT USE**  
**OVERSTRAND MUNICIPALITY**

WAYLEAVE REQUEST 00916/17



SCALE: 1:500  
 DATE: 2017/08/17  
 DRAWN BY: M. NOLAN  
 CHECKED BY: M. NOLAN

ALL CHANGE CONDITIONS AND AMENDMENTS  
 AND SHOULD BE VOTED ON DATE  
**LAND DEVELOPMENT SECTION**  
 TEL: 021 261 1121 FAX: 021 261 1122

**LEGEND**  
 - - - - - CASUALTY  
 --- --- --- AREA OF INTEREST  
 - - - - - OVERSTRAND MUNICIPALITY

02	00	0
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File reference:	3543
Date:	13.03.2017

## INTERNAL MEMORANDUM

From	: Town Planning Department
Town Planner	: P Roux

**TO:**

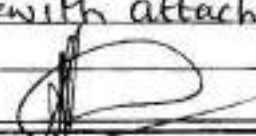
<i>Area Manager</i>	<i>Building Department</i>	<i>District Health</i>	<i>Electrical Department</i>
<i>Environmental Officer</i>	<i>Fire Department</i>	<i>Infrastructure and Planning (Onrus)</i>	<i>Local Heritage Committee</i>
<i>Operational Services</i>	<i>Traffic Department</i>	<i>Ward Councillor (D Coetsee)</i>	<i>Waste Management</i>

Applicant	Wrap obo Sebume Tude Guest Services & More CC
Property Details	Erf 1772, Stanford
Application Description	Proposed Consent Use

**ATTACHMENTS :**

<ol style="list-style-type: none"> <li>1. Notice</li> <li>2. Locality Plan</li> <li>3. Site &amp; Ground Floor Plans</li> <li>4. Motivation</li> </ol>	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:**

<p>Application is subject to compliance with the requirement of National Fire Protection Regulations SANS 10400 T:2011 - See Annexure A + B herewith attached.</p>	
Signature: 	Date: 24 APR 2017

V. VANSPILLET OVERSTRAND MUNICIPALITY  
FIRE BRIGADE / BRANDWEER  
APPROVED / GOEDGEKEUR

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 Mayor's 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: 13 April 2017**

## ANNEXURE D.

	<p><b>OFFICE of the CHIEF FIRE OFFICER</b>  <b>PO BOX 20</b>  <b>HERMANUS</b>  <b>7200</b>  <b>Tel: 028 313 8980</b>  <b>Fax: 028 313 1493</b></p>	
---	--	--

Compliance requirements for A1 - Restaurants, Bars, Entertainment and Public Gathering venues in terms of the National Fire Protection Regulations SANS10400T:2011  
**TOWN PLANNING APPLICATION: ERF 1772 STANFORD. REFERENCE 3543**

- Free standing building - Provide fire hose reels in compliance with Section 4.34 of SANS10400T:2011 – 1x30m FHR per 500m<sup>2</sup> in the case of a building being larger than 250m<sup>2</sup>.
- Provide 1 x Fire Hydrants for any building larger than 1000m<sup>2</sup> or part thereof in compliance with Section 4.35.4 of SANS10400T:2011.
- Provide a SANS10138 compliant manually activated visual and audible alarm system in compliance with Section 4.31.3 of SANS10400T:2011.
- Provide 1 x Fire Extinguisher per 200m<sup>2</sup> of either type: Water - 9litre; Carbon Dioxide CO<sub>2</sub> – 5kg; Dry Chemical Powder – 4.5kg. Locations to be marked by SANS1186-5 (Photoluminescent) signs.
- Fire protection of air conditioning systems must be in compliance with Section 4.43 of SANS10400T:2011.
- **Kitchen Extraction Systems:**  
Kitchen extraction systems must be in compliance with SANS1850:2012 – Design of Commercial Kitchen Extraction Systems. Maintenance and clearing of extraction systems must be on a 6 monthly basis with certificate of work done issued by the maintenance company.
- **Solid Fuel Ovens (Pizza or Tandoori):**  
Solid Fuel ovens shall be provided with a suitable dedicated extraction/ventilation system in compliance with Section 7 of SANS1850:2012.
- **Release of Solid Fuel Combustion Products:**  
Where there is a risk of airborne sparks being produced, a suitable spark arrester shall be fitted to prevent embers entering the extraction duct in compliance with Section 7.2 of SANS1850:2012.
- **Grease Draws:**  
All canopies shall be fitted with an internal gutter and grease draw of capacity large enough as to not require constant attention, or some other device to contain any run-off safely. Such a device should have a maximum capacity of 500mlitre.
- **Fire Suppression of Deep Frying Units:**  
At least one Type F (Saponification/Wet Chemical) fire extinguisher shall be supplied for cooking operations involving deep frying units. The size and rating of the unit should be commensurate with the oil capacity of the frying unit. Type extinguishers should meet the requirements of ISO 7165 or acceptable equivalent. In accordance with Section 11 of SANS1850.
- Provide automatic self-contained emergency lighting in compliance with Section 4.30.2 & 4 of SANS10400T:2011 that is able to provide lighting for a minimum period of 60 minutes or alternatively provide automatic power supply i.e. Generator or battery backup with a maximum startup of 10 seconds time lapse.
- Provide emergency fire exits in compliance with Sections 4.16; 4.17; 4.18 & 4.21 of SANS10400T:2011 including provision for the escape of persons with disabilities in compliance with SANS10400S. i.e. 1m in width for up to 100 persons without disabilities and 1.5m width for persons with disabilities.
- All emergency exits must be indicated along the entire route with SANS1186-5 (Photoluminescent) signs and directional arrows together with illuminated EXIT signs above exit doors in compliance with Section 4.29 of SANS 10400T:2011.
- Final escape doors must be provided with a panic bar release system in compliance with Section 4.16.10 of SANS10400T:2011.
- Seating and furniture arrangement within places of entertainment must be in compliance with Section 4.29 of SANS10400T:2011 i.e. that a walking space between the backs of chairs shall be a minimum of 500mm.
- The use of any place of entertainment is subject to the issue of a Population control certificate issued by the local authority for which application must be submitted to the Fire & Rescue Service in terms of the Overstrand Community Fire Safety By-law P.N. 6454 of 2007.

Chief Fire Officer

	<p>OFFICE of THE CHIEF FIRE OFFICER PO BOX 20 HERMANUS 7200 Tel: 028 313 8980 Fax: 028 313 1493</p>	<p>ANNEXURE 1 3/3 OVERSTRAND</p> 
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STANDARD REQUIREMENTS FOR OPERATION OF AN ESTABLISHMENT CLASSIFIED HOSPITALITY – H5 - GUEST HOUSE, BED & BREAKFAST OR SELF CATERING HOLIDAY ACCOMMODATION IN ANY H3 OR H4 CATEGORY BUILDING IN TERMS OF THE NATIONAL FIRE PROTECTION REGULATION SANS10400T:2011

**ANNEXURE A – Erf 1772 STANFORD- TOWN PLANNING APPLICATION No: 3543**

In order to obtain a fire safety clearance the following requirements are prescribed together with any other building compliance requirements:

**Fire Extinguishers:**

SANS10400T:2011 – 4.37:

1 x Portable Fire Extinguisher per 100m<sup>2</sup> of a type – 4.5kg Dry Chemical Powder, 5kg CO<sub>2</sub> or 9 litre H<sub>2</sub>O.

**Combustibility of Floor Coverings:**

Shall comply with requirements of Section 4.14 of SANS10400T:2011.

**Combustibility of Wall Coverings:**

Shall comply with requirements of Section 4.15 of SANS10400T:2011.

SANS10400T:2011 – 4.58 require the provision of:

- Escape route signs – Photoluminescent SANS1188-5 in all passages and corridors and also above all exit doors.
- Self-contained luminaires (automatic actuating battery operated lights) in all passages and corridors
- Stand-alone smoke alarms compliant with the requirements of European Standard EN14004 in each:
  - Sleeping room
  - Communal area
  - Passage or corridor leading to rooms
- Fire Hose Reels for premises larger than 250m<sup>2</sup> at a ratio of 1 per 500m<sup>2</sup> of the establishment.
- Doors leading to the outside of the building with single turn locks or any other lock device approved by the Fire Authority.

A suitable approved emergency plan indicating evacuation routes that informs guests as to action that must be taken in the event of an emergency that is affixed to the back of each room door or prominent place in the room.

These plans must include:

- Action to be taken when discovering a fire or if an emergency arises
- Action to be taken for evacuation of the building and assuring accountability of all occupants.
- The interim action to be taken pending the arrival of emergency services
- An evacuation floor plan that identifies the escape route, appropriate exit doors and post evacuation mustering point.

Chief Fire Officer:



**Western Cape  
Government**  
Environmental Affairs and  
Development Planning



**ANNEXURE 1**  
DIRECTORATE: DEVELOPMENT ADMINISTRATION (Region 2)

Helene.Jansen@westerncape.gov.za  
Tel: +27 21 021 483 3544 Fax: +27 21 483 3635  
1 Dorp Street, Cape Town, 8001  
www.ecdp.gov.za

*TR A Theart  
C. v. d. Merwe*

Director: Infrastructure & Planning  
Overstrand Municipality  
P.O. Box 20  
HERMANUS  
7200

FOR ATTENTION: P. ROUX

**TOWN PLANNING COMMENT ON APPLICATION FOR CONSENT USES ON ERF 1772, STANFORD**

1. Your request for comment dated 13 March 2017 refers.
2. In terms of the Overstrand Spatial Development Framework (OSDF) (2006), the property is located outside of the Stanford urban edge but is located within a proposed Rural Development Area (RDA), where "limited appropriate development" will be permissible on the basis of further detailed studies.
3. The Klein River Lagoon, Stanford/Wortelgat Area's location and contribution to tourism in terms of its scenic qualities and recreational use, is acknowledged in the OSDF.
4. As per the proposed policy, the range of land uses that could be permitted within a demarcated RDA are farm schools, places of instruction, agri-industry, tourist facilities and accommodation, bulk infrastructure, agri-villages and residential estates.
5. Based on the information provided to us, this Directorate has no objection to the use of the property as proposed. The subject property is easily accessible and is located across from the Birkenhead Brewery, a primary tourist attraction. The proposed use, at a scale to be determined by the Municipality, will add value to the agricultural zoning of the property without compromising the cultural landscape.

*Henri Fortuin*  
HENRI FORTUIN  
DIRECTOR: REGION 2  
DATE: 11-5-17

FILE NO:	EL 1772
SCAN NO:	Stanford ✓
COLLABORATOR NO:	1024/97

*TP 12 MAY 2017*



ANNEXURE K

Cor Van Der Walt  
LandUse Management  
Tel: LandUse.Elsenburg@elsenburg.com  
tel: +27 21 808 5099 fax: +27 21 808 5092

OUR REFERENCE : 20/9/2/4/2/819  
YOUR REFERENCE : 1772 SSS (3543)  
ENQUIRIES : Cor van der Walt

TRATHAERT  
(P Roux)

Overstrand Municipality  
PO Box 20  
HERMANUS  
7200

FILE NO:	EL 1772
	Stamford ✓
SCAN NO:	
COLLABORATOR NO:	1034863

Att: P Roux

**PROPOSED CONSENT USE: DIVISION CALEDON  
ERF NO 1772**

Your email of 13 March 2017 has reference.

The Western Cape Department of Agriculture has no objection to the proposed application.

Please note:

- Kindly quote the above-mentioned reference number in any future correspondence in respect of the application.
- The Department reserves the right to revise initial comments and request further information based on the information received.

Yours sincerely

*AS ROUX*  
AS ROUX Pr Eng

Copy:
WRAP
PO Box 1247
HERMANUS
7200

DIRECTOR: SUSTAINABLE RESOURCE MANAGEMENT  
2017-05-25

ANNEXURE L 1/4 3

**BREED-GOURITZ**

Catchment Management Agency  
Opvanggebied Bestuursagentskap  
I-Arbente yolawulo lomMandla nokungqongileyo  
31 Billing Street Worcester 6850, Private Bag 33055 Worcester 6850

Inquiries: Patrick van Coiler      Tel: 023-346 8038      Fax: 023-347 2012      E-mail: pcoiler@lgcma.co.za  
Date: 30 April 2017      Reference No: A/30/1/G40L/ERF 1772, Stanford

The Municipal Manager  
Overstrand Municipality  
P.O. Box 20  
**HERMANUS**  
7200

Attention: Charlene Pieters

**COMMENT ON THE PROPOSED CONSENT USE FOR THE ERF NUMBER 1772, WRAP ON BEHALF OF SEBUMO TUDE GUEST SERVICES & MORE CC, STANFORD**

With reference to the application dated 14 March 2017, the following:

The Breede-Gouritz CMA cannot support this application before the following have been addressed:

- A letter of support from Overstrand Municipality for the Erf 1772 to connect the sewage to the Stanford Waste Water Treatment Works.
- A Water Management Plan is required which indicate the water requirement for Domestic use and for Agricultural use.
- The water used for Domestic use must comply with the SANS 241: 2015 Guidelines for Drinking Water as amended from time to time. Analysis, of the water to be utilised for domestic Use, is required.

This office trust that the above-mentioned is acceptable and if you do have any further queries, please do not hesitate to make contact with this office.

Yours faithfully

**PHAKAMANI BUTHELEZI**  
CHIEF EXECUTIVE OFFICER

FILE NO:	62 1772 Stanford
	16/1/11
SCAN NO:	
COLLABORATOR NO:	1013415

# BREED-GOURITZ

Catchment Management Agency  
 Opvanggebied Bestuursagentskap  
 i-Arhents yola wulo lomMandla nokungqongqoyo  
 S1 Balag Street Worcester 6850, Private Bag 43055 Worcester 6850

Enquiries: Patrick van Coller      Tel: 028-346 8018      Fax: 028-347 3012      E-mail: pocoll@bgcma.co.za  
 Date: 17 July 2017      Reference No: A/10/1/640/EMF 1772, Stanford

WRAP  
 P.O. Box 1247  
 HERMANUS  
 7200

Attention: Mr. Richard Kotzé

Dear Sir

## COMMENT ON THE PROPOSED CONSENT USE FOR ERF 1772 FOR SEBUMO TUDE GUEST SERVICES & MORE CC, STANFORD, MAGISTERIAL DISTRICT CALEDON.

With reference to the e-mail dated 21 June 2017, the following:

The Breede-Gouritz CMA, in principle, has no objection to the proposed consent use, subject to the following conditions:

- The permissible amount of groundwater that may be utilised by the Water User on the property is 907.5 cubic metres per annum in terms of the Government Notice No. 40243 dated 2 September 2016. Should this amount be exceeded, a Water Use Licence will be required.
- All relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use must be adhered to.
- No storm water runoff from any premises containing waste, or water containing waste emanating from industrial activities and premises may be discharged into a water resource. Polluted storm water must be contained.
- The waste generated by the facility needs to be managed of in terms of the National Environmental Management Waste Act, 2008 (Act 59 of 2008) on the property and the final disposal of the waste at a licensed solid waste disposal site.
- Solid waste may only be disposed of onto an authorised solid waste facility in terms of above-mentioned legislation.
- The minimizing of waste must be promoted and alternative methods for waste management must be investigated.
- No activities may take place within a buffer area as determined by a freshwater ecologist upstream and downstream of a watercourse and/or any wetland system which needs to be delineated for formal authorization thereto obtained from the BGCMA.

## ANNEXURE L 3/4

- No permanent structures may be constructed within the 1:100 year flood line of any watercourse (seasonal or permanent river, stream, etc.) or alternatively, more than 100 metres from the edge of a water resource, whichever is further.

**Water for domestic use**

- The water provided for domestic use must comply with the SANS 241: 2015 Guidelines for Drinking Water as amended from time to time. Regular monitoring must be done to ensure compliance. If the quality of the water is of such a nature that it is a threat to human health, then the Breede-Gouritz CMA and the Provincial Department of Health must be informed of the procedures to rectify the problem.

**Disposal of sewage**

- The disposal of sewage must at all times comply with the requirements of Sections 22 and 40 of the National Water Act 36, Act 36 of 1996.

Please do not hesitate to contact Mr. P. van Coller 071 887 0495 or either [pcoller@bgcma.co.za](mailto:pcoller@bgcma.co.za), if you have any further queries.

Yours Faithfully

**PHAKAMANI BUTHELEZ**  
CHIEF EXECUTIVE OFFICER

**BREEDE-GOURITZ**

Catchment Management Agency  
 Opvanggebied Bestuursagentskap  
 I-Arbente yoLawulo lomMandla nokungqongileyo  
 51 Basing Street Worcester 6850, Private Bag X3055 Worcester 6850

Inquiries: Patrick van Collier  
 Date: 16 March 2018

Tel: 023-340 8018

Fax: 023-347 2012

Reference No: 4/201/G421/18/1772, Stanford

E-mail: pcolier@bgma.co.za

TP: A Theart  
 (S. J. Marwe)

The Municipal Manager  
 Overstrand Municipality  
 P.O. Box 20  
**HERMANUS**  
 7280

Attention: Me. Charlene Pieters

Dear Madam

**COMMENT ON THE PROPOSED CONSENT USE: ERF 1772, STANFORD.**

With reference to the Report received 20 February 2018, the following:

This office cannot support this application before the following have been addressed:

- The total amount of groundwater which can be confirmed, equates to 907.5 cubic metres per annum for this property. The confirmation for this water use needs to be requested via the e-WULAAS. Should this amount be exceeded on any given day, a Water Use Licence will be required.
- The Report refers to rainwater harvesting which is an option to be utilized. With the current drought experienced this office is not convinced that this development will have sustainable water to make provision for the activities proposed. Therefore a Water Balance is required which clearly states the water required for all the proposed activities.

This office trust the above-mentioned is acceptable and if you do have any further queries, please do not hesitate to make contact with this office.

Yours faithfully

Mr. JAN VAN STADEN  
 CHIEF EXECUTIVE OFFICER (Acting)

FILE NO:	EL 1772 Stanford
SCAN NO:	24
COLLABORATOR NO:	1144691

## ANNEXURE M 1/2



ROAD NETWORK MANAGEMENT  
 Email: Grace.Swanepoel@westerncape.gov.za  
 Tel: +27 21 483 4669  
 8th 335, 9 Deep Street, Cape Town, 8001  
 PO Box 2603, Cape Town, 8000

REFERENCE: 16/9/6/1-21/121 (Job 24795)  
 ENQUIRIES: Ms GD Swanepoel  
 DATE: 4 October 2017

FILE NO:	EL 1772 Stanford
SCAN NO:	
COLLABORATOR NO:	108 3778

The Municipal Manager  
 Overstrand Municipality  
 PO Box 20  
**HERMANUS**  
 7200

Attention: Mr P Roux

Dear Sir

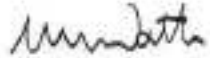
**ERF 1772, STANFORD, OVERSTRAND MUNICIPAL AREA: MAIN ROAD 267: PROPOSED CONSENT USE: WRAP ON BEHALF OF SEBUMO TUDE GUEST SERVICES & MORE CC**

1. The following refer;
  - 1.1 Your letter 1772 555 (3543) dated 13 March 2017;
  - 1.2 This Branch's letter 16/9/6/1-21/121 (Job 24795) dated 3 April 2017 and
  - 1.3 The Traffic Impact Statement submitted by DECA Consulting Engineers dated 31 May 2017.
2. Cognisance is taken of the recommendations of the Traffic Impact Statement.
3. Accordingly, this Branch withdraws its objection to the application in terms of the Land Use Planning Act, No 3 of 2014 on condition that;
  - 3.1 The approved access is at tkm0.42 off Main Road 267 (opposite the access to the Birkenhead Brewery);
  - 3.2 The access must be hard-surfaced and conform to the geometry of a Main Farm Access;
  - 3.3 All other accesses to the property are to be permanently closed and

## ANNEXURE M 2/2

- 3.4 The new access must be hard-surfaced and the design thereof must be sent to the Design Directorate (Ms MK Hofmeyr 021 4833999) of this Branch for approval.

Yours faithfully



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



Overstrand Municipality: Hermanus Administration  
P.O. Box 20  
Hermanus  
7200

Attention: Petrus Roux  
By email: [petrus@overstrand.gov.za](mailto:petrus@overstrand.gov.za)

Dear Loretta

**Additional information for the Application for Consent Use for Tourism and Agri-Industry Facilities on Erf 1772, Stanford**  
(Overstrand Municipality ref: 1772 555 (3543))

CapeNature would like to thank you for the opportunity to comment on the application and would like to make the following comments. Please note that our comments only pertain to the biodiversity related impacts and not to the overall desirability of the application.

The subject property is classified as Ecological Support Area 2 (Restore), which upon further interrogation is due to the presence of a wetland or watercourse according to the data inputs. CapeNature had therefore recommended ground-truthing to verify the presence of wetlands prior to any development proceeding on the site.

A scan of the site was undertaken to verify the presence of wetland vegetation, which found that there was no natural vegetation nor any species indicative of wetland conditions present. The presence of hydromorphic soils is a more reliable indicator of wetlands, as there can still be wetland conditions in areas where the vegetation has been heavily disturbed.

However, in this case CapeNature is willing to accept the findings of the wetland vegetation scan, as the site is not mowed regularly and there would have been at least a few wetland indicator plants if wetland conditions were present. We had also indicated that there was no other supporting evidence of wetland conditions in this location e.g. topography.

In conclusion, CapeNature is satisfied that there are no wetlands present on the site and there will not be listed activities triggered and we do not object to the application.

CapeNature reserves the right to revise initial comments and request further information based on any additional information that may be received.

The Western Cape Nature Conservation Board (acting as CapeNature)  
Board Members: Ms Merle McClelland-Hodgins (Chairperson), Dr Colin Johnson (Vice Chairperson), Mr Murray Burton, Prof Derwin Hardicks,  
Dr Bruce Molyneux, Adv Nanda Mouton, Mr Derek Nel, Prof Aubrey Radliffus, Mr Paul Steeb, Prof Kamilla Swart-Arns

ANNEXURE N 1/2

TP-A Theoret  
S. van Marne

SCIENTIFIC SERVICES

postal: Private Bag 95014 Stellenbosch 7599  
physical: Arzegevalbosch Nature Reserve Jonkershoek  
website: [www.capenature.co.za](http://www.capenature.co.za)  
enquiries: Rhett Smart  
telephone: +27 21 866 8017 fax +27 21 866 1523  
email: [rhsmart@capenature.co.za](mailto:rhsmart@capenature.co.za)  
reference: SSO1426/1/091772\_consent Use\_Stanford  
date: 3 November 2017

FILE NO:	EL-1772
	Stanford
SCAN NO:	08
COLLABORATOR NO:	1098977

ANNEXURE N 2/2

Yours sincerely



**Rhett Smart**  
**For: Manager (Scientific Services)**

cc: WRAP Consulting

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR CONSENT USE: ERF 1772, STANFORD (3543)**

Stormwater (SW)	:	In Order
Electricity	:	Escom Area
Water	:	According to GLS report
Sewer	:	According to GLS report
Roads and traffic	:	According to TIA

**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:

**Equivalent Units:**

Water	R 21 500.00 x 9.8 =	R 210 700.00
Sewerage	R 14 496.00 x 7.35 =	R 106 545.60
Road	R 6 500.00 x 39.06 =	R 253 890.00
<b>TOTAL (inclusive of VAT)</b>	<b>=</b>	<b>R 571 135.60</b>

**Note:**

- 1.3 The above figures are estimates
  - 1.4 The above figures do not include connection fees
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 like 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 SAACE;
    - 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), SABS 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 SAACE 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 – 2004, 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 an approved refuse collection area/room to sufficiently accommodate the refuse generated by the development and which is to be provided 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;
15. that the refuse collection area be constructed in accordance with the requirements of the Overberg District Municipality;
16. 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;
17. that the above stormwater management plan include the following:
  - 20.1. pre-development run-off from the catchment area;
  - 20.2. post-development run-off from catchment area;
  - 20.3. existing stormwater reticulation system and the capacity thereof;
  - 20.4. connection of internal stormwater reticulation system;
  - 20.5. overland escape routes;
18. that the connection to the stormwater reticulation system be provided according to the stormwater management plan, by the developer at his cost and approved by Overstrand Municipality ;
19. that any additional cost related to the upgrading of bulk civil services will be for the developer's account;
20. that the developer must apply for a new water connection on the prescribed application form, at Overstrand Municipality's Finance Department;
21. that the developer must apply for the new sewer connection on the prescribed application form, at Overstrand Municipality's Finance Department;
22. that the connection to the main water line only be done by the Operational Department, after payment of the connection fee, by the developer;

23. that the conditions of the Department of Transport and Public Works as per their letter dated 09 October 2017 be adhered to.



DENNIS HENDRIKS  
SENIOR MANAGER:  
ENGINEERING SERVICES

21/2/2018  
DATE

## 4.3

**ERF 115, 39 THE CRESCENT, FISHERHAVEN, OVERSTRAND MUNICIPAL AREA :  
REMOVAL OF RESTRICTONS, CONSENT USE AND DEPARTURE : MESSRS HIGHWAVE  
CONSULTANT ON BEHALF OF GPN KRUGER**

115 HFH (3677)

H Olivier

28 March 2018

(028) 313 8900

Hermanus Administration

## 1. EXECUTIVE SUMMARY

An application has been received on 11 May 2017 from Messrs Highwave Consultants on behalf of GPN Kruger on Erf 115, Fisherhaven for the following:

- ❖ Removal of restrictive title conditions in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 for the removal of the restrictive condition in Title Deed T75010/2015, Page 3, Paragraph D.4.(d):

*“D. SUBJECT to the following special conditions contained in Deed of Transfer No. T17674/1970 imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance 33 van 1934 when approving of the establishment of Fisherhaven Township, namely:-*

*1. ....*

*2. ....*

*3. ....*

*4. The erf shall be subject to the following further conditions, provided especially that where, in the opinion of the Administrator, after consultation with the Townships Board and the local authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation, subject to compliance with such conditions as he may impose:-*

*(d) No building, or structure, or any portion thereof, except boundary walls and fences nearer than 2,35m to the street line which forms a boundary to this erf”*

- ❖ Consent Use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Land Use Planning, 2015 to erect a 15m high transmission tower and base status on the property.
- ❖ Departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 to depart from the Overstrand Zoning Scheme in order to relax the western lateral building line from 3m to 0m and the 8,5m height restriction to 15m to accommodate the proposed transmission tower and base station.

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

## 2. DECISION AUTHORITY

Municipal Planning Tribunal

## 3. BACKGROUND / SITE HISTORY

The erf measures 516m<sup>2</sup> in extent and is located in the Fisherhaven Business Area. The land owner wants to allow a service provider to construct a transmission tower on his property, hence this application.

## 4. SUMMARY OF APPLICANT'S MOTIVATION

- The site is in the optimum position between existing and planned stations to provide coverage.
- Minimal visual or natural impact.
- Ability to reduce the number of base stations.
- Capacity to share infrastructure.
- Property position will address the complaints received in the area (bad coverage).
- Great need for a station in this area.
- Department of Health is satisfied that the health of the general public is not being compromised by their exposure to the emissions of cellular base stations.
- Proposal in line with Western Cape IDP and Western Cape Economic Development Strategy, 2009.
- Electricity will be provided by Eskom.
- A monopole design mast will be erected, and the visual impact reduced by the hardened urban landscape and building visibility on the property. Future densification of the area will also increasingly reduce the visual impact.
- No additional traffic will be created.
- Rooftop options were considered, but were found not practical due to average building heights found to be lower than 15m.
- In line with SPLUMA general principle:

### Spatial Justice :

Promote community development and will contribute to the functional and integrated land use pattern.

### Spatial sustainability:

The proposal is in line with the Western Cape PSDF, 2014, it does not trigger environmental listed activities, it will lead to better provision of services inside the urban edge and has not impact on the character of the surrounding area.

### Spatial efficiency:

Will use local resources, contribute to skills development and result in optimal use of existing resources.

### Spatial resilience:

Complies with Western Cape PSDF, 2014

### Good Administration:

Application must be processed and considered in terms of the Municipal By-Law.

- Will have a positive economic impact and social impact ensuring business and residences will have optimal use of voice and data coverage.

- The land owner would benefit from rent, which would help uplift surrounding area.
- The application is considered desirable.

#### 5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	Yes	31 August 2017	6 October 2017
Gazette	Yes	1 September 2017	6 October 2017
Notices	Yes	1 September 2017	6 October 2017
Ward Councillor	Yes	31 August 2017	6 October 2017
Total letters of support	<b>TWO (2)</b>		
Total letters of objection	<b>TWENTY TWO (22)</b>		
Was public participation undertaken in accordance with Section 45 - 49 of the Proposed Draft By-Law on Municipal Land Use Planning?			<b>Yes</b>
Was the application processed correctly (if no, elaborate below):			<b>Yes</b>
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			<b>Yes</b>

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

Name	Date received	Summary of comments	Recommendation
<b>Fire Department</b>	3/10/17	No objection	<b>Supported</b>
<b>Engineering Services</b>	4/04/18	See Annexure F.	<b>Supported</b>
<b>Telkom</b>	27/10/17	Annexure G	<b>Positive</b>
<b>Eskom</b>	8/09/17	Annexure H	<b>Positive</b>
<b>Building Department</b>	27/09/17	It is suggested a lattice tower will have less visual impact. Then supported.	<b>Partially Supported</b>
<b>Local Heritage</b>	27/09/17	No comment	<b>Partially Supported</b>
<b>Environmental Section</b>	3/10/17	This office proposes the installation of a lattice pole instead of a mono-pole. The visual impact of a lattice pole is less than that of a mono-pole, especially in the urban environment.	<b>Partially Supported</b>

<b>Operational Services</b>	15/03/18	See Annexure I	<b>Supported.</b>
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## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

### 1. Health Concerns

Worldwide concerns and court cases. There are many articles about health hazards of electric magnetic waves. There could be a negative long term risk and also impact on animal and bird life. The motivation regarding health impact is also very confusing.

### 2. Property Devaluation

The visual impact of the transmission tower and health concerns by prospective property buyers in the area may lead to a devaluation of property values.

### 3. Environmental concerns, factors and EIA's

- Environmental impact of a transmission tower close to a RAMSAR Site (Botrivier Estuary).
- One (1) Environmental Impact Assessment (EIA) trigger is if a new transmission tower "is placed on a site not previously used therefore", or if a tower is in access of 15m. This is a new tower and in terms of the dimensioned sketch in access of 15m.
- Impact on birds and animals.

### 4. Visual Impact

- Will be in full view of an public open space area.
- Tower will be very visual due to flat topography of Fisherhaven.
- Further development will not lessen visual impact.
- Visual impact was not properly addressed.
- It will be an eyesore and spoil the village atmosphere.
- Most buildings in the area are one and two storey, and will not visually block the structure.
- To disguise the structure as a palm tree would not help the visual impact.

### 5. Disregard for Rights of Community, and only cell phone company and property owner will benefit

### 6. Need and Alternatives

- There is no clear information provided with problematic reception/coverage by the surrounding community.
- How was the need for this infrastructure researched as there is no significant "rapid urbanization".
- There are suitable other options.
- No real other alternatives were investigated.

### 7. Character of the Area

- No similar transmission towers are in the middle of surrounding towns.
- The relaxation of the building line is undesirable next to the passage way.
- The Title Deed restrictions help to ensure only compatible development is considered.
- The ambiance of the area and residential character of Fisherhaven will be impacted on.

8. No application can be considered once the OSM approved a guideline document
9. Construction and later maintenance could create influx of people at various hours which could lead to unlawful activities
10. SPLUMA Principles are not complied with for the character of the area will be impacted on and local resources will not be utilised
11. The application was poorly written with factual errors, inconsistency, debatable and conflicting statements. The Municipality should have scrutinised the application better.

## 8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

The applicant's response on the objections can be summarized as follows:

### 1. Health Concerns

- RF exposure comply with policy
- The Department of Health supports the erection of telecommunication base stations in accordance with ICWJRP (International Commission on Non-ionizing Radiation Protection) WHO (World Health Organization) and ICASA (Independent Communications Authority of South Africa)
- The exposure level is approximately 1/1000<sup>th</sup> of prescribed exposure levels.
- Department of Health is satisfied the health of the general public is not being compromised by exposure.

### 2. Property devaluation

- It is debatable if proximity to transmission towers impact on property values.
- Information of an impact of a 55m high transmission tower constructed 10 years ago in Durbanville show property values in such area increased over the last 10 years.

### 3. Environmental Concerns, Factors and EIA's

- There is no evidence telecommunication base stations have an adverse effect on animal species.
- The EIA triggers is only applicable with transmission towers if it is situated outside the "urban edge" or to be placed on land identified for conservation use in terms of and SDF or zoned as such.  
This proposal is inside the "urban edge" and on a business zoned site, and therefore does not trigger an EIA.

### 4. Visual Impact

- Should it be so required by the Municipality the design of the tower can be changed to a 15m clean dome monopole design or a 15m camouflaged tree mast.
- A monopole fits in with the urban sense of place.
- The position was so chosen to ensure effective coverage, but also reduced visual and built environment impact.
- By adding architectural features it will result in retaining the visual amenities of the surrounding built environment.
- The site is used for business and the tower fits in with the area.
- Small trees can be planted around the tower.

5. Disregard for rights of community and only cell phone company and property owners will benefit
  - Positive support was received from various internal departments and two (2) neighbours who indicated there is bad coverage.
6. Need and Alternatives
  - The mast within 4km radius (Hawston Mountain MTN) cannot sufficiently address the need in Fisherhaven, because it is overloaded and due to the distance and density factor.
  - Due to an increase in smart devices telecommunication support structures must be situated closer to each other. Experts planned the placement of infrastructure where the greatest need is in communities due to the fact that infrastructure is expensive and not just constructed for the sake of it.
  - Over 500 erven from businesses, institutional to residential is served in the area, and new infrastructure is needed.
7. Character of the area
  - Erf 115 is already used for business purposes and the freestanding telecommunication base station will not alter the proposed land use and will be infilling with the surrounding area.
8. No comment provided by applicant.
9. No comment provided by applicant.
10. No comment provided by applicant.
11. No comment provided by applicant.

## 9. MUNICIPAL ASSESSMENT OF COMMENTS

1. There is no legislation which prohibits the consideration of transmission towers in urban areas due to health impact.
2. It is speculative and debatable if proximity of transmission towers lead to an decrease or increase in property values.
3. Transmission towers lower than 15m in urban areas inside the urban edge does not trigger EIA listed activities.  
The comment is noted that the transmission tower on plan measures more than 15m in height. This is correct, however application was only made for a 15m high tower and should the application be approved the maximum height will be limited to 15m.
4. The concerns of visual impact are valid concerns. Although various methods can be used to try to lessen the impact of a transmission tower by changing it into a monopole or tree, it would still protrude more than 6 meter above the highest doubly storey building in the area. The flat topography of Fisherhaven and the fact that most properties in the area are single storey will make the tower to appear even higher
5. It is difficult to ultimately determine the benefits and negatives the proposed transmission tower will have for the community and cell phone users in the area. The fact that twenty two (22) objections and a petition list with sixty seven (67) petitioners (may include some objections) were received and only two (2) letters of support were received, shows the community feels that the negatives of the

construction of the tower outweigh the need for better cell phone and internet reception.

6. It is difficult to debate the applicant's information that there is a need for better reception in the area. Everybody is aware of an increase in smart devices. There must however be a balance between trying to fill the need in a manner that communities find the scale of the telecommunications infrastructure to be acceptable in their communities.

This is why alternatives must be carefully considered, being either by means of smaller infrastructure, or a site where infrastructure is less imposing.

It is the opinion that the infrastructure of 15 meters high will be an imposing structure on Erf 115. Such a tower would probably fit a site where higher buildings or trees would visually help to block impact. Other sites in the area could have been considered, but was probably not due to the fact that the service provider wants maximum coverage for every transmission tower constructed.

Even if there might be a need for a transmission tower, other alternatives could have been considered with less of an impact on the community.

7. Erf 115 is situated on the border of a commercial area. It however has a very low commercial profile due to the relatively small size of properties and the existing buildings in the area. The Zoning Scheme then also require 3m building lines on Business Zone III sites next to properties which are not zoned business and stipulate a 8,5m height restriction. The 3m building line next to the public open space to the west of the site and the 8,5m height restriction therefore ensure business activities and structures have less of an impact on the residential erven to the west, thereby respecting the residential character.

The 2,35m street building line title deed restriction also further limits the type of structures/buildings ensuring that buildings/structures will not be so imposing on the street scape. The relaxation of the limitations in the Zoning Scheme and Title Deed could therefore impose on the residential character of the adjacent area and the street scape, and thereby could have a negative impact on the adjacent properties.

Considering the above, the opinion that the application would impact the character of the area is supported.

8. At this stage there are no guideline documents with regard to the consideration of applications for telecommunication infrastructure. The Municipality must however process applications and consider each on merit.
9. The applicant did not provide any indication how often maintenance will be done on infrastructure, and it is thus impossible to determine how great the influx of people will be.
10. The application could have an impact on the character of the area. The applicant did indicate in the application that locals will be trained to work with the telecommunication infrastructure, but no further information was provided.
11. Sufficient information was provided to process the application. It is however not the Municipality's function to fix errors etc. in applicant's report.

## **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 proposal is in line with Environmental Legislation and would provide for additional services. The scale of the infrastructure could however have a negative impact on the urban landscape of the area.

**Efficiency**

Would lead to an improved quality of services.

**Spatial Resilience**

The increase in telecommunication services could lead to an increase in spatial resilience.

**Good administration**

The application followed the required planning procedures in terms of the Municipal By-laws and the public process has been followed.

**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 Point 10.2 above.

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

Not in conflict with SDF.

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

N/A

**10.6 Impact on Municipal engineering services**

The existing services are available and the application has been viewed positively by the Engineering Services Department.

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

N/A

**10.8 Existing and proposed zoning comparisons and considerations**

N/A

**11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS****The financial or other value of the rights**

There is no financial value to the rights, but it was inserted to help control development parameters on the site.

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

The Administrator which is now the Municipality in this area is the holder of the rights, which only relate to enforcement of a building line.

The person seeking the removal, the property owner, will benefit to enable him/her to develop a greater area of his/her property.

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

If the condition is removed larger scale buildings/structures could be considered closer to the street, thereby affecting the street scape.

Considering the character of the Fisherhaven business area, removal of the title deed condition could impact such character.

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

Only relating to building lines.

**12. THE DESIRABILITY OF THE PROPOSAL**

The construction of telecommunication infrastructure is necessary due to the increase in new communication devices and technology. To ensure that the maximum users will benefit from the infrastructure, more of this infrastructure is now developed inside urban areas. Such applications must therefore be carefully considered, to ensure the build environment is not affected and communities are not negatively affected.

As can be seen under the heading Municipal Assessment of Comments, community concerns regarding environmental impact and health concerns does not prove the application not to be desirable, as legislation allow these structures to be developed to a certain scale in urban areas.

However, the Fisherhaven area also has a Zoning Scheme which stipulates building lines, height restrictions, etc. to ensure that development would be to acceptable scale and fit in with the character of the area. Should application be made to relax these parameters, the desirability of such application should be

carefully considered. This was then also previously discussed in relation to objections with regard to visual impact and impact on the character of the area.

The proposed base station would be approximately 8m long 7m wide, covering an area of approximately 56m<sup>2</sup>. It would be placed on the one western lateral boundary bordering a public open space (±3m wide passage), with single residential properties immediately next to the passage. The base station will also extend onto the street boundary with Service Road. The storage infrastructure will be placed next to Service Road and on the northern portion of the base station, while the transmission tower is proposed approximately 6m from the passage and 2m from the Service Road street boundary. Although the storage area and fencing is less imposing infrastructure the transmission tower will extend high above the existing single storey commercial building on the site, and also the residential building which would be situated approximately 12m from the transmission tower. The tower will be very imposing and will also stand out visually as there are no large trees or buildings to lessen its impact. The applicant's proposal to lessen the impact by changing the type of tower or plant small trees around it is noted. It would however be highly unlikely that it would make such a big visual difference with regard to impact and impact on the built environment of the area. It is the opinion that it would impact on the character of the low activity business area and immediate adjacent residential area.

Telecommunication providers should when considering alternatives, not only consider placement of sites to obtain maximum coverage, but also the correct scale of infrastructure on a site not to impact on the surrounding areas. In this case it is the opinion other alternatives should been considered with less of an impact on the community.

Considering the above, the application is not considered desirable.

### 13. RECOMMENDATION

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 on Erf 115, Fisherhaven for the removal of restrictive condition D.4.(d) of Title Deed T75010/2015, **not be approved**;
2. that the application in terms of Section 16(2)(b) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 on Erf 115, Fisherhaven for a departure to relax the western lateral building line from 3m to 0m and the 8,5m height restriction to 15m to accommodate a proposed transmission tower and base station, **not be approved**
3. that the consent use application in terms of Section 16(2)(o) of the Overstrand Municipal By-Law on Land Use Planning, 2015 to erect a 15m high transmission tower and base station on the property, **not be approved**.
4. that the applicant and objectors be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decision.

**14. REASONS FOR RECOMMENDATION**

- ❖ The proposed 15m height transmission tower will be an imposing structure in a relatively flat area, with not large trees or large building and will have a negative visual impact.
- ❖ The proposal is on a business site, which is on the border of a business area, directly adjacent to a residential area. The high tower transmission and base station infrastructure on the street and lateral boundary could impact on the character of the residential area, and even the low key business area.
- ❖ Insufficient information was provided with regard to other alternative sites that were considered by the applicant.
- ❖ In the twenty two (22) objections received with sixty seven (67) people who signed a petition (also including some of the objectors), valid concerns were provided relating to the negative visual impact of the transmission tower and impact on the character of the area.
- ❖ Alternative designs submitted by the applicant to make the transmission tower less imposing did not provide for any lowering of the height. The planting of small trees adjacent to a 15m high transmission tower will not lessen the visual effect of the imposing tower sufficiently.

**15. Annexures**

Annexure A:	Locality Plan
Annexure B:	Site Development Plan
Annexure C:	Motivation Report
Annexure D:	Letters of objection and support
Annexure E:	Applicant's reply on objections
Annexure F:	Services Report
Annexure G:	Comment: Telkom
Annexure H:	Comment: Eskom
Annexure I:	Operational Services
Annexure J:	Title Deed T75010/2015
Annexure K:	Comments: Ward Committee

**SIGNATURES****AUTHOR**

Name : **H OLIVIER**

SACPLAN registration number: **B/8128/2004**

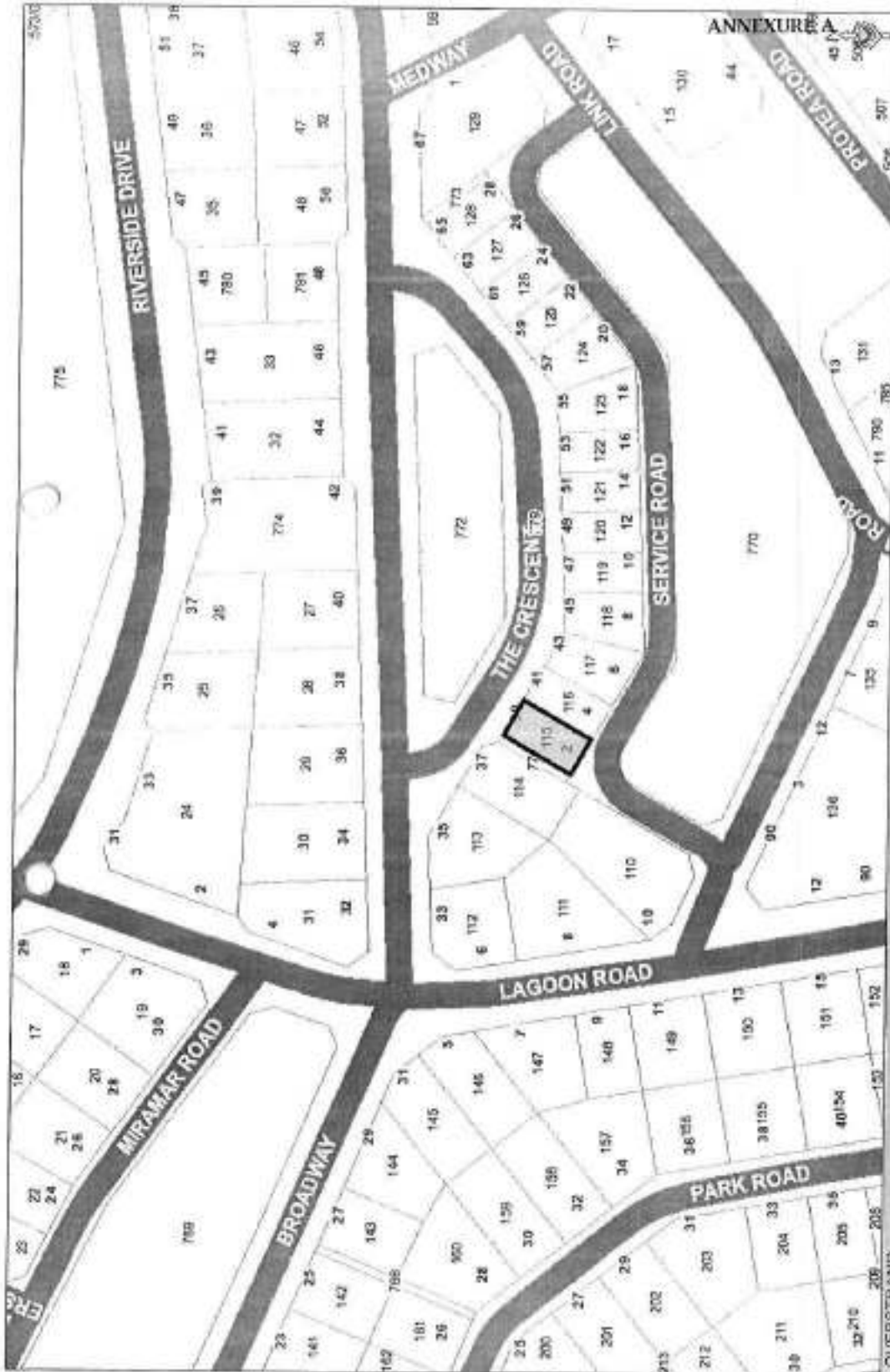
Signature : \_\_\_\_\_

Date: \_\_\_\_\_

**REGISTERED PLANNER**Name : **H VAN DER STOEP**SACPLAN registration number: **A/1708/2013**

Signature : \_\_\_\_\_

Date: \_\_\_\_\_

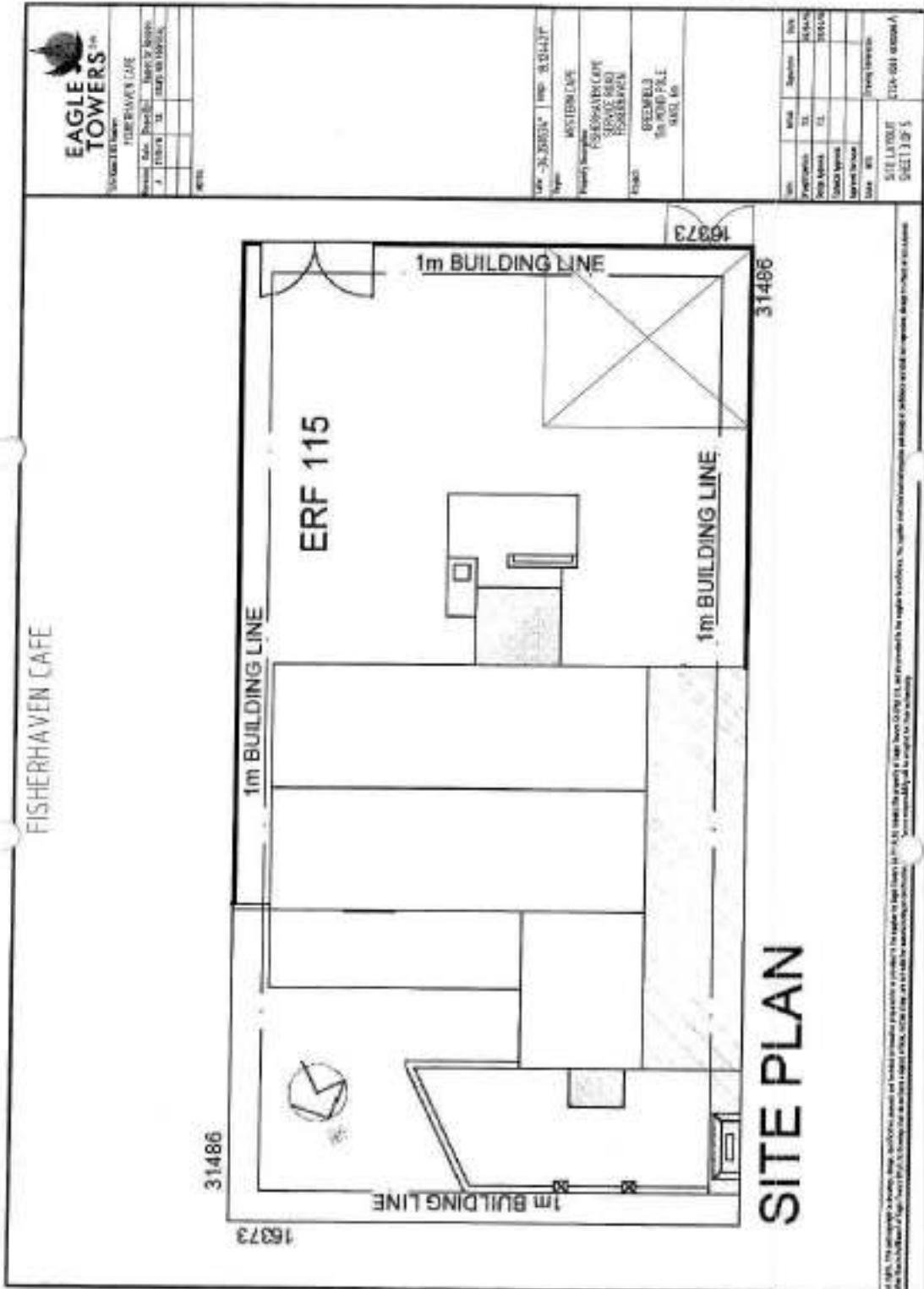


Locality Plan - Erf 115 Fisherhaven

Date: 2017-05-18







**EAGLE TOWERS** ESTD 1989

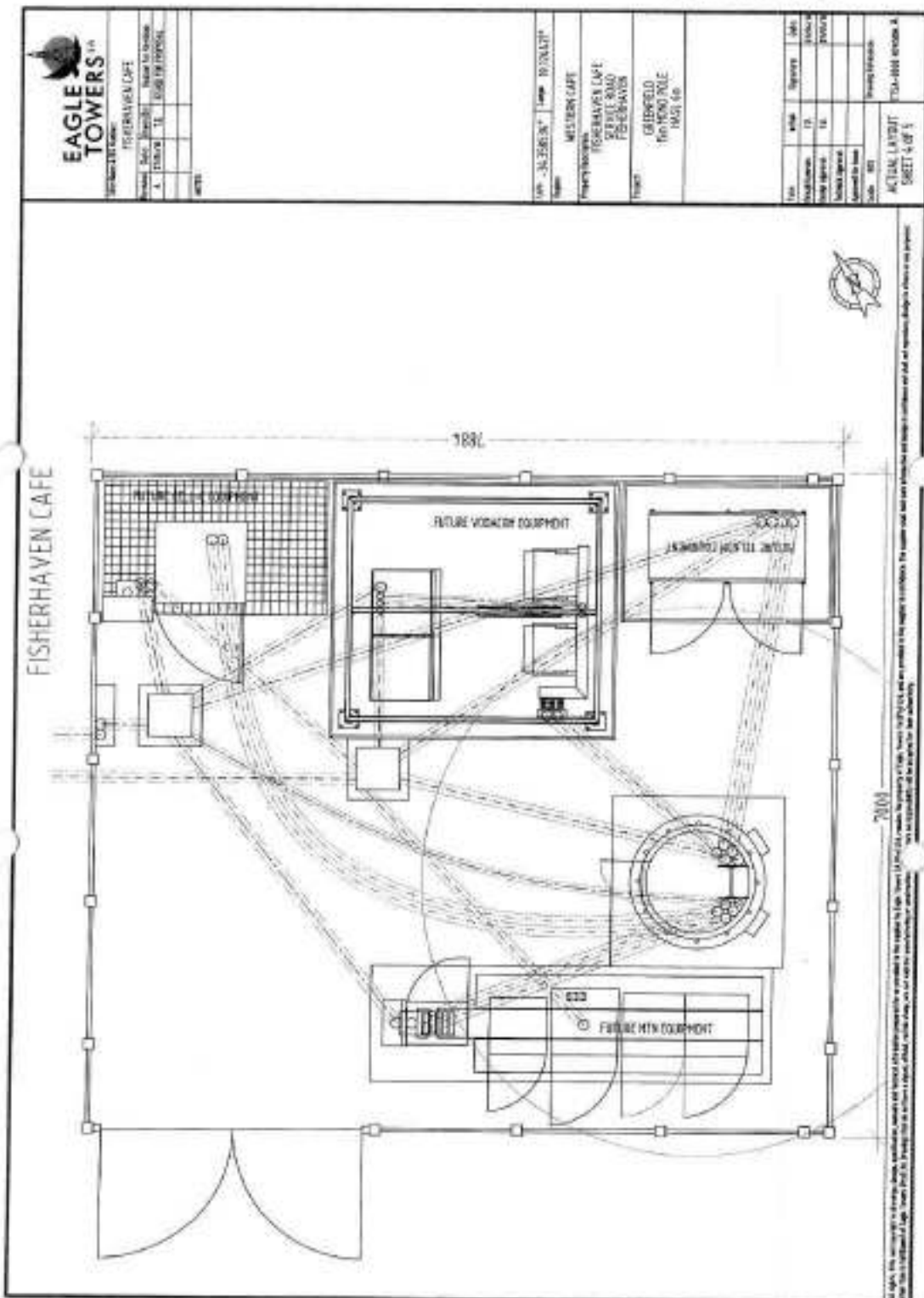
**FISHERHAVEN CAFE**

Architect: Eagle Towers  
 Date: 2024-05-20  
 Project No: ERF 115  
 Site: Fisherhaven Cafe  
 Drawing No: EP-001

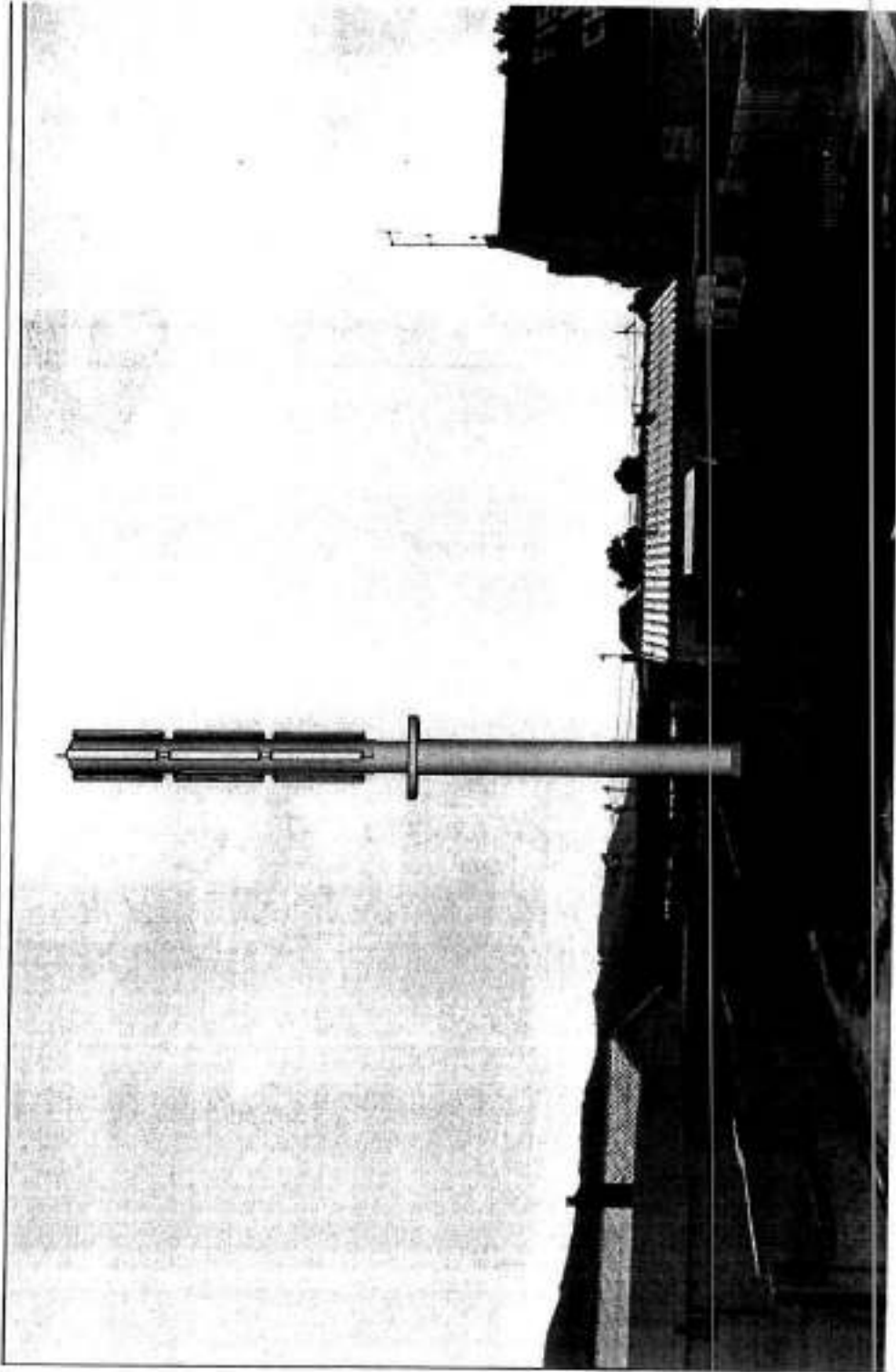
Site	ERF 115	Project No	EP-001
Project Name	FISHERHAVEN CAFE	Client	ERF 115
Site Address	FISHERHAVEN CAFE	Scale	1:100
Urban Zone	ERF 115	Author	[Signature]
Map Ref	16373/31486	Date	2024-05-20
Sheet No	2/5	Scale	1:100

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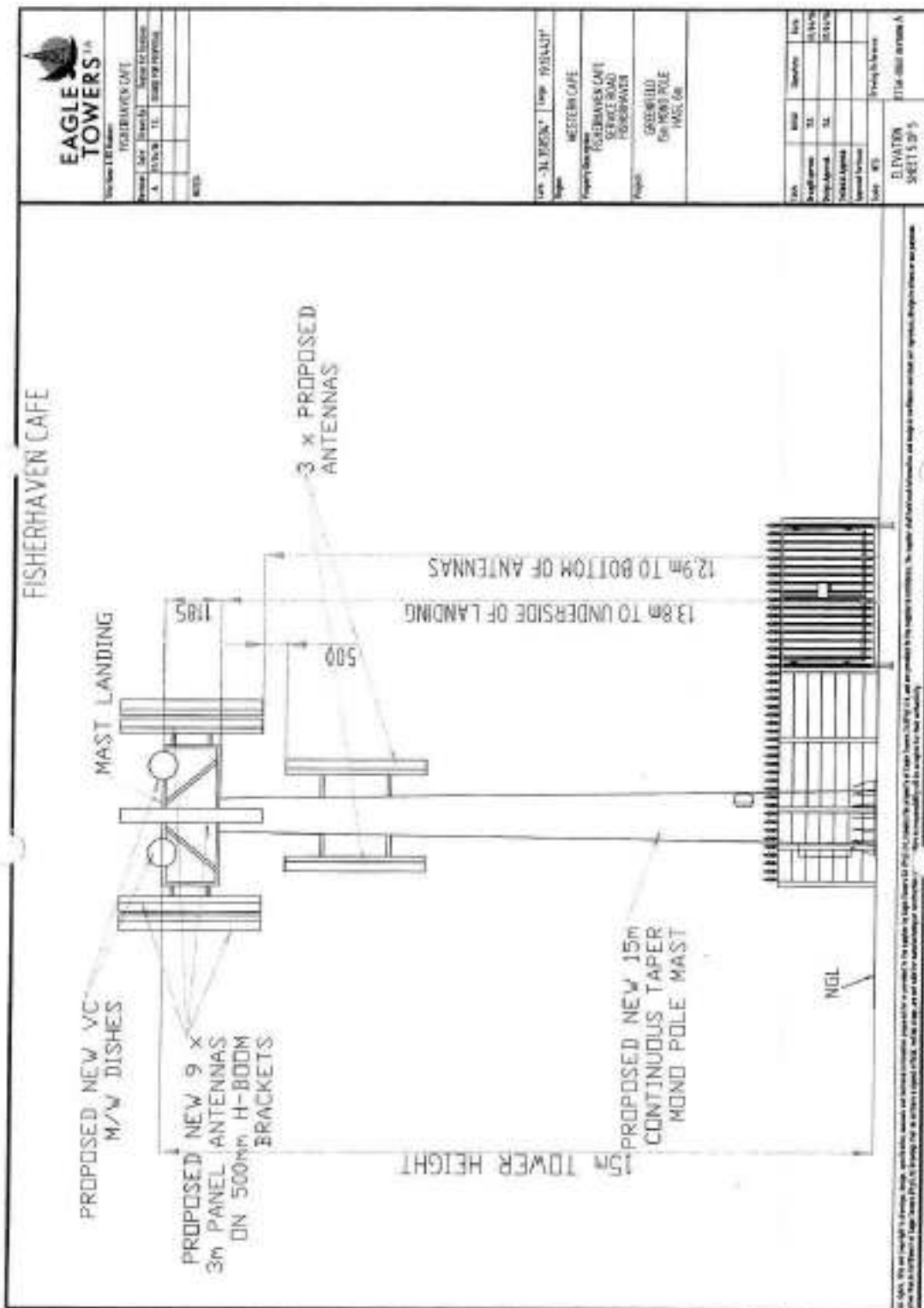
ANNEXURE B 3/5



**SOUTHERN ELEVATION**



ANNEXURE B 5/5



PROJECT: FISHERHAVEN CAFE  
 CLIENT: WESTERN CAFE  
 DRAWING NO: ETTA-0001 ANTENNA A  
 DATE: 11/11/11

DESIGNED BY: GREENHILL  
 DRAWN BY: HASSLER

NO.	REV.	DESCRIPTION	DATE

PROJECT: FISHERHAVEN CAFE  
 CLIENT: WESTERN CAFE  
 DRAWING NO: ETTA-0001 ANTENNA A  
 DATE: 11/11/11

DESIGNED BY: GREENHILL  
 DRAWN BY: HASSLER

NO.	REV.	DESCRIPTION	DATE

© 2011 Eagle Towers Pty Ltd. All rights reserved. This drawing is the property of Eagle Towers Pty Ltd. and is not to be used, copied, or reproduced in any form without the written consent of Eagle Towers Pty Ltd. The design of this structure is subject to change without notice and is not intended to be used for any other purpose.

## 5. MOTIVATION

### a. Background

Recent research conducted has indicated that there is a current lack of cellular infrastructure to provide optimal and efficient data/ voice coverage to the surrounding community situated in the Fisherhaven area.

The need for optimal coverage was mainly caused by the rapid urbanization & commercial development in the surrounding area over the past few years as well as the introduction of LTE (latest cellular technology). In addition to the research there has been a clear increase in customer complaints in the Fisherhaven area regarding poor or no voice & data coverage.

Although not applicable in the Overstrand municipal area, in order to provide clarity and for ease of reference, below please find an extract from the Cape Town Development Management Scheme as approved by the Western Cape Government defining a Freestanding Telecommunications base station or Transmission Tower in the context of telecommunications infrastructure and the National Communications Act.

*"Freestanding Base telecommunication station (FSBTS) means a freestanding support structure on land or anchored to land and used to accommodate telecommunication infrastructure for the transmitting or receiving of electronic communication signals, and may include an access road to such facility;"*

*"Telecommunication Infrastructure (TI) means any part of the infrastructure of a telecommunication network for radio / wireless communication [in the 0 to 300 GHz range], including voice, data and video telecommunications that is used in the transmission or reception of electromagnetic waves. This includes the following: Freestanding base telecommunication station (FBTS); Rooftop base telecommunication station (RBST); antennae; any support structure; equipment room (defined); radio equipment (irrespective of spectrum used); and optical communications equipment (laser and infra-red) provided by cellular network operators and any other telecommunication provider as well as all ancillary structures and the associated feeder cables between the communication equipment and the antennae, needed for the operation of TI."*

**b. Proposed Development Parameters**

The current and proposed allowable development parameters as per the OZSR are indicated in the table on the following page:

Development Parameters	Overstrand Zoning Scheme Regulations (Business Zone 3 – Local Business)	Proposed Development on Erf 115 Fisherhaven
Floor Factor	At most 1,5	<b>COMPLY:</b> 0,45
Coverage	At most 75%	<b>COMPLY:</b> 45%
Building Lines	Street Building Lines: 0,0m	<b>COMPLY:</b>
	Common Building Lines: 3,0m (Western)	<b>DEPARTURE:</b> 0,0m
Street Setback	Street Setback Line: 6,5m	<b>COMPLY:</b>
Height	8,5m	<b>DEPARTURE:</b> 15,0m Above N.G.L

The proposed erection of a freestanding base telecommunication station will **NOT** have an impact on street building lines, parking, coverage or floor factor as described in the OZSR.

Below please find an extract of the current zoning and current zoning requirements and specifications:

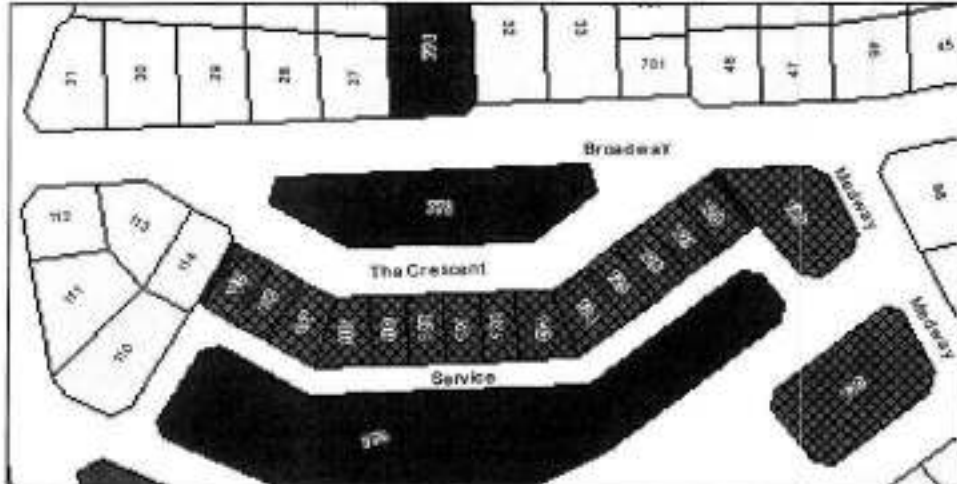


Fig. 3 – Business Zone 3 Zoning–LOCAL BUSINESS CONFIRMATION

BUSINESS ZONES	FLOOR FACTOR	COVERAGE	MAXIMUM HEIGHT MEASURED FROM THE BASE LEVEL	BUILDING LIMITS			SETBACK (METRE) LINE SETBACK
				No Top of Roof	Street Building Line	Side Building Line	
<b>BUSINESS ZONE 3: LOCAL BUSINESS (B3)</b>							
<b>PERMITTED USES</b> Shop, fast food, ground floor, office	1.3	70%	8.0M (26feet)	0.0m 5.5m for tall zones	4.0m or 0.0m Refer to 1.2.2(a)	0.0m or 1.0m Refer to 7.2.2(b)	0.5m Refer to 11.1
<b>COMMENTARY</b> Small shops, business premises, clinic, restaurant, facility, fast food ground floor, bookkeeping, general store, hotel, internet cafe, institution, place of assembly, place of entertainment, place of education, place of worship, recreational facilities, residential building, restaurant, meeting room, library, any of its other uses with... subject to... unless a P.A.U. determined zone			Earth quake and retaining structures shall comply with 21.6				

Fig. 4 – B3–LOCAL ZONING CONFIRMATION

### c. Physical Characteristics

RF Engineers identify sites by utilizing a specific set of engineering rules and principles, Erf 115 Fisherhaven was identified as an optimal position on the following premise:

- Property offers the optimal position situated between existing and planned base stations to provide efficient data and voice coverage.
- Surrounding geographical aspects are in line with the requirements.
- Minimized physical, natural and visual impact.
- Ability to reduce the number of base stations in the surrounding areas.
- Ability to provide sufficient security to the equipment.
- Capacity to share infrastructure with majority of the operators.
- Property position will address the complaints received in the area.
- Sufficient space to erect a freestanding base telecommunications station.

Due to the medium density residential and business development and the lack of telecommunications infrastructure in the Fisherhaven area the need for an additional base station is an absolute requirement.

Below please find a list of base telecommunications stations able to accommodate 3 major operators situated in close proximity of the proposed property:

BASE STATION TYPE	ADDRESS	DISTANCE	INSUFFICIENCY OF CURRENT TOWER
25m – Lattice Mast	Hawston mountain MTN	4000 m	<ul style="list-style-type: none"> <li>• Cannot provide sufficient coverage due to a lack of infrastructure.</li> <li>• Tower is currently overloaded and cannot provide space for additional users</li> <li>• Cannot provide sufficient coverage due to a lack of infrastructure.</li> <li>• Cannot provide sufficient coverage due to distance and density factor.</li> <li>•</li> </ul>

10m - Rooftop	Vermont	5000 m	<ul style="list-style-type: none"> <li>• Cannot provide sufficient coverage due to a lack of infrastructure.</li> <li>• Cannot provide sufficient coverage due to distance and density factor.</li> </ul>
---------------	---------	--------	---

In light of the above it is abundantly clear that the existing infrastructure cannot optimally serve the community of Fisherhaven.

#### d. Title Deed Restrictions

As discussed in section 4.b of the report, in respect of Erf 115 Fisherhaven it was found that there are certain restrictive conditions contained in title deed no. T75010/2015 the conditions prohibits that no building or structure or any portion except boundary walls and fences, verandas and balconies shall be erected nearer than 2.35m to the street line, forming the boundary of the Erf. *Amendment* regarding the restrictive title deed conditions is needed in order to ensure optimal coverage to the surrounding community and regularize the land use for the purpose of a freestanding base telecommunication station (*Please refer to the attached Annexure A: Title Deed*)

#### e. Health

The Directorate: Radio Control, within the South African Department of Health is the responsible authority regulating cellular base-station effects on health. The department of health regulates non-ionizing radiation, and this includes electromagnetic fields (EMF) at frequencies less than 300 GHz.

The Directorate makes use of the World Health Organization's (WHO) International EMF Project ([www.who.int/emf](http://www.who.int/emf)) as its primary source of information and guidance with respect to the health effects of EMF and cellular infrastructure.

With reference to EMF there are two recent publications by the World Health Organization that are of direct relevance.

- (i) International EMF Project Fact Sheet "*Electromagnetic fields and public health: mobile phones*" <http://www.who.int/mediacentre/factsheets/fs193/en/index.html> and;

- (ii) The results of the multi-national 10-year long INTERPHONE study on mobile phone use and brain cancer risk (press release – [www. iarc.fr/en/media-centre/pr/pdfs/pr200\\_E.pdf](http://www.iarc.fr/en/media-centre/pr/pdfs/pr200_E.pdf)). The Directorate endorses the exposure guidelines published in 1998 by the International Commission on Non-Ionizing Radiation Protection (ICNIRP).

The World Health Organization has officially endorsed these studies with regards to EMF exposure. ICNIRP states categorically that exposure to EMF at any level below that of the ICNIRP exposure guidelines will protect people against the known adverse health effects of EMF.

In addition measurement assessments conducted in South Africa and around the world have indicated that the actual levels of public exposure of base station emissions are only a fraction of the percentage as regulated by the ICNIRP guidelines, even in cases where the public have been concerned regarding their exposure to emissions from base stations.

Department of Health is therefore satisfied that the health of the general public is not being compromised by their exposure to the emissions of cellular base stations, at present no confirmed scientific evidence exists that would indicate any hazard to human health in situations that members of the public would typically find themselves in.

#### **f. Need & Desirability**

In modern times it is become a rear instance where a member of the public only utilizes one cellular phone, majority utilize a cellular phone for personal and an additional phone, Ipad or dongle for business purposes, it's on this premise that we believe it to be in both the Overstrand municipality & the operators interests to address the problem of weak voice and data coverage and to provide the surrounding residential & business community with the basic need of effective voice and data coverage, as it has become an integral part of our daily lives.

When selecting a site, special consideration is given to the geographical aspects so that the cellular infrastructure is positioned to ensure optimal functionality and availability to the customer. This reduces the number of base telecommunication stations necessary to provide the best possible experience for the end user.

Our client Eagle Towers (Pty) Ltd pride themselves in ensuring that a positive impact is created in terms of the social and economic wellbeing of the area. Since the introduction of LTE in South Africa in 2012 there has been greater need for access to faster data, due to the higher penetration of LTE data in commercial and business areas, this has led to lower subscription fees which in itself provide economic sustainability and development. LTE will ultimately address high data traffic requirements and the surrounding community will be the main beneficiary.

The erection of a telecommunication base station does not impact on the current or surrounding land uses of the property nor does it encroach onto any building lines or increase the need for parking or bulk of the said property. The construction and maintenance phase of the proposal will provide a positive economic & social impact by ensuring job creation.

#### **g. Existing Policy Frameworks**

##### **Western Cape Integrated Development Plan**

As depicted in the Western Cape IDP, a change in intensified land use and form is anticipated. Fisherhaven has been identified as an easily accessible activity corridor where increased public movement and transportation is both being expected and supported by the district municipality. The positioning of the base station will be in close proximity of the district restructuring routes. This will lead to an increase in tourism, commercial and business activities and would require the need to erect a base station which in turn will address the increased communication needs of the surrounding community.

##### **Western Cape Economic Development Strategy (2009)**

The Directorate for Economic and Human Development published a draft Economic Development Strategy in 2009 which supports the need to provide fundamental telecommunications infrastructure and to provide the best possible available coverage. This will lead to the attraction and growth of the commercial sector and at the same time retain and advance skilled persons.

LAND USE APPLICATION: ERF 115 FISHERHAVEN

**HIGH WAVE**  
CONSULTANTS

Please find below an extract from the above mentioned policy supporting telecommunications infrastructure:

*"High data access and low telecommunications costs are a key input factor for local community, business and industry to achieve sustainable growth" &*

*"Taking into account the high accessibility of mobile telephones and the growth in the mobile telecommunications market, the provincial government will actively seek to create technology parks in nodal areas in order to increase the digital literacy of citizens".*

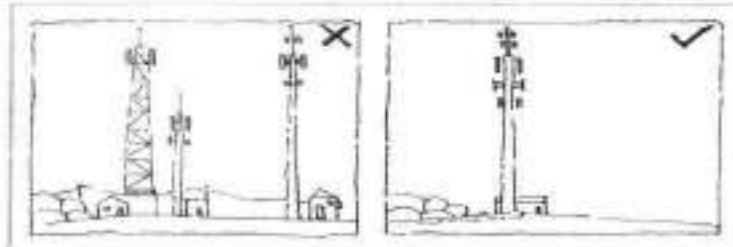
As confirmed by the policy, basic access to voice and data coverage is defined as a basic need for the public and falls under the umbrella of electricity, water, sanitation and access.

#### **h. Electricity**

As per the telecommunications policy the electricity supply to TI (Telecommunications Infrastructure) must, where practically possible, make use of underground cables. All electrical installations must be as per Eskom or Overstrand Municipal Electrical Department requirements and standards. Our client will ensure that the proposal will be in line with the above mentioned electrical supply requirements.

#### **i. Visual Impact**

Special consideration has been given to the placement of the proposed freestanding base station in order to minimize the visual impact as far as possible however this is challenging at times. As a guideline the Cape Town Telecommunications Policy encourages the collocation or sharing of telecommunications infrastructure in order to minimize the visual impact. The proposed erection of a 15m freestanding base station will offer the opportunity for operators to collocate resulting in the reduction of future telecommunication towers. Our client Eagle Towers has selected to erect a monopole design mast in order to reduce the visual impact and be in fitting with the surrounding environment.



*Fig.5 - Sharing of Infrastructure*

The visual impact of the freestanding base telecommunications station will be reduced by the hardened urban landscape and building visible on the property from the northern elevation. Due to the available open space and potential for increased urban densification and growth in the area, the visual impact of the mast is will be increasingly reduced by the desensitization created by the future surrounding urban landscape.

**j. Access & Traffic considerations**

Erf 115 Fisherhaven is easily accessible and access will be obtained from Service road. This road has low traffic volume thus this development will not affect traffic negatively and will not cause any additional traffic volume to the area.

**k. Alternative Candidates/ Solutions**

Various alternative candidates was evaluated and approached for this proposal as detailed below:

- **Rooftop option** was considered but would be impractical due to average building height on the area being <15m

## 6. CONSISTENCY WITH SPLUMA PRINCIPLES

The spatial planning and land use management act (SPLUMA) came into effect on 1 September 2014. One of the main objectives of this act is to provide a framework for spatial planning and land use management to address past spatial and regulatory imbalances.

SPLUMA sets out the following 5 main principles applicable to spatial planning, land use management and land development.

The table below indicates how to propose development will be consistent with the SPLUMA principles.

Principle	Motivation
Spatial justice:	<ul style="list-style-type: none"> <li>The development aims to promote community development within the urban fabric of Fisherhaven.</li> <li>The proposed application will contribute to the functional and integrated land use pattern in the surrounding area.</li> </ul>
Spatial sustainability:	<ul style="list-style-type: none"> <li>Development complies with western cape provincial spatial development framework (2014) as a spatial tool to guide future development on a provincial level.</li> <li>The proposed development does not trigger any environmental listed activities according to the national environmental management act (1998)</li> <li>Intensification inside the urban edge results in more effective provision of services that will result in more feasible provision of infrastructure and social services.</li> <li>The proposed development will have no impact on the character of the surrounding area.</li> </ul>

Spatial efficiency:	<ul style="list-style-type: none"> <li>• Development will make use of existing local resources and contribute to specialized skills development within the local municipality.</li> <li>• Intensification inside the urban edge results in optimal use of existing resources and infrastructure.</li> </ul>
Spatial resilience:	<ul style="list-style-type: none"> <li>• The development complies with the following spatial development frameworks:               <ul style="list-style-type: none"> <li>• Western Cape provincial development Framework 2014.</li> </ul> </li> </ul>
Good administration:	<ul style="list-style-type: none"> <li>• The principle has no direct bearing on the application. The Overstrand municipality is obligated to consider the application fairly and within the timeframes provided in terms of the municipal planning by-law.</li> </ul>

## 7. CONCLUSION

The application for the consent use, building line relaxation, height relaxation and restrictive title deed conditions application to allow the transmission tower on Erf 115 Fisherhaven will not have a negative impact on the surrounding area. As supported by various policies and legislation it is clear that the proposal will have a positive economic and social impact ensuring that the surrounding business & residential community benefits from optimal and effective voice and data coverage. The development will not have an impact on parking, coverage or the floor factor.

Notwithstanding the above, the erection of a freestanding base telecommunication station will provide an additional passive income to the landowner which can in turn utilize the additional income to uplift the surrounding area. The application has been proven to be desirable and it is hereby kindly requested that the Overstrand municipality provide their full support with regards to this application.

ANNEXURE D 1 /54

TR A Theun  
C H Olivier)



15 Lagoon Road

Fisherhaven

7200

usha.hudson@gmail.com

16 September 2017

To: DSM municipal manager

P.O Box 20

Hermanus

7200

loretta@overstrand.gov.za

Dear Sir

FILE NO:	EL 115
	Fisherhaven
SCAN NO:	12
COLLABORATOR NO:	1076647

Re: Municipal Notice No. 121/2017 - RF 115, 39 THE CRESCENT, FISHERHAVEN - PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS, CONSENT USE AND DEPARTURES : HIGHWAVE CONSULTANTS (obo GPN KRUGER)

Objection to

1. Application for removal of restrictive title conditions D.4(d) contained in Title Deed T75010/2015 applicable to Erf 115, Fisherhaven in terms of Section 16(2)(f) of the abovementioned By-Law.
2. Application for consent use in terms of Section 16(2)(o) of the aforementioned By-Law to erect a proposed 15m high transmission tower on the property concerned.
3. Application for departures in terms of Section 16(2)(b) of the aforementioned By-Law to relax the lateral building line from 3m to 0m and also to depart from the 8m height restriction to 15m to accommodate the proposed transmission tower.

As a resident of the above address I would like to object to this application due to the following reasons:

- Visual pollution
- Potential health hazard
- Loss of money

The topography of Fisherhaven is flat and a high transmission tower in the middle of this residential area will cause a significant visual intrusion on the view from many properties in the village which were purchased specifically for the beautiful mountain views which surround the village and on which their current market value is very much influenced.

It is not fair on the many existing homeowners in this suburb to have the market value of their properties negatively affected causing substantial financial loss and their view taken away. My

TP

18 SEP 2017

property value has not increased at all since I purchased it in 2006. Between this effect and the perceived negative health hazards associated with these towers, if this tower is erected I will not be able to sell my property for anywhere near the value it is worth at the municipal evaluation - if I can sell it at all. If this application is approved it will be financially crippling for me and have long term consequences for my retirement planning.

The health hazards associated with these towers cannot be ignored and can be debated at length by literature which supports and does not support these claims. However there is enough evidence from across the world to show there is an effect and until further evidence the OSM should uphold the right of the legislation to allow its residents a healthy environment within which to live by allowing the erection of these towers in areas outside the immediate residential area.

No other suburb in Hermanus has a high transmission tower built in the middle of the residential area. For example the tower in the Voelklip area is sensitively placed so that its effect on the residents is minimalised as it is placed outside of the boundary of the existing residential buildings and not in the middle of the suburb. I plead that the OSM apply consistency in its decision making and follow the same criteria to not allow these towers in the middle of residential areas as this application requests but rather to suggest alternatives on the outskirts of the residential areas. The financial gain of the property owner of this erf from this application will result in a far greater financial loss for many residents of Fisherhaven and this is not acceptable or justifiable.

I trust the OSM to make fair and equitable decisions regarding development in their jurisdiction which does not negatively affect its residents when there are suitable alternate options available which would not result in the extent of negativity that the situation of this tower will bring. There are many other locations in the area outside of the existing residential area where this tower could be placed.

Yours sincerely



Vicki Hudson

ANNEXURE D 3 /54



TR A Theart  
C H Olivier

15 Lagoon Road

Fisherhaven

7200

1 October 2017

To: OSM municipal manager

P.O Box 20

Hermanus

7200

FILE NO:	EL 115
	Fisherhaven
SCAN NO:	08
COLLABORATOR NO:	1081194

Dear Sir

RE: Municipal Notice No. 121/2017

Additional comments to my objection letter 16 September 2017 on the application:

- It states 'recent research conducted' – provide proper scientific reference for this to prove validity. As a resident and home owner of Fisherhaven I has not participated or known of any research conducted in this area to find out needs of this community.
- How was it measured that there has been 'rapid urbanisation and commercial development in the surrounding area'? One business complex has closed in Fisherhaven which has 2 shops and 1 pub and restaurant and the other business complex has had numerous change of hands for the shop and office space on either side so from a commercial development there has been a decrease due to poor economic climate.
- Evidence of consideration of alternatives has not been adequately explored and by upgrading existing facilities and infrastructure at the Hawston mountain tower which has an existing footprint is the most feasible option for all concerned from a social health and well-being and visual pollution aspect. On page 17 it states the Vermont rooftop option is not practical due to 'average building height being .15m – the same is the case here in Fisherhaven so hence this site must then also not be considered an option. Otherwise this shows bias to one site.
- The title deed restrictions are there to protect the landowners from development that is not compatible with residential areas and the OSM should guard against the removal of these restrictions for monetary gain by one to the detriment of many.
- The section e. Health in the application is wholly inadequate and confuses the health effects of cell phones instead of towers as it the case here in paragraph ii)
- The section i. Visual impact is also wholly inadequate and does not address this critical issue in a suburb with high scenic views of 360° panoramic extent. This visual impact will not be reduced by further densification as much of the surrounding area where the tower is planned is dedicated open space.
- The assessment of this application against the SPLUMA principals is fatally flawed. This application will have a huge impact on the character of the surrounding area, it will not promote community development and it does not use existing local resources.

The residents of Fisherhaven have improved their voice/data coverage by installing additional receivers as can be seen on some houses around the village.

TP

19 OCT 2017

To reiterate, I object to the removal of these restrictions for this application

Regards

Vicki Hudson

ANNEXURE D <sup>Page 1 of 1</sup> 5754TRATHA  
C. H. Olivier**Loretta Gillion - Proposed removal of Restrictive Conditions Erf 115, 39 the Crescent, Fisherhaven.**

**From:** Almut Hoffmeyer <almuthoffmeyer@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 26/09/2017 12:25 PM  
**Subject:** Proposed removal of Restrictive Conditions Erf 115, 39 the Crescent, Fisherhaven.

To whom it may concern.

I, Almut Erika Hoffmeyer, 77 Broadway, Fisherhaven. Tel. 0283151294, or 0716034175, wish to oppose the above removal of Restrictive Conditions due to the following.

At the moment I am staying at 33 Broadway, Fisherhaven but I am planning to move to Erf 112, Fisherhaven as soon as we have build the house. Plans have already been approved.

I also oppose in the capacity as owner for Erf 125.

There is no real proof that the exposure has no adverse health affects and I am not referring to cellphone waves but to waves emitted from Mobile Phone Towers.

I quote:

"Research article - A pilot study of Health Hazards of Electronicmagnetic Waves from Mobile Towers."

Results of self reported health effects - sleep disturbance, episodes of headaches, change of mood/depression.

Conclusion - Health hazards with Electric Magnetic Wave radiation cannot be ignored and should be considered as a public health concern.

from: advances in Public Health. Volume 2014 (2014). article ID 952832.

I love the village feel of Fisherhaven and believe that such a structure has no place in a residential area when there is so much space around the village where such a tower could be erected, eg. Public Place 576.

Yours faithfully,

Almut Hoffmeyer (Mrs)

FILE NO:	ELIIS Fisherhaven
SCAN NO:	05
COLLABORATOR NO:	1079503

TP

27 SEP 2017

file:///C:/Users/loretta/AppData/Local/Temp/XPgrpwise/59CA4754HermanusMurpos... 2017/09/27

ANNEXURE D 18754 of 2

TP-A Theart  
(C H Olivier)

Loretta Gillion - Transmission Tower Erf 115 Fisherhaven



**From:** "a3mossie" <a3mossie@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 24/09/2017 01:02 PM  
**Subject:** Transmission Tower Erf 115 Fisherhaven  
**Attachments:** 2017-09-24.jpg

FILE NO:	EL 115
SCAN NO:	Fisherhaven
COLLABORATOR NO:	1079025

Morning Loretta

I am living at 51 The Crescent Erf 121, 200mtr from The Haven Erf 115, where this monstrosity of a tower is proposed to be erected

I very strongly object to this Tower being erected on this Erf due to the following reasons:

- 1) I retired in Fisherhaven due to the lovely nature I can capture with my eye on photos thru out the town, a lot from my balconies back and front. Especially sunsets over this specific Erf 115. Now picture yourself with a monstrous tower in the middle of a sunset picture (collage attached)
- 2) We are a small town with a vast amount of open spaces, beautiful common areas with wild flowers, wild horses & lagoon. There are no high-rise building and sky scrapers here that will obscure a horrific tower like this standing out amongst all this beauty in Fisherhaven
- 3) An increasing number of studies from around the world clearly demonstrates how the increasing bombardment of animals, birds, plants, insects and other life forms by electronic transmissions does carry real risks and Fisherhaven has an abundance of these. We do not want to be a place like Bellville where you are just surround by a few screaming "Tarentale" and "Mossies" that drive you insane.
- 4) All though you states that studies done around Transmission Towers are inconclusive I strongly disagree. There are now dozens of studies which have found evidence of other risks such as interference with the blood brain barrier and neuronal activity, cardiological risks, impacts on the immune system, damage to the reproductive system, disruption of the endocrine system, damage to genes and finally risks of causing cancer (carcinogenity). These and other impacts have been documented in published, peer-reviewed studies. Besides the risks related to cell phone technology, the increasing use of Wi-Fi and other data networks has been shown to carry equal, if not higher, risks. Many schools, universities and even towns have banned or curtailed the use of so called 'hotspots' for wireless interconnectivity due to the perceived dangers related to the use of these frequencies. South Africa has at least one documented cluster of negative health effects arising near wi-max broadband antennae, with alarming related side effects, including rashes, dizziness, insomnia and tinnitus, inability to concentrate and headaches. It is notable that these symptoms have shown up across people of all ages and even in pets
- 5) I am a sufferer of Tinnitus and this illness gets aggravated by these Transmission towers. If you have never had this illness, I would not wish this upon you.

In conclusion, will I now be forced to use the supplier of this Transmission Tower as I am sure that it's frequencies will interfere with my suppliers signals high up on the mountain at the Chicken Farm other side the R43, where this new one proposed should belong

I really hope that this application of ERF115 will be carefully thought over and not permitted to be erected in our town

26 SEP 2017

file:///C:/Users/loretta/AppData/Local/Temp/XPgrpwisw/59C7AD02HermanusMunpo... 2017/09/26

Regards

Adri Mosfert

Ph: 028 3151057

Mobile: 082 333 7949

Work: 021 870 5103

[a3mosfert@gmail.com](mailto:a3mosfert@gmail.com)

[adri.mosfert@tigerbrands.com](mailto:adri.mosfert@tigerbrands.com)





ANNEXURE D 9/54  
TP-A Theat  
(H Olivier)

20 September 2017

Erft 110

10 Seewer Road

Fisherville

Att. Herb Olivier

7200

Re: Proposed application for the removal  
of restrictive conditions  
Erft 115 Fisherville.

We myself Mrs E. Bosson & my husband  
Mr A. Bosson are not happy with  
this proposal as our property is  
situated near Erft 115 which will  
cause the value of our property to  
fall as well as being an eyesore.  
Also and the main one for health  
reasons.

Why must the infrastructure be erected  
in the middle of Fisherville and not  
near to residential areas.

Our contact details E. Bosson 0721116010

Landline 0283152603

Yours faithfully

E. Bosson

*[Signature]*

FILE NO: BL 115-HFH
SCAN NO:
COLLABORATOR NO: 1077902

ANNEXURE D Page 1 of 1

TR A Theart  
CH Olivier

**Loretta Gillion - Proposed application for the removal of restric. cond on Erf 115  
Fisherhaven**



**From:** Birgit Hoffmeyer <hoffmeyerbirgit@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 19/09/2017 09:10 AM  
**Subject:** Proposed application for the removal of restric. cond on Erf 115 Fisherhaven

re: Proposed application for the removal of restrictive conditions Erf 115, Fisherhaven, 39 The Crescent

I, Birgit Erika Hoffmeyer, Erf no 112, Fisherhaven, tel 082 9640117, wish to oppose above application.

1. Health hazards from EMW (electronic magnetic waves) cannot be ignored. Some results have been reported like sleep disturbance, episodes of headaches and change in mood.
2. It has not been established what the long term influence is.

As there is so much open space around Fisherhaven I am sure a better place can be found than in the middle of residential area.

I have just received my approved plans to build and when I will sit in my back yard this tower will be right in my line of view.

Kind Regards  
 Birgit Hoffmeyer

FILE NO:	E.L 115 Fisherhaven
SCAN NO:	07
COLLABORATOR NO:	1077487

19 SEP 2017

file:///C:/Users/loretta/AppData/Local/Temp/XPGpWise/59C0DEF6HermanusMunp... 2017/09/19

TBA Theat  
C H Olivier

ANNEXURE D 125/541-1



Loretta Gillion - Municipal Notice: 121/2017 - Erf 115, Consent use of Departures Tower

**From:** Heather <heather@fisherhaven.com>  
**To:** <loretta@overstrand.gov.za>, "fisherhavenra@gmail.com" <fisherhavenra@gm...>  
**Date:** 04/09/2017 04:38 PM  
**Subject:** Municipal Notice: 121/2017 - Erf 115, Consent use of Departures - Cell Tower

Hi Loretta

My Name is Heather Cowell, I live at 19 Riverside Drive in Fisherhaven, my best contact details are my email [heather@fisherhaven.com](mailto:heather@fisherhaven.com) or my mobile 083 410 8800.

I live a few hundred meters away from erf 115, the proximity of the tower will negatively affect our property values, evidence of this was nicely presented by a survey done in Cape Town, I have copied the link to the article below.

We chose to move here from Cape Town to get away from the big city and all the 'industrialisation' that goes with it, we want clear skylines, open sweeping vista's and consideration for everything living. There have been many many studies done all over the world and the verdict is still out of the 'safety' of these towers, I have copied a link to an interesting article below as well.

We therefore strongly object to the construction of the tower.

**Property Value:**

<https://www.privatproperty.co.za/advice/news/articles/cellphone-masts-and-property-value/4308>

(including reference to construction on an approved site in constantia being put on hold after a high court ruling)

**Health Debate:**

<https://www.joh.co.za/business-report/technology/cellphone-masts-damaging-our-brains-1232924>

<http://sacsis.org.za/site/article/4611>

<http://www.natureschoice.co.za/health-news-desk/is-your-cell-phone-undermining-your-life/>

FILE NO:	EL 115
	Fisherhaven
SCAN NO:	
COLLABORATOR NO:	1071796

14/11/17 12:00  
PO Box 160  
Orms River  
7201

TP 1 SEP 17

*Leo & Marianne Romer*

Leo : 082 299 2018

Marianne: 084 312 1819

leo-mariannr@mweb.co.za

*Le Chalet*



Fine Dining Restaurant

35 Riverside Drive, Erf 25 Fisherhaven



TR A Theart  
C Holivier

03 October 2017

**RE: ERF 115 Fisherhaven**

Attention Mr. H. Olivier, Town Planner

We have received the registered letter from HighWave Consultants regarding proposed application for the removal of restrictive conditions, ERF 115 Fisherhaven.

We are completely against the rezoning and erection of the telecommunication station.

• **Major Health Risk!**

It is a health risk to people (locals and our customers from all over the world), animals and the environment which is confirmed by international studies.

• **Devaluation of Property**

This tower will significantly decrease the value of our property including many in the surrounding area.

EL 115-Fisherhaven
COLLABORATOR NO:
15
SCAN NO:
1082479
FILE NO:

TP 04 OCT 07

- **UGLY to look at!**

As we are a fine dining restaurant also known for our great view, this tower will have a negative visual impact for our customers and for ourselves. Not something you want to see when you look out the window!

- **Stands out**

The tower (in the middle of Fisherhaven) will defiantly stand out in between empty plots, single and a few double story buildings and homes. Thus it will be seen from very far.

**DOES NOT BELONG IN FISHERHAVEN!**

We hope this will never happen in Fisherhaven.

Kind regards

Leo and Marianne Romer



TP- AT heart  
(H Olivier)

COMMENTS AND REASON ON THE CELL PHONE TOWER

3-10-2017

MRS. A.M. NARAN

79 BROADWAY, FISHERHAVEN.

PH. 0826182412 email. -

manaranandi@gmail.com

COMMENTS & REASONS FOR COMMENTS

DEAR SIR I WOULD APPRECIATE YOUR ATTENTION TO THE REASONS OF MY COMMENTS OF A CELL TOWER IN THE NEIGHBOURHOOD,

(1)

A CELL TOWER IS A RISK WELL KNOWN OF RADIATION AFFECTING THE HUMAN BODY, SOAKING UP MILLIONS OF ELECTRONS THROUGH FEET, HAVING RADIATION STIMULATION.

(2)

IT WILL DEFINITELY BRING PROPERTY VALUES DOWN.

(3)

ITS A DISREGARD TO THE RIGHTS OF THE COMMUNITY.

FILE NO:	EL 115
	Fisherhaven
SCAN NO:	14
COLLABORATOR NO:	1082198

- (4) PROFIT OVER THE WILL OF THE PEOPLE.
- (5) ITS A LONGTERM ECONOMIC RISK & CONSEQUENC.
- (6) ~~THE BUILDING OF~~ IM NOT AGAINST THE CELL TOWER BUT ~~NOT~~ IN THE DISTANCE FROM HUMAN LIVES.

I SEE A LOT OF SPACE AROUND AND MOUNTAIN HILLS WHERE THE TOWER CAN BE ERECTED, WHY BETWEEN THE EDERLY AND FRAGILE.

I HOPE U WILL CONSIDER MY CONCERN AND TAKE MY COMMENTS AND REASONS IN CONSIDERATION. PLEASE.

THANKIN YOU.

MRS A.M. NARAN.

**Loretta Gillion - Objection**



**From:** "Bob & Margie Searle" <kaggibob@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 03/10/2017 01:04 PM  
**Subject:** Objection

TR A Theart  
(H Olivier)

From Margaret Searle  
erf 69/No. 83 Riverside Drive  
Fisherhaven  
7200  
Tel. 028 315 2717  
email. [kag@bob@gmail.com](mailto:kag@bob@gmail.com)

I am a resident of Fisherhaven and I wish to register my objection to the removal of existing conditions relating to erf 115 in Fisherhaven. There is no need for a transmission tower in the village as we have very good reception from existing towers. Added to this the position is central to the village and will be an eyesore in a place where the residents are working hard to retain the present character of the area. Fisherhaven is a small village and we have been informed that there is little likelihood of any great development in the area in the foreseeable future.

Margaret Searle.

FILE NO:	EL 115
	Fisherhaven
SCAN NO:	08
COLLABORATOR NO:	1082000

TR 03 OCT 17

ANNEXURE D <sup>Page 1 of 1</sup> 17754TR A Theart  
(Hollivier)

Loretta Gillion - Fwd: Proposed removal of restrictive conditions Erf 115, 39 Fisherhaven

**From:** David Hugo <rgbuckley11@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 03/10/2017 11:02 AM  
**Subject:** Fwd: Proposed removal of restrictive conditions Erf 115, 39 Fisherhaven



- > To whom it may concern,
- > As a long term resident of Fisherhaven I have two objections to the removal of these restrictions
- > 1. A fifteen metre high tower right in the middle of the Fisherhaven village would be totally inappropriate ,unsightly and spoil the rural country atmosphere which is such an important feature of this village.
- > Coupled with this and the recent recognition and registration of the Botriver estuary as an internationally important wetland ,should strongly mitigate against any attempt to destroy the ambience of this area by erecting a communications tower which could just as easily be placed elsewhere.
- > The opinion and wishes of the community should always be seen by the OSM as being of paramount importance and not merely swept under the carpet for commercial or self serving gain.
- > The key is Respect !!! respect for the environment and respect for the community.
- > 2. While there is no conclusive scientific evidence indicating that these towers pose a health threat,the jury is out,and there is a huge amount of anecdotal evidence compiled by highly qualified people indicating the contrary , further it is also the opinion of people in the know, that long term studies will vindicate these concerns,
- > Surely therefore the OSM would be wise to adopt a cautious approach to what could become a very devisive issue .
- > David Hugo,
- > 47 Riverside Drive
- > Fisherhaven

FILE NO:	EL 115
	Fisherhaven
SCAN NO:	39
COLLABORATOR NO:	1081883

TP 02 OCT 07

file:///C:/Users/loretta/AppData/Local/Temp/XPgrwise/59D36E28HermanusMunpos... 2017/10/03

TR A Theod  
C H Olivier!

Loretta Gillion - Proposed removal of restrictive conditions Erf 115, 39 The Crescent, Fisherhaven



From: "Andrew" <serveus.info@gmail.com>  
To: <loretta@overstrand.gov.za>  
Date: 02/10/2017 11:24 AM  
Subject: Proposed removal of restrictive conditions Erf 115, 39 The Crescent, Fisherhaven

To whom it may concern

I, Martin van Wyk resident at 37 Broadway Crescent, Fisherhaven, (Tel: 028 315 1002) wish to oppose the above removal of restrictive conditions due to the following:

I had 2 heart attacks in the last 5 years and an operation therefore my answer is "NO".

There is NO real proof that the exposure has no adverse health effects and I am not referring to cell phone waves, but the waves emitted from mobile phone towers. The radio waves and microwave radiation is far more dangerous for us (me) that live next to it.

Research article: www.health risks living next to Voda tower  
Results: Sleep disturbances, cancer, memory loss, cardiovascular stress and headaches.  
Conclusion: Health hazards with electromagnetic waves radiation cannot be ignored.

I believe that such structure has no place in a residential area.

Yours Faithfully  
Martin van Wyk

FILE NO:	EL 115
	Fisherhaven
SCAN NO:	30
COLLABORATOR NO:	1081753

14/11/17 DB4  
-116  
PO Box 963  
Hermanus  
7200

TP 02 OCT 17

Loretta Gillion - Fisherhaven Cell tower

Erf 115 Fisherhaven (TRA Theart C Molinar)

From: annorienr <annorienr@gmail.com>  
To: <loretta@overstrand.gov.za>  
Date: 06/10/2017 09:58 AM  
Subject: Fisherhaven Cell tower



Good day  
I strongly object to a cell phone tower being erected in Fisherhaven.  
I have added my name to the petition as well.

Cell phone towers emits huge amounts of constant radiation and it is proven to be a health risk for those living near them.

Fisherhaven DOES NOT NEED a cell tower.  
As the understanding goes the motivation for erecting such tower is purely for the financial benefit of the landowner of the property on which it will be placed.

This email is on behalf of myself and my husband, as well as my two children.  
WE STRONGLY OBJECT

Regards  
A. Roos

Sent from my Samsung Galaxy smartphone.

FILE NO:	E2-115
	Fisherhaven
SCAN NO:	16
COLLABORATOR NO:	1090291

TP 15 OCT 17

**Loretta Gillion - Fisherhaven Cell Phone Tower**

---

**From:** annorienr <annorienr@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 06/10/2017 10:00 AM  
**Subject:** Fisherhaven Cell Phone Tower

---

Good day, in my email I just sent you, I neglected to give my address as requested in the paper. My address is 23 Riverside drive, Fisherhaven  
Contact details is this email address.  
Regards  
A. Roos

Sent from my Samsung Galaxy smartphone.

TRATHART  
(HOLINDS)



From: Steve Collinson <sec@telkomsa.net>  
To: <loretta@overstrand.gov.za>  
Date: 06/10/2017 10:22 AM  
Subject: 16metre tower in Fisherhaven

re: Erf 115 Fisherhaven

Good Morning Loretta  
My name is Stephen Eric Collinson  
I live at 22 Park Road, Fisherhaven, I have owned this property since 2002.  
My phone no is :- 0835496468  
My email address is :- sec@telkomsa.net

Fisherhaven is a delightful place with very much a "village" atmosphere.  
To erect a 16metre tower in the centre of the village will be a  
terrible eyesore visible for miles.  
I am sure there are numerous locations where this tower or towers could  
be erected  
without causing such an unsightly mess in our village.

Yours Sincerely  
Steve Collinson

FILE NO:	EC 115 Fisherhaven
SCAN NO:	15
COLLABORATOR NO:	1090287

TP 16 OCT 2017

Re: Erf 115 Fisherhaven

Page 1 of 1  
ANNEXURE D 22/54

TR A Theard  
C M Oliver

**Loretta Gillion - Communication tower objection, Fisherhaven**

**From:** Johan Smit <jsmit9031@yahoo.co.uk>  
**To:** "loretta@overstrand.gov.za" <loretta@overstrand.gov.za>  
**Date:** 05/10/2017 12:33 PM  
**Subject:** Communication tower objection, Fisherhaven



To whom it may concern

My name, Johan Smit from 22 Miramar Rd, Fisherhaven and my contact number is 0728843827.

I feel that erecting a 15m tower in the middle of such a small town is ludicrous. There are many better suited positions outside of Fisherhaven to cover similar areas.

The application was poorly written with many technical and administrative errors. I am disappointed that O&M did not scrutinize the application before it was released to the public.

The health concerns in the application, dealt with mobile phones and not with communication towers.

I therefore object to erecting a tower on erf 115, Fisherhaven.

Johan Smit

FILE NO:	EL 115
	Fisherhaven
SCAN NO:	13
COLLABORATOR NO:	1083034

TP 05 Oct 17

TRATH ANNEXURE D 23/54  
(C H Olivier)



**Loretta Gillion - Objection: Transmission Tower on Erf 115, Fisherhaven**

**From:** Tracey Whitelaw <tracey@oordvarkpress.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 05/10/2017 10:56 AM  
**Subject:** Objection: Transmission Tower on Erf 115, Fisherhaven

Dear Madam:

As owner of a property at 62 Broadway, Fisherhaven, I wish to formally object to the proposal that a transmission tower is to be built at the site of the local supermarket in Fisherhaven (erf 115). While there is certainly an argument that transmission towers cause health issues for those living and working nearby (possible radiation, soot/pollution - low-level sound and vibrations caused by the signals and power supply), there is also the aesthetic concern related to the fact that a 15 m tower will stick out of the townscape like the proverbial sore thumb.

Although at first glance it may not seem so, our village is set in a remarkable environment abutting the RAMSAR-declared Bot River estuary. Residents and visitors alike enjoy fabulous sky-shows all year round - sunsets, bleached summer days, sunrises and starcapes. A transmission tower will jar with all of these and ruin the views of many in the community. Fisherhaven will NOT benefit from a pseudo industrial tower smack in the middle of it!

The tower will be for the benefit of people and businesses NOT living in the village - the village itself does not require the tower for transmission purposes. And as the owner of the property on which the tower is proposed doesn't reside in the village, the income generated by the rental paid by the owners of the tower won't even find its way back into our small local economy.

I cannot support this proposal in any form.

With best wishes

Tracey Whitelaw  
62 Broadway  
Fisherhaven  
PO Box 203 Onrus River 7201

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FILE NO: EL 115 Fisherhaven  
SCAN NO: 01  
COLLABORATOR NO: 082858

TP 25 OCT 17

TR A Theart  
C H Olivier



Loretta Gillion - Municipal Notice No.121/2017 Erf 115 Fisherhaven

**From:** Keet Howes <keethowes@gmail.com>  
**To:** "Overstrand Municipality (Town Planning)" <loretta@overstrand.gov.za>  
**Date:** 04/10/2017 02:46 PM  
**Subject:** Municipal Notice No.121/2017 Erf 115 Fisherhaven

I hereby lodge my objection to the proposed removal of restrictive conditions, consent use and departures as contemplated in Municipal Notice No. 121/2017 in respect of Erf 115 Fisherhaven.

The transmission tower will have a negative visual impact as it will be very unsightly and at 15 metres high it will be visible from a considerable distance. With Transmission modules/dishes (which will be added to with time) bolted to the mast it will be tantamount to visual pollution.

It will conflict with the ambiance of Fisherhaven and detract from potential development which will be more in keeping with the unspoilt, rural atmosphere of the village.

The relaxation of the lateral building line to 0m is also unacceptable as it sets an undesirable precedent.

It is not intended primarily for the residents of Fisherhaven which already has good communication coverage.

Other sites which would meet technical requirements and not be objectionable can be found elsewhere.

Sincerely

Registered owner Erf 574 Fisherhaven

K R Howes  
 P O Box 574  
 Onrusrivier  
 7201

Tel. 028 316 3248  
 Cell 082 292 7220

FILE NO:	EL 115 Fisherhaven
SCAN NO:	30
COLLABORATOR NO:	1082618

TP 25 OCT 17

TR Attached  
CH OlivierLoretta Gillion - Proposed application for the removal of restrictive conditions, ERF 115  
Fisherhaven

**From:** <bruceb@ibox.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 04/10/2017 03:44 PM  
**Subject:** Proposed application for the removal of restrictive conditions, ERF 115 Fisherhaven

Dear Sir or Madam

I recently received a notice of Proposed application for the removal of restrictive conditions, ERF 115 Fisherhaven.

This is with the aim of installing a microwave tower in Fisherhaven on ERF 115.

I object strongly to this proposal for the following reasons:

- My property is located very close to ERF 115 – My home is at ERF 122.
- Fisherhaven is a quiet haven and is occupied by people who seek out a quiet rural life – the whole atmosphere of this special village will be destroyed by the installation of the Microwave tower.
- The maximum height of any building in Fisherhaven is 2 storeys whereas the top of the microwave tower is to be more than 15 metres above ground ( more than 5 storeys high)– it will stick out like a sore thumb destroying the environmental impact.
- Fisherhaven is a bird sanctuary (and a general wild life sanctuary) – this is hardly the environment to locate a microwave tower which could also detrimentally affect the bird life patterns.
- I believe I am sensitive to EMF and believe that microwaves will detrimentally affect my health.

Yours Sincerely  
 Bruce Bintley  
 Owner Erf 122

FILE NO:	ERF 115 Fisherhaven
SCAN NO:	29
COLLABORATOR NO:	1082617

TP 05 OCT 17

ANNEXURE D 26 /54



TP-A Theart  
C H Olivier

**From:** Manza Fraser <manza@mweb.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 04/10/2017 04:01 PM  
**Subject:** Transmission tower Fisherhaven plot 115

**Name:** Mrs M Fraser  
**Address:** 14 College Road, Fisherhaven, Hermanus.  
**Cell:** 0834603229  
**Home Tel:** 0283152697

As a permanent resident of Fisherhaven I am disappointed by the notification of the possible erection of a 15 meter transmission tower to be erected in the center of a residential and business area of a beautiful, tranquil quiet country village.

The reasons for my objections:-

1. Very unsightly 15 meter construction that will spoil the beauty and tranquility of the entire area.
2. The erection of this unsightly structure will create a tremendous amount of disruption.
3. After the completion of the set structure there will be a need for maintenance and servicing personnel coming and going day/night on private property in a residential and business area which could create unlawful activity in the surrounding area and residents might feel threatened and unsafe.
4. The tower will be in full sight of a planned recreational and public garden area directly across the street.
5. The properties in the immediate vicinity - valuations could be severely influenced.

Surely there are other more suitable areas to erect such an unsightly structure out of a residential area.

Very concerned resident

Mrs M.E.L. Fraser

FILE NO:	EL 115
	Fisherhaven
SCAN NO:	28
COLLABORATOR NO:	1082616

TP 05 OCT 07

ANNEXURE D 27/54

Re: Erf 115 Fisherhaven

TKA Theard  
CHolivier

Loretta Gillion - Fwd: Objection to the transmission tower proposed for Fisherhaven



**From:** Barry Coombe <barrycoombe1@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 06/10/2017 06:24 AM  
**Subject:** Fwd: Objection to the transmission tower proposed for Fisherhaven

to whom it may concern.

As a property owner in Fisherhaven I wish to voice my objection to the erecting of a transmission tower in Fisherhaven.

There is no reason I can see that a tower needs to pass through the village when there are many thousands of other routes it could follow which would not create this kind of unnecessary conflict.

Regards

Barry Coombe

Sent from my iPad

Begin forwarded message:

FILE NO:	EL 115
	Fisherhaven
SCAN NO:	
COLLABORATOR NO:	1090368

**From:** Cliff Coombe <cliffy@agent-c.co.za>  
**Date:** 05 October 2017 at 10:12:06 PM SAST  
**To:** Barry Coombe <barrycoombe1@gmail.com>  
**Subject:** Fwd: Objection to the transmission tower proposed for Fisherhaven

----- Forwarded message -----

**From:** Cliff Coombe <cliffy@agent-c.co.za>  
**Date:** Thu, Oct 5, 2017 at 11:16 AM  
**Subject:** Objection to the transmission tower proposed for Fisherhaven  
**To:** [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

To whom it may concern

I wish to object to the proposed transmission tower for Erf 115 in Fisherhaven for the reasons that:

(a) the vertical 16 m ugly object will pollute Fisherhaven's horizon with an industrial style appendage (there is just no way that this can be disguised even as an ugly palm or fir tree - if that is what the tower owners envisage as a way of softening the look)

(b) there is simply too much anecdotal evidence about the health issues created by such large transmission towers to make people happy to live and buy in the village (thereby affecting already depressed property values)

(c) this tower benefits only the cellphone companies and the owner of the property. Fisherhaven is NOT a staging post for electronic communications between users outside of the village, who wouldn't want this tower in their neighborhood either.

I'm invested in Fisherhaven, as owner of 50 Riverside Drive, Fisherhaven for the past twelve years. Perhaps the municipality should rather support tourism and environmental ventures in the village - which builds the local economy and jobs - rather than allowing the destruction of the humble aesthetic that is Fisherhaven.

With best wishes

Cliff Coombe  
0604127972

TP

---  
GSM 082 412 7972 [info@agent-c.co.za](mailto:info@agent-c.co.za)  
Fax 086 514 0700  
PO Box 10548 George 6530  
[www.agent-c.co.za](http://www.agent-c.co.za)  
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ANNEXURE D.29/54  
TP A Theart  
(H Oliver)

**Loretta Gillion - Objection to the transmission tower proposed for Fisherhaven**

**From:** Cliff Coombe <cliffy@agent-c.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 05/10/2017 11:12 AM  
**Subject:** Objection to the transmission tower proposed for Fisherhaven



To whom it may concern

I wish to object to the proposed transmission tower for Erf 115 in Fisherhaven for the reasons that

- (a) the vertical 15 m ugly object will pollute Fisherhaven's horizon with an industrial-style appendage (there is just no way that this can be disguised even as an ugly palm or fir tree - if that is what the tower owners envisage as away of softening the look)
- (b) there is simply too much anecdotal evidence about the health issues created by such large transmission towers to make people happy to live and buy in the village (thereby affecting already depressed property values)
- (c) this tower benefits only the cellphone companies and the owner of the property. Fisherhaven is NOT a staging post for electronic communications between users outside of the village, who wouldn't want this tower in their neighbourhood either.

I'm invested in Fisherhaven, as owner of 56 Riverside Drive, Fisherhaven for the past twelve years. Perhaps the municipality should rather support tourism and environmental ventures in the village - which builds the local economy and jobs - rather than allowing the destruction of the humble aesthetic that is Fisherhaven.

With best wishes

Cliff Coombe  
0024127072

FILE NO:	EL 115
	Fisherhaven
SCAN NO:	02
COLLABORATOR NO:	1082860

TP

05 OCT 07

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From: Deneys&Hitomi <denhito@luck.ocn.ne.jp>  
To: <lorata@overstrand.gov.za>  
Date: 06/10/2017 01:56 PM  
Subject: Objection to cellular tower

Re: Erf 115 Fisher haven

Dear Madam

As owners of properties on 17 and 18 Broadway, we would like to register our objections to the erection of a 15m cellular tower in Fisherhaven. It is clear that this tower will have an adverse effect on the aesthetics of the village, which could well affect its attractiveness to visitors and investors. Furthermore, the tower will bring no financial or material benefit to the village. Any benefit will only be accrued to the cellular company and the owner of the property. Finally, there are concerns about the health effects of such a tower in such close proximity to other residents.

It is clear that there is no justifiable reason for this tower to be put up in the middle of a village for which aesthetic charm is a major draw card. What the village needs is planning that is in keeping with the unique environmental features of the area, rather than simply for the benefit of a few.

For these reasons, we would greatly appreciate your urgent attention on the matter, and that the erection of this needless development is halted forthwith.

With many thanks and kind regards,

Deneys Coombe and Hitomi Kimura

TRATHA  
C Holivier



FILE NO:	Erf 115 Fisherhaven
SCAN NO:	26
COLLABORATOR NO:	1090441

TP

16 OCT 2017



ANNEXURE D 31/54



## FISHERHAVEN RATEPAYERS ASSOCIATION

4 October 2017

## FOR ATTENTION:

The Municipal Manager  
Overstrand Municipality  
Magnolia Street  
Hermanus 7200

cc: The Senior Manager  
Town Planning division  
Overstrand Municipality  
Magnolia Street  
Hermanus 7200

**NOTIFICATION OF OBJECTION TO THE PROPOSED Removal of restrictive conditions, consent use and departures: Highway Consultants ON ERF 115: FISHERHAVEN by the FISHERHAVEN RATEPAYERS ASSOCIATION**

Municipal Notice nos: 121/2017

Dear Mr Kearney,

Please find enclosed the supporting objections in the following documentation as submitted by the Fisherhaven Ratepayers Association.

We ask that the objection is reviewed favourably and that your receipt of our objection is acknowledged.

On behalf of the Fisherhaven Ratepayers we thank you for reviewing our objection.

Yours faithfully,

**R.G. Sampson**  
Chairperson - Fisherhaven Ratepayers Association

Responses to:  
Mrs Hinke Nixon Secretary Fisherhaven Rate Payers Association  
Landline: 028 315 1088  
Mobile: + 27 83 444 6956  
eMail: [hinke@microframe.co.za](mailto:hinke@microframe.co.za)

FILE NO: EL 115 - HFH ✓
SCAN NO:
COLLABORATOR NO: 1083716

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06 OCT 17

[Type text]



PROPOSED Removal of restrictive conditions, consent use and departures for the purpose of erecting a monopole transmission tower as applied for by Highwave Consultants on erf 115, Fisherhaven

Objection to the above proposal by the FISHERHAVEN RATEPAYERS ASSOCIATION (FRA)

Review of Application made by HIGHWAVE consultants:

(The application documents were given to the FRA for review purposes by the OSM, Town Planning division.)

The FRA responses to the points stated by the applicants throughout the application justifying their client's reasons for applying for the erection of a Monopole Transmission tower and are statements which are of concern to the FRA.

Please note: The application submitted by HIGHWAVE Consultants has been reviewed by the Fisherhaven Ratepayers Association Executive Committee (FRA EXCO) and we noted inconsistencies, factual errors, dubious, ambiguous and debateable, conflicting statements throughout the application. On the FRA EXCO we have a member who has been in radio and microwave transmission for 45 years who has scrutinised the application.

It is unclear whether the documented content was taken from other /previous applications and pasted in this application by HIGHWAVE Consultants dated May 2017 as there seems to be incorrect information and poor attention to detail throughout the document with conflicting statements. Some information needs to be clarified and explained clearly which is requested in our responses.

The following points have been extracted for objection purposes:

**3. Contextual Informants**

**b. Surrounding area**

FRA Response - for clarification

How far is the 'surrounding areas'?

**c. Land use**

FRA Response

This information is not accurate. North and South have vacant land. East is a business and called the Blue Roof pub and grill, and to the West is a residence in daily use.

**4. Development Proposal**

**a. Development**

FRA Response - for clarification

Will an alternative energy source be supplied in case of power cuts? If yes, in what form?

**b. Restrictive Title Deed condition**

Paragraph 2 (Page 7)

"The establishment of a secure, stable telecommunication network will assist with persistent data coverage issue experience by the surrounding community."

FRA Response

There is no verified, documented evidence included in the application that there is *persistent data coverage issue experience by the surrounding community*.

Last paragraph of b.

The establishment of a secure telecommunication network will assist with the persistent data and voice coverage issue experience by the surrounding community.

**FRA Response**

There is no verified documented evidence of any poor coverage/experiences in the application.

**b. Surrounding area**

The surrounding area is described as a small farming / business community.—

**FRA Response**

Incorrect information. This is a small village which is a residential area with a 16 erven in The crescent allocated to businesses and currently only are 3 businesses.

**f. Environmental****Paragraph 2 (Page 8)**

"The National Environment Management Act (Act 107 of 1998) regulates environmental and social sustainability. According to the national Environmental Management Act Regulations Listing Notice 3 of 2014, which came into effect on 08 December 2014, an Environmental Assessment (EIA) or Record of Decision (ROD) is ONLY a requirement for:

The development of masts or towers of any material or type used for telecommunication broadcasting or radio transmission purposes where the mast or tower -

Point a) is placed on a site not previously used before

Point b) will exceed 15 meters high

**FRA response**

Point a) According to the application the 'monopole mast' is being placed on a site which has not been used before and therefore this requires an EIA which is not included in the application.

Point b) According to Eagle Towers diagram sheet 5 of 5 the tower is 15 meters high but the antennae adds an additional 900 to 1 meter after being attached to the tower. So, this exceeds the height of 15 meters. This then requires an EIA (Environmental Impact Assessment) which is not included in the application and should be according to NEMA.

(Page 8) Following on the next/last paragraph of the application page 8 the following is stated:  
As the site falls within an urban area inside the Overstrand municipality and not in an area designated for conservation use as prescribed in the Spatial Development Framework adopted by the competent authority, or zoned for conservation purposes, it does not trigger listed activity in terms of NEMA regulations and therefore no EIA or ROD is required, Refer to Annexure F (of the application document) of the Listing Notice 3 of 2014,

**FRA response**

According to Eagle Towers diagram sheet 5 of 5 the tower is 15 meters high but the antennae adds an additional 900 to 1 meter after being attached to the tower. So, this exceeds the height of 15 meters. This then requires an EIA (Environmental Impact Assessment) which is not included in the application and should according to NEMA.

**5. Motivation****a. Background****Paragraph 1 (Page 9)**

The applicant refers to "recent research conducted has indicated a current lack of cellular infrastructure to provide etc....".

**FRA response**



There is no verified, documented evidence included in the application that there is a current lack of cellular infrastructure and therefore the FRA assumes that the applicant does not have evidence and challenges HIGHWAVE consultant's statement.

**Paragraph 2 (Page 9)**

The applicant refers to "The need for optimal coverage was mainly caused by the rapid urbanization & commercial development in the surrounding area over the past few years.....".

**FRA response**

Fisherhaven has a very small commercial area consisting of 16 erven of which 3 are residential properties and 3 are being used for as commercial properties, the rest of the erven are currently plots. Fisherhaven has not had rapid commercial development and a very small percentage of erven (+/- 19%) are currently being developed cannot be referred to as "rapid urbanization".  
The motivation is not factually correct.

**Paragraph's 4 & 5 (Page 9)**

The extract from the Western Cape Government:

"Free standing Base telecommunication station (FSBTS)....."

and

"Telecommunication Infrastructure (TI)....."

**FRA response**

At the moment there is a guidance document for the placing of transmission towers being processed by the Overstrand Municipality and it is our understanding that no tower applications would be processed by the Overstrand Municipality?

**b. Proposed Development Parameters**

**FRA notes the following**

In the table a proposed development departure is for 0.0 meters from the Common building line of 3.0m on the Western side is proposed. The western side is a natural servitude used by the people in the village to shortcut through, to and from the South side of erf 115 and erf 114 and to and from The Crescent. The relaxation of the building line to 0 meters will set a precedent which the Overstrand Municipality will have to deal with from here on.

Also in the table there is a proposed development departure for the height of the "freestanding base telecommunication station" of 15.0 meters. According to Eagle Towers diagram sheet 5 of 5 the tower is 15 meters high but the antennae add an additional 900 to 1 meter after being attached to the tower. So this exceeds the height of 15 meters. This then requires an EIA (Environmental Impact Assessment) according to NEMA.

**c. Physical Characteristics**

- Minimized physical, natural impact

**FRA Response**

We take strong exception to this statement as the 15+meter Monopole Mast will be the tallest structure twice the size of the rest of the residential buildings in the village and an eyesore.

**Last paragraph in 5c (Page 12)**

Due to the medium density residential and business development and the lack of telecommunications infrastructure in the Fisherhaven area, the need for an additional base station is an absolute requirement



**FRA Response**

Why is the base station an absolute requirement?  
Whose requirement is it?

**f. Needs and desirability**

**FRA response**

There are other base stations and the other side of the R43 should be considered.

**k. Alternative candidates and solutions**

It is the opinion of the FRA that there are other solutions that were not diligently explored and there are other possible options e.g. other locations that should be explored. These should have been clarified, reviewed and documented in the application.

In section 6 of the application (Page 18) consistency with SPLUMA in the table under

**Spatial sustainability**

Last bullet point - "The proposed development will have no impact on the character of the surrounding area."  
The same response: The 15+meter Monopole Mast will be the tallest structure twice the size of the rest of the residential buildings in the village and an eyesore.

**Annexure j**

The Department of Health (Annexe j) To who it may concern document dated 26 June 2014

- refers to WHO studies and articles published over a period of time and quotes a statement from "another WHO Fact Sheet (Electromagnetic fields and public health: mobile phones) that was published in June 2011: "To date, no adverse health effects have been established as being cause by mobile phones"

**FRA Response:**

Not relevant - this is an application for a placement for a "15+ meter Monopole Transmission Tower" which puts out more electromagnetic fields / radiation than a mobile phone.

The application document is outdated and should have more recent relevant and accurate information.

Frequency ranges stated in the Department of Health document are incorrect.

Please supply an updated, relevant document supporting the application. Our own information clearly has different facts about electromagnetic fields.

**Health impact information:**

In France, 2009, a French court ordered French mobile phone operator Bouygues Telecom to remove a mobile telephone antenna in the commune of Tassin-la-Demi-Lune (Rhône), whilst elsewhere SFR was ordered to do the same in Châteauneuf-du-Pape (Vaucluse). A court in Angers also ordered Orange France to remove three antennae located in a church bell-tower in the commune of Notre-Dame-d'Allençon in Maine-et-Loire. All three courts justified their decision on grounds of the potential risks to public health, following complaints made by local residents and pressure groups. The judges took the view that there was a 'probable' risk, and that the principle of precaution should be applied. The 'principle of precaution' is a law that was enshrined in the French constitution in 2005, as part of a commitment to protect the environment. The clause can be used where it is considered there is a potential risk to public health.

It must be noted however that there are numerous international studies on Mobile Phone Tower Health risks, many highlighting the particular vulnerability of babies and small children. Papers information can be provided. This film may make more of an impact.



Usdie, Israel (as shown in Documentary "Fwiil Signal"). Cancer cases only found in vicinity of new cell towers with very few exceptions. See the film to hear about the study which was conducted by a local doctor who noticed increasing cancers following installation of cell towers on a ridge line in the city.

**The Fisherhaven Ratepayers Association's (FRA) OBJECTIONS are the following:**

1. This Monopole Mast will have a huge visual impact in the village of Fisherhaven. The height alone will have an impact as there are no buildings higher than 8.5 meters and only a very few buildings that are among the residences that are even 8.5 meters.  
There are also 12 x 3 meter triband antennae at the top end of the monopole mast (described on page 5 under section 4a of the development proposal) and on sheet 5 of 5 the drawing states 9 x 3 meter panel antennae. Either way the panels at the top of the tower will have a huge visual impact.  
The visual impact is not in keeping with a rural village (an unsightly construction above the maximum height allowed in Fisherhaven) and will conflict with the ambiance of the village and will reduce the quality of the surround of the village. It may influence prospective buyers in Fisherhaven as it could be perceived that there is no consideration in keeping with the rural charm that is advertised when buying and selling properties.
2. There are no 'high rise' buildings in Fisherhaven, mostly single level houses, standard roof height with a few 2 storey buildings at standard levels approved by the Overstrand Municipality and with the erection of (15+ metre) Monopole tower it takes away the 'rural atmosphere' of the village and loses the appeal that people seek to live in - an uncluttered life away from the 'type' of city living.  
N.B. Currently there is an existing unused tower about 4000 metres away on the East side of Fisherhaven (across the R43) which could be upgraded and will allow the tower to be built well away from Fisherhaven residential dwellings.  
The FRA is not opposed to 'progress' in any way and therefore request if the applicant can prove a need for such a mast then it should be placed out of view and away from the immediate surround of the village.
3. Fisherhaven is located next to a RAMSAR site (the Kleinmond -Bot lagoon/estuary) which has been given RAMSAR status 2016-2017 - not yet listed. (Contact Pierre de Villiers of Cape Nature to confirm status via his PA, aaturner@capenature.co.za) The status is considered by the World Heritage Organization in conjunction with the RAMSAR organization a 'Natural Heritage site' and there are restrictions made by the World Heritage Organization documented. Page 23 Environment Protection Law (1999) Section 3.37 <https://books.google.co.za/books?id=ffXaktgSGEBC&pg=PA23&lpg=PA23&dq=is+a+ramsar+site+classified+as+a+world+heritage+site?&source=bl&ots=FG5ooov1Ut&sig=hw50PVERYd2Xt2FRtRH265QfZZ1&hl=en&sa=X&ved=0ahUKEwifnYnXrNvWAhUIMBAKHrs3Dw4Q6AEIJAI#v=onepage&q=is%20a%20ramsar%20site%20classified%20as%20a%20world%20heritage%20site%3F&f=false>  
The negative too, is the possible endangerment to the bird life at the RAMSAR site here in Fisherhaven as it has been confirmed by Cape Nature that 'birds fly into these towers'.  
The proximity of the proposed Monopole mast to the RAMSAR site should warrant an EIA.
4. There are several health issues documented with radio, microwave and transmission towers. The health issue is not conclusive and can be argued either way but one should take into account the current documentation.  
e.g. <https://www.hindawi.com/journals/aph/2014/952832>  
Therefore because there is no conclusive evidence for or against why any residential area should be subject to an erection of a tower where there is not enough credible and updated information - pros and



## ANNEXURE D 37 /54

cons - be made available by the applicant, on the impact that the transmission towers have on people in the application to allow the residents to make an informed decision.

It is also recommended that this application request be refused due to our objections and it is perceived that the applicant is not able to provide credible information.

Attached there is a petition objecting to the erection of a Monopole Transmission Tower signed by 62 passionate residents of this village from a cross section of the population.



## FISHERHAVEN RATEPAYERS ASSOCIATION

4 October 2017

**FOR ATTENTION:**

The Municipal Manager  
Overstrand Municipality  
Magnolia Street  
Hermanus 7200

cc The Senior Manager  
Town Planning division  
Overstrand Municipality  
Magnolia Street  
Hermanus 7200

**NOTIFICATION OF PETITION TO THE PROPOSED Removal of restrictive conditions, consent use and departures: Highway Consultants ON ERF 115: FISHERHAVEN by the FISHERHAVEN RATEPAYERS ASSOCIATION**  
Municipal Notice nos: 121/2017

Dear Mr Kearney,

Please find enclosed the supporting signed petition to objections of the PROPOSED Removal of restrictive conditions, consent use and departures: Highway Consultants ON ERF 115: FISHERHAVEN by the FISHERHAVEN RATEPAYERS ASSOCIATION as submitted by the Fisherhaven Ratepayers.  
We ask that the petition is acknowledged.

On behalf of the Fisherhaven Ratepayers we thank you for reviewing our petition.

*Yours faithfully,*  


**R.G. Sampson**  
Chairperson - Fisherhaven Ratepayers Association




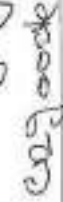
Responses to:  
Mrs Hinke Nixon Secretary Fisherhaven Rate Payers Association  
Landline: 028 315 1088  
Mobile: + 27 83 444 6956  
eMail: [hinke@microframe.co.za](mailto:hinke@microframe.co.za)

18  
36 OCT 17

email: [fisherhavensra@gmail.com](mailto:fisherhavensra@gmail.com)  
PO Box 359, Hermanus 7200

Plan for OBJECTION TO FISHERHAVEN ERF 115 a Location

For Consent use, Building line relaxation, Height relaxation, Restrictive title deed conditions

FULL NAME MR/MRS/MS	National Identity (ID) number	Physical address	Postal address if different	Comments
1. R. G. SARMPSON 	4612285035182	17 Protea Road Fisherhaven, 7200	Postnet Box 2015, Private Bag 416 Hermanus 7200	Email: rgsarpson@mwebbiz.co.za fisherhavenra@gmail.com Tel: 028-3151912 Mobile: 0832597229
2. Ms Hinke NIXON 	4811210098 089	99 Broadway Fisherhaven 7200	Same as Physical	Email: hinke@microframe.co.za fisherhavenra@gmail.com Tel: 028-3151088 Mobile: 0834446056
3. T.R. VAUGHAN 	480619561187	99 Broadway Fisherhaven 7200	SAME AS PHYSICAL	MOBILE 083 255 4242
4. A. SEARLE A Searle	380319007187	69 Riverside Drive Fisherhaven	Same	Kagisoab agprod.com 028-315-3777
5. Cheryl Jooste 	4409130047086	31 Church St Fisherhaven	Same	

ANNEXURE D 39 /54

Plan for OBJECTION TO FISHERHAVEN ERF 115.2 station



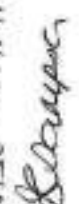


For Consent use, Building line relaxation, Height relaxation, Restrictive title deed conditions

FULL NAME MR/MRS/MS	National identity (ID) number	Physical address	Postal address if different	Comments
6. BERYL LAARNS 	4902170096038	LAKE MARINA YACHT + BOAT CLUBS FISHERHAVEN	P.O. BOX 1807 HERMANUS 7200	
7. LEONARD LAARNS 	451085094086	LAKE MARINA YACHT + BOAT CLUBS FISHERHAVEN	P.O. BOX 1807 HERMANUS 7200	
8. ROB JORDAN 	4009251984	11 RIVERSIDE DR FISHERHAVEN	same	
9. Dawn Koel 	4201230043055	7 College Rd. Fisher haven	Same	
10. Dick Post 	400618501187 Duron	24 Church Street FISHERHAVEN	Same	

ANNEXURE D 40 /54

## Application for OBJECTION TO FISHERHAVEN USE 1 application

For Consent use, Building line relaxation, Height relaxation, Restrictive title deed conditions

FULL NAME MR/MRS/MS	National Identity (ID) number	Physical address	Postal address if different	Comments
11. WAYNE TANNER 	4805165123082	60 FLYING DUTCHMAN WAY.	SAME	
12. SOHAN SMIT 	7409025117084	22 MIRAMAR RD FISHERHAVEN.	same	
13. DENISE SAMSON 	5102040101189	17 Protea Rd Fisherhaven	P.O. BOX X16 BREEZE HERMANUS.	
14. Almut E. HOFFMEYER 	4409100009082	77 Broadway Rd. Fisherhaven	P.O. Box 739 HERMANUS.	
15. MONZA FRASER 	41509210011082	14 College Rd. Fisherhaven	Same.	

ANNEXURE D 41/54





Plan for OBJECTION TO FISHERHAVEN ERE 115 - cation

For Consent use, Building line relaxation, Height relaxation, Restrictive title deed conditions

FULL NAME MR/MRS/MIS	National Identity (ID) number	Physical address	Postal address if different	Comments
6 Mrs ANN NARAN	4906170051084	78 BROADWAY FISHERHAVEN	SAME	
17. Hugh Gibbs <i>H Gibbs</i>	3607245007083	14 Collyer Rd Fisherhaven	Same	
18. GISELA NIELSEN <i>Gh</i>	4402240046184	43 SCHOONER AVE FISHERHAVEN	P.O. BOX 319 ONRUS RIVER 7201	
19. Jennifer Pick <i>J Pick</i>	540101017088	71 Riverside Drive Fisherhaven	Post Net Suite 125 Private Bay X16 Hemmant	
20. Jan Pick	480727516887	71 Riverside Drive Fisherhaven	Post Net Suite 125 Private Bay X16 Hemmant	ANNEXURE D 42 / 54

Plan for OBJECTION TO FISHERHAVEN ERF 115 a

For Consent use, Building line relaxation, Height relaxation, Restrictive title deed conditions

FULL NAME MR/MRS/MS	National Identity (ID) number	Physical address	Postal address if different	Comments
21 JEN NIESE 	4507085004181	43 BROEVEER RD	PO BOX 519 ONKRIJS	Environmentally friendly and a light monstrosity for our town
22. Anni Mostak 	5203110050080	51 The Crescent	—	Esthetic and environmentally unacceptable. Does not blend into surroundings and ugly !!
23. Chris Hammar 	4405225020083	29 Flying Dutchman Way.	—	Ugly and spoils the beauty of Fishetoven.
24. Jace Geldenhuys 	4100225020087	51 The Crescent	—	Don't want it in middle of village - Harms negative effect on environment
25. Mrs Jill Fisher	451120085054	20 Recreation road Fishetoven	PO. Box 215 Suid 50 Hemarus	

ANNEXURE D 43 / 54

Plan for OBJECTION TO FISHERHAVEN ERE 115 & 116

For Consent use, Building line relaxation, Height relaxation, Restrictive title deed conditions

FULL NAME MR/MRS/MS	National Identity (ID) number	Physical address	Postal address if different	Comments
26. Louise Fisher	6811060190 083	20 Regeneration Road Fisher Haven 95 beachway → Fisher	P.O Box 218 Suite 250 HERMONS	Don't want to destroy environment But it outside village.
27. Elsa Petrona	95 Broad Way Fisherhaven 5602-05 0064 086	→ Fisher	ditto.	
28. K WILLIAMS 13 SCHOOL RD	531025 51110883	13 SCHOOL RD		NO
29. Madeline Stone	540913002081	13 School Rd		outside the village
30. Liz Light.	7203030045 085	60 Protea.		Outside village

ANNEXURE 44/54

Petition for OBJECTION TO FISHERHAVEN ERF 115 application

For Consent use, Building line relaxation, Height relaxation, Restrictive title deed conditions

FULL NAME MR/MRS/MS	National identity (ID) number	Physical address	Postal address if different	Comments
31. MS SUSAN-JANE CAMELON	5903190142182	10 DISA ROAD FISHERHAVEN	P.O. BOX 1583 HERMANUS 7900	WILL HAVE A NEGATIVE IMPACT ON OUR ENVIRONMENT + WILL BE VISUALLY UNAPPEALING
32. Kurt Haupt	4205035061085	11 Protea Rd, Fishershaven	P.O. Box 574 Bismarck 7901	visually un-sightly
33. RONN CLACHER	4608125094082	15 Protea Rd FISHERHAVEN	15 PROTEA RD FISHERHAVEN	CONSISTENTLY
34. Tom Light.	73020252 99085	60 Protea Rd Fishershaven		outside urban area
35. Winston Makonnen <i>[Signature]</i>	4403285045082	60 Broadway FISHERHAVEN	PO BOX 375 OURUS RIVER	UNUSUALLY

ANNEXURE D 45 /54

Form for OBJECTION TO FISHERHAVEN ERE 115 a condition

For Consent use, Building line relaxation, Height relaxation, Restrictive title deed conditions

FULL NAME MR/MRS/MIS	National Identity (ID) number	Physical address	Postal address if different	Comments
36. Emma Virginia Borsow E. Borsow	4905310095084	10 Service Road Fishershaven 7200	10 Service Road Fishershaven 7200	To move to one property & residential area.
37. O Neave Borsow <i>[Signature]</i>	300413504093	10 Service Road Fishershaven 7200	10 Service Road Fishershaven 7200	To move to one property & residential area.
38. Christina Goldenburg <i>[Signature]</i>	5209210087098	19 School Road Fishershaven 7200	19 School Road Fishershaven 7200	Unrightly
39. Daniel Goldenburg <i>[Signature]</i>	5910135097062	19 School Road Fishershaven 7200	19 School Road Fishershaven	Unrightly
40. LEE BRANDT	7105105048086	50 FLYING DUTCHMAN WAY	SAME	UNRIGHTLY AND ELECTRIC INTERFERENCE

46/54


Person for OBJECTION TO FISHERHAVEN IRE 115.21 (action)

For Consent use, Building line relaxation, Height relaxation, Restrictive title deed conditions

FULL NAME MR/MRS/MIS	National Identity (ID) number	Physical address	Postal address if different	Comments
41. Mr Bernhard Riegg	Swiss Passport X0790117	12 Poplar rd. Fisherhaven		
42. Mr Frank van der Velde	4312155113082	11 Park Road Fisherhaven		
43. Mrs Nina van der Velde	5508160003060	11 Park Road Fisherhaven		
44. Dieten Stanku Grenz	German Passport 908351558	87 Riverside Drive Fisherhaven		
45. STEVE DAWLSON MR.	ENGLISH 24508251440082	22 Park Road FISHERHAVEN	SAME AS	ANNEXURED 47/54

P. in for OBJECTION TO FISHERHAVEN ERF 115 a station

For Consent use, Building line relaxation, Height relaxation, Restrictive title deed conditions

FULL NAME MR/MRS/MS	National identity (ID) number	Physical address	Postal address if different	Comments
46. Mrs Macken J.H. Baden	3501112024 1187	67 Riverside Ave Fisherhaven		
47. Dalene Jordaan	5410300097 083	5 Lakeview Cottage 44 Broadway Fisherhaven.		
48. Bill + Caroline Mitrovich	028 3152981	5 Keneboom Road		
49. RNS HALL 	0737109790	5L SKOORER		
50. Keris Jordaan Jordaan	5402045075 085	5A Broadway Fisherhaven		

ANNEXURE D-48 /54

\*

Application for OBJECTION TO FISHERHAVEN ERE 115 a condition

For Consent use, Building line relaxation, Height relaxation, Restrictive title deed conditions

FULL NAME MR/MRS/MS	National Identity (ID) number	Physical address	Postal address if different	Comments
51. LINDA NEUBILL-MARKLE Linda M. Markle	5102210102085	9 FLYING DUTCHMANWAY FISHERHAVEN	P.O. Box 40 ONEUS 7200	
52. David Hugo DAVID HUGO	431175029098	47 Rivierde Drive Fisherhaven	/	Weight of wall opposite the mural all opposite of the wall 19-0
53. MIKKI KRÜGER Micki Krüger	3711330113184	7 Riverside Dr Fisherhaven	P.O. Box 896 Rivonams 7200	Tower keys are condense to have wall this has been proved in U.S.A
54. LIZ FRASER Liz Fraser	4306340996 084	S RIVERSIDE DRIVE FISHERHAVEN,	same	will package LILLO ATMOSPHERE
55. Anne-Wendy Tarnet Annal.	511230010508 5	60 Flying Dutchman way. Fisherhaven	SAME.	works with will substitute address and about energy issues.

ANNEXURE D 49 /54

Plan for OBJECTION TO FISHERHAVEN ERF 115 - caution

For Consent use, Building line relaxation, Height relaxation, Restrictive title deed conditions

FULL NAME MR/MRS/MIS	National Identity (ID) number	Physical address	Postal address if different	Comments
56. L.J. COETZEE MR (Billy) Coezee	330907655089	50 BROADWAY FISHERHAVEN	SAME	
57. CLARIE COETZEE Coezee	3807220048081	50 BROADWAY FISHERHAVEN	SAME	
58. HEATHER GUZARDIN CONCERN Guzardin	712040046087	19 RIVERSIDE drive, FISHERHAVEN	SAME	
59. Dawn Olive Olive	4731309086	67 Fishers Rd FISHERHAVEN	Same	
60. ROHAN HORRACE Horrace	4764015072028	21 SHARPE ST. FISHERHAVEN	As Specified Bax 15 Site 140 HORRACE 7250	ANNEXURE D50/54

P. 0 in for OBJECTION TO FISHERHAVEN ERF 115.1 card 01

For Consent use: Building line relaxation, Height relaxation, Restrictive title deed conditions

FULL NAME MR/MRS/MS	National Identity (ID) number	Physical address	Postal address if different	Comments
61. MS DEBI LAND <i>[Signature]</i>	210424975 LUN PASIFOLG	41 Albertstr.	Same	
62. MR CHRISTOPHER <i>[Signature]</i>	72-2265104087	---	---	
63. ME W GRUMMITT <i>[Signature]</i>	7712035195083	40 BROADWAY FISHERHAVEN	SAME	
64. Mr. F.S. Theunissen	470927.5109.082	77 RIVERSIDE DRIVE FISHERHAVEN	Same	
65. Mrs A Theron	5607040034081	77 Riverside Drive Fisherhaven.	Same	

ANNEXURE D 51 /54

Application for OBJECTION TO FISHERHAVEN ERE 115 a condition

For Consent use, Building line relaxation, Height relaxation, Restrictive title deed conditions

FULL NAME MR/MRS/MS	National Identity (ID) number	Physical address	Postal address if different	Comments
66. ROBERT EDWARD SEMAK <i>[Signature]</i>	3705245462188	69 RIVERSIDE DRIVE FISHERHAVEN	SAME	
67. ANNORION LIPS <i>[Signature]</i>	727120072081	23 Riverside Drive Fisherhaven	A.	
68.				
69.				
70.				

ANNEXURE D52 /54

TR A Theart  
CH Olivier

Loretta Gillion - ERF 115 FISHERHAVEN



**From:** Lucinda Stevenson <lucinda880@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 05/09/2017 11:21 AM  
**Subject:** ERF 115 FISHERHAVEN

Good day

We have been living in Fisherhaven for the last 14 years and have seen it develop. There are currently 20 new homes and more and more young families are moving to Fisherhaven. I therefor think a cell tower would be very good for the community, who mostly uses cell phones. The residence frequently complain about bad reception. The base of the cell tower will not be seen by anybody as it would be at the back of the shop and that has a vibracrete wall around it. There are millions of towers around the world that people don't even notice because these companies take the aesthetics into account. I therefor fully support the erection of a cell phone tower in Fisherhaven Erf 115.

Kind regards  
Lucinda Stevenson  
Cell: 0828813883

FILE NO:	EL 115 Fisherhaven
SCAN NO:	11
COLLABORATOR NO:	1072614

TP

5 SEP 2017

TP-A Theart  
(C. Olivier)

Loretta Gillion - Tower

re: Eif 115, Fisherhaven



From: jon barrie smedley <smedley.jb@gmail.com>  
To: <loretta@overstrand.gov.za>  
Date: 04/09/2017 04:22 PM  
Subject: Tower

I live at 85broadway fisherhaven and am in agreement with the restrictions being removed for erf 115 the crescent to enable the erection of a cell tower.

FILE NO:	EL 115 Fisherhaven
SCAN NO:	
COLLABORATOR NO:	1071804

TP 4 SEP 2017



**HIGH WAVE**  
CONSULTANTS

25 Huguenot Street  
Oakwood  
Durbanville  
7550

*TP A Theart  
(C H Olivier)*

08 December 2017

Attention: H Olivier/ Loretta  
Overstrand Municipality – Department Planning  
PO BOX 20  
Hermanus  
7200

REF: 115 HFH (3677)

Dear Sir/ Madam

PROPOSED CONSENT USE, DEPARTURE AND HEIGHT RELAXATION APPLICATION: RESPONSES  
ON COMMENTS AND OBJECTIONS, ERF 115 FISHERHAVEN

This letter serves as a response to the letter received on the 14 November 2017.

We thank you for your prompt response regarding the application, below please find responses on comments and objections received.

FILE NO:	EL 115
SCAN NO:	Fisherhaven ✓
ERF 115	
COLLABORATOR NO:	111 1186

*TP* 11 DEC .07

## HIGH WAVE CONSULTANTS

### 1. HEALTH CONCERNS:

- a) With reference to the RF exposure areas as regulated by the communications authority it should be clearly noted that the proposal adheres to the Policy with no habitable structures situated within the 50m public exposure zones.
- b) The South African Department of Health supports the erection of telecommunication base stations in accordance with ICNIRP (International Commission on Non-ionizing Radiation Protection), the WHO (World Health Organization) and ICASA (Independent Communications Authority of South Africa). *(Please refer to the attached memorandum from the South African Department of Health.)*
- c) ICNIRP (International Commission on Non-ionizing Radiation Protection) allows for an exposure measurement level of 41,000 (v/m) within a distance of 15m from the antennae. Cellular operator antennae operate at a level of not more than 0.04 (v/m) within a distance of 15m, in laymen's terms the levels are approximately 1/1000th of the prescribed exposure levels. It is therefore clear that the installation of these antennae does not pose a health risk.
- d) The Directorate: Radio Control, within the South African Department of Health is the responsible authority regulating cellular base-station effects on health. The department of health regulates non-ionizing radiation, and this includes electromagnetic fields (EMF) at frequencies less than 300 GHz.

The Directorate makes use of the World Health Organization's (WHO) International EMF Project ([www.who.int/emf](http://www.who.int/emf)) as its primary source of information and guidance with respect to the health effects of EMF and cellular infrastructure.

With reference to EMF there are two recent publications by the World Health Organization that are of direct relevance.

## HIGH WAVE CONSULTANTS

- (i) International EMF Project Fact Sheet "Electromagnetic fields and public health: mobile phones" <http://www.who.int/mediacentre/factsheets/fs193/en/index.html> and;
- (ii) The results of the multi-national 10-year long INTERPHONE study on mobile phone use and brain cancer risk (press release – [www.iarc.fr/en/mediacentre/pr/pdfs/pr200\\_E.pdf](http://www.iarc.fr/en/mediacentre/pr/pdfs/pr200_E.pdf)). The Directorate endorses the exposure guidelines published in 1998 by the International Commission on Non-Ionizing Radiation Protection (ICNIRP).

The World Health Organization has officially endorsed these studies with regards to EMF exposure. ICNIRP states categorically that exposure to EMF at any level below that of the ICNIRP exposure guidelines will protect people against the known adverse health effects of EMF.

In addition, measurement assessments conducted in South Africa and around the world have indicated that the actual levels of public exposure of base station emissions are only a fraction of the percentage as regulated by the ICNIRP guidelines, even in cases where the public have been concerned regarding their exposure to emissions from base stations.

The South African Department of Health is therefore satisfied that the health of the general public is not being compromised by their exposure to the emissions of cellular base stations, at present no confirmed scientific evidence exists that would indicate any hazard to human health in situations that members of the public would typically find themselves in.

# HIGH WAVE

CONSULTANTS

Please find the anticipated RF measurement levels of the proposed FSBS:

MEASUREMENT NUMBER	ICNIRP EXPOSURE LIMITS - ALLOWED	ANTICIPATED READING
OUTSIDE (10m AWAY FROM MAST)	41.000 (V/M)	0.01 (V/M)
ENTRANCE INSIDE (15M AWAY FROM THE MAST)	41.000 (V/M)	0.0098 (V/M)
STORAGE INSIDE (10M AWAY)	41.000 (V/M)	0.0075

## 2. PROPERTY DEVALUATION:

- a) This subject has been debated for years and at present no confirmed evidence exists that properties situated in close proximity of a base station would result in the decrease of property value. There are various residential properties situated in close proximity of affluent areas such as Durbanville, Constantia and Camps Bay where property value has not decreased as stated by the objectors.
- b) After conducting research on residential property values situated in close proximity of the Paardeberg 55m lattice freestanding base telecommunication station located in Durbanville, it has become clear that property values have in actual fact maintained their increased value over the last decade. Please refer to the table below extracted from Property 24 as source reference:

## HIGH WAVE CONSULTANTS

RESIDENTIAL PROPERTIES SOLD IN THE LAST DECADE IN CLOSE PROXIMITY OF A TOWER		
ADDRESS	VALUE/ YEAR	DISTANCE FROM TOWER
7 Paardeberg Street, Paardeberg, Durbanville	R 788 000/ 2004	100 m
12 Paardeberg Street, Paardeberg, Durbanville	R 2 250 000/2013	100 m

- Property growth over a period of 9 Years was estimated at 285%. These properties are in very close proximity of a 55m lattice tower in Durbanville.

RESIDENTIAL PROPERTIES SOLD IN THE LAST DECADE <u>NOT</u> IN CLOSE PROXIMITY OF A TOWER		
ADDRESS	VALUE/ YEAR	DISTANCE FROM TOWER
1 Morgenster Street, Paardeberg, Durbanville	R 1 600 000/ 2013	800 m
4 Morgenster Street, Paardeberg, Durbanville	R 2 375 000/2014	950 m

In light of the above, clear evidence exist that properties situated in close proximity of a telecommunication base station vs properties situated further away has no impact on property values. The objections relating to property devaluation is therefore speculative.

### 3. ENVIRONMENTAL CONCERNS AND FACTORS

- No evidence exists that a Freestanding Telecommunication Base Station has adverse effect on animal species such as birds, leopard toad, bees etc. This can be confirmed by DEADP not rating this type of application as a listed activity. Please note that there are no habitats of red data species in close proximity of the proposal.
- With reference to the comment received regarding the alternative power supply, High technology deep share lithium ion batteries supply stand by power
- With reference to comments received regarding mast within 4 km radius, please find a Radio Frequency plot confirming the need for additional infrastructure in the area. The statement regarding mast being in close proximity to another is incorrect due to the fact that the ECA (Electronics Communications Act) does not prescribe minimum distances between telecommunication infrastructure support structures.

BASE STATION TYPE	ADDRESS	DISTANCE	INSUFFICIENCY OF CURRENT TOWER
35m - Lattice Mast	Hawston mountain MTN	4000 m	<ul style="list-style-type: none"> <li>• Cannot provide sufficient coverage due to a lack of infrastructure.</li> <li>• Tower is currently overloaded and cannot provide space for additional users.</li> <li>• Cannot provide sufficient coverage due to a lack of infrastructure.</li> <li>• Cannot provide sufficient coverage due to distance and density factor.</li> </ul>

#### 4. ENVIRONMENTAL IMPACT ASSESMENT

With regards to the comments received regarding the Environmental impact assessment:

The National Environmental Management Act (Act 107 of 1998) regulates environmental and social sustainability. According to the National Environmental Management Act Regulations Listing Notice 3 of 2014, which came into effect on 08 December 2014, an Environmental Impact Assessment (EIA) or Record of Decision (ROD) is a ONLY a requirement for:

"The development of masts or towers of any material or type used for telecommunication broadcasting or radio transmission purposes where the mast or tower-

- a) is to be placed on a site not previously used for this purpose; and
- b) will exceed 15 meters in height.

But excluding attachments to existing buildings and masts on rooftops".

Listing Notice 3 of 2014 clearly defines the requirements in the Western Cape:

"(f) In Western Cape:

- I. All areas outside urban areas; or
- II. Areas designated for conservation use in Spatial Development Frameworks adopted by the competent authority, or zoned for a conservation purpose, within urban areas.

As this site falls within an urban area inside the Overstrand municipality and not in an area designated for conservation use as prescribed in the Spatial Development Framework

## HIGH WAVE CONSULTANTS

adopted by the competent authority, or zoned for conservation purposes, it does not trigger a listed activity in terms of the 2014 NEMA regulations and therefore no environmental impact assessment or ROD (Record of Decision) is required.

### 5. VISUAL IMPACT:

With reference to the comments received regarding the visual impact with internal departments supporting the application.

**Mast Height:** with regards to the comment received regarding the mast height, the proposed application is for a height relaxation in terms of Section 16 (2) (b) of the Overstrand Zoning Scheme.

- a) Should the relevant departments within the city council require an altered design the client would be willing and forthcoming to the proposal to *alter the proposed 15m monopole to a 15m clean dome monopole design or a 15m camouflaged tree mast. (See fig 2 below)*
- b) The Proposed Monopole design – As a general guideline for a new freestanding base station, a monopole mast design should be used in a rural occupational context. In and around the proposed area a monopole mast can be considered to fit in with the urban sense of place due to the perceived transparency it creates.
- c) With reference to the anticipated visual impact created by the erection of the proposed freestanding base telecommunication station, the optimal position was chosen based on effective coverage provisioning and reduced visual and build environment impact.
- d) As supported by the General Consensus the design was amended by means of adding architectural features resulting in hiding the antennae behind the added architectural

ANNEXURE E 9/19

**HIGH WAVE**  
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features. This design will result in retaining the visual amenities created by the surrounding natural build environment.

- e) The proposed base telecommunication station will be situated at Erf 115 Fisherhaven currently utilized for commercial purposes. The proposed erection of a freestanding base telecommunication station will not alter the proposed land use and will be in fitting with the surrounding area.

**Alternative design:** Our client has indicated that an alternative design could be accommodated, an alternative recommendation would be to plant vegetation and small trees around the proposed compound in order to minimize the visual impact.

**HIGH WAVE**  
CONSULTANTS

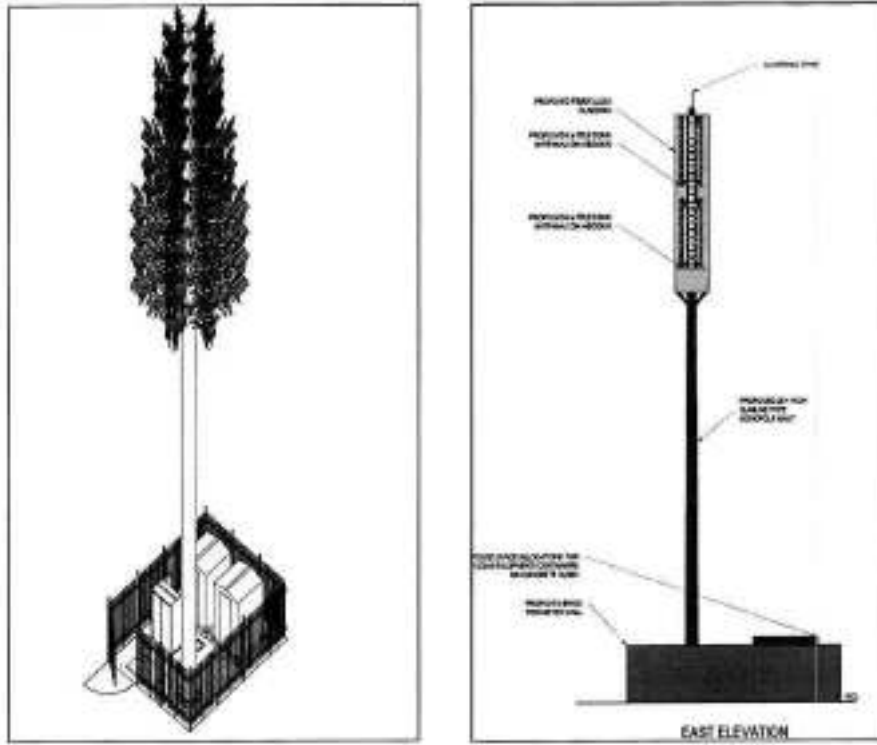


Fig.1 – Proposed alternative designs

**6. SUPPORT FROM SURROUNDING COMMUNITY:**

- a) *Positive support was received from various internal departments and 2 x neighbors being in favor of this application as they have identified the need, confirmed the growth of the area and residents frequently complaining about the coverage in the area.*
- b) *As per the ECA (Electronic Communications Act) identifies the need for telecommunication support structures to be situated closer to one another due to the increased need for smart devices. There is an increased need to provide optimal coverage in certain areas due to the increase developments created over the past decade resulting in increased signal congestion, the coverage area is thereby reduced. The area has been identified as a high congestion area in terms of coverage provisioning and the lack of existing coverage. The costs relating to the construction and maintenance of these structures are enormous and it should be made clear that telecommunications operators will not invest in these structures just for the sake of it. These structures are planned by subject matter experts and implemented for the benefit of both the community and economy.*
- c) *The existing telecommunications infrastructure situated in the area are currently serving approximately 500 business, institutional, households and residential even in the area which is a clear indication that additional telecommunication infrastructure is required in the area in order to alleviate congestion.*

*The application for the consent use, building line relaxation, height relaxation and restrictive title deed conditions application to allow a freestanding base telecommunication station (transmission tower) on the concerned property will not impact negatively on surrounding uses, heritage, environment of health and safety. As*

## HIGHWAVE CONSULTANTS

*supported by various policies and legislation it is clear that the proposal will have a positive economic and social impact ensuring that the surrounding business & residential community benefits from optimal and effective voice and data coverage.*

*It is clear that the proposed application meets the applicable desirability criteria and precedents set and it is therefore recommended that the application be supported by the relevant authorities.*

*We trust the above response addresses your concerns. Please do not hesitate to contact me should you have any additional queries.*

*Kind Regards*



---

Pieter Pretorius

C: 084 777 2862

E: ppretorius@highwave.co.za



### Department of Health

Directorate: Radiation Control  
Private Bag 902  
BELLVILLE  
7535

Tel: 021 957 7483  
Fax: 021 946 1569  
E-mail: [DuToit@health.gov.za](mailto:DuToit@health.gov.za)

Enquiries: LL du Toit  
Date: 26 June 2014

## To whom it may concern

### HEALTH EFFECTS OF CELLULAR BASE STATIONS

The Directorate: Radiation Control is the section within the National Department of Health that is responsible, from the viewpoint of human health, for regulating electronic products producing **non-ionising** electromagnetic fields (EMF), i.e. where the frequency of such EMF is less than 300 GHz. In carrying out this responsibility, the Directorate has been utilising the World Health Organization's (WHO) International EMF Project ([www.who.int/emf/](http://www.who.int/emf/)) as its primary source of information and guidance with respect to the health effects of EMF. The International EMF Project was established by the WHO in 1996 to (i) assess the scientific evidence for possible adverse health effects of non-ionising electromagnetic fields on an on-going basis, (ii) initiate and coordinate new research in this regard, and (iii) compile health risk assessments for different parts of the electromagnetic spectrum. The Department of Health has been a member of the International Advisory Committee of the International EMF Project since 1998.

In June 2005 the International EMF Project hosted a workshop that was specifically aimed at considering the possible health consequences of the emissions from cellular base stations and wireless networks. The findings of this workshop were summarised in a 2-page Fact Sheet ([www.who.int/mediacentre/factsheets/fs193/en/index.html](http://www.who.int/mediacentre/factsheets/fs193/en/index.html)). The following extract from this Fact Sheet provides a clear-cut summary of the findings to date, i.e. "**Considering the very low exposure levels and research results collected to date, there is no convincing scientific evidence that the weak RF signals from base stations and wireless networks cause adverse health effects.**"

The following quote is taken from another WHO Fact Sheet (*Electromagnetic fields and public health: mobile phones*) that was published in June 2011: "**To date, no adverse health effects have been established as being caused by mobile phone use.**"

The WHO recommends utilising internationally recognised exposure guidelines such as those that were published in 1998 by the International Commission on Non-ionizing Radiation Protection (ICNIRP) and that were reconfirmed in 2009 for the frequency range 100 kHz – 300 GHz (i.e. including all the frequencies employed by the cellular industry). The Department of Health likewise recommends the use of these ICNIRP guidelines to protect people against the known adverse health effects of EMF.

Numerous measurement surveys, which have been conducted around the world (and in South Africa), have shown that the actual levels of public exposure as a result of base station emissions invariably are only a fraction of the ICNIRP guidelines, even in instances where members of the public have been really concerned about their exposure to these emissions. At present there is no confirmed scientific evidence that points to any health hazard associated with the very low levels of exposure that the general public would typically experience in the vicinity of a cellular base station. The Department is therefore satisfied that the health of the general public is not being compromised by their exposure to the microwave emissions of cellular base stations. This also means that local and other authorities, in considering the environmental impact of any particular base station, do not need to and should not attempt, from a public health point of view, to set any restrictions with respect to parameters such as distance to the mast, duration of exposure, height of the mast, etc. In all of this, it is implicitly assumed that the normal engineering and security measures, which are routinely implemented by cellular network providers at base stations, will effectively prevent responsible members of the public from gaining close access to the actual antennas situated on any mast structure.

Although the Department of Health currently neither prescribes nor enforces any compulsory exposure limits for electromagnetic fields, the Department does advise all concerned (whether they be a government department, the industry or the public) that voluntary compliance with the afore-mentioned ICNIRP exposure guidelines is the recommended and science-based way to deal with any situation involving human exposure to the non-ionising electromagnetic fields emitted by cellular base stations and handsets.

The Department of Health is obviously not able to make any pronouncements about the specific levels of EMF that a member of the public would experience at any particular base station site when it is in operation. However, generally-speaking unless a person would climb to the top of a mast (or other structure supporting an antenna) and position him/herself right in front of the active antenna not more than a few meters away, such a person would have no real possibility of being exposed to anywhere near the afore-mentioned ICNIRP guideline limits. Since these base stations are, as a rule, cordoned off with barbed wire fencing and locked gates/doors to protect the sensitive and expensive technology, such actions would in

all probability not constitute responsible behaviour. Even then the risk of falling off the structure in question would be an immeasurably greater threat to the health of the person involved. Based on the results of numerous global and local surveys, the experience has been that the exposure to base station EMF at ground level is typically in the range of between 0.001 – 1.0 % of the afore-mentioned ICNIRP guideline limits. Against this background of available data, there would be no scientific grounds to support any allegation that adverse health effects might be suffered by a responsible member of the public due to the EMF emitted by a base station.

Yours sincerely,



**LL du Toit**  
DEPUTY DIRECTOR: RADIATION CONTROL

ERF NUMBER: 115  
ALLOTMENT: FISHERHAVEN  
SITE REFERENCE NAME: FISHER HAVEN EGL

**HIGHWAVE**  
CONSULTANTS

**RF COVERAGE PLOT & ANALYSES (BEFORE)**  
**PRIOR TO APRIL 2017**



**RF COVERAGE PLOT & ANALYSES (AFTER)**  
**AFTER APRIL 2017**







## ANNEXURE E 17/19

ERF NUMBER: 115  
 ALLOTMENT: FISHERHAVEN  
 SITE REFERENCE NAME: FISHER HAVEN EGL

**HIGHWAVE**  
 CONSULTANTS

*The above plots show empirical predictions of the various radio frequencies that are currently experienced in the area given existing infrastructure, versus what the anticipated additional coverage will become with the new site. Plots shows distances to nearest other sites.*

LEGEND:	
-50 to -65 dbm (Fair - Good Coverage & Availability)	
-65 to -85 dbm (Good - Medium Availability)	
-85 to -95 dbm (Weak coverage & availability)	
-95 to 105 dbm (Very weak Coverage, Dropped Calls)	

From:

To: 00667262626

01/06/2017 ANNEXURE E-18/10 01/002



Directorate: Development Management  
(Region 2)

**REFERENCE:** 16/3/3/6/1/E2/8/1199/17  
**ENQUIRIES:** Ms. Arabel McClelland  
**DATE:** 2017-06-01

The Board of Directors  
Eagle Towers SA (Pty) Ltd  
P.O. Box 731  
EDGEMEAD  
7407

**Attention: Mr. Avril van der Rhee**

Tel: (021) 880 0914  
Fax: (086) 726 2626

Dear Sir

**RE: APPLICABILITY OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ("NEMA") ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED) WITH RESPECT TO THE PROPOSED DEVELOPMENT OF A 15M HIGH TELECOMMUNICATION MAST ON ERF NO. 115, FISHERHAVEN**

1. The abovementioned document, dated 14 July 2017, received by this Department on the same day, and the Department's correspondence dated 28 July 2017, refer.
2. Further to review of the information submitted to this Department, the following is noted:
  - 2.1. The proposal entails the construction of a new 15m high monopole telecommunications mast on Erf no. 115, Fishershaven. An equipment room will also be constructed to house the generator and operator equipment.
  - 2.2. The total development footprint is approximately 56m<sup>2</sup>.
  - 2.3. Access exists for the site.
  - 2.4. The site is zoned Local Business 3 and is situated within an urban area.
  - 2.5. There are no watercourses in close proximity to the site and indigenous vegetation will not be cleared for the proposed development.
3. On 7 April 2017 the Minister of Environmental Affairs promulgated amendments to the regulations in terms of Chapter 5 of the National Environmental Management Act, 1998 [Act No. 107 of 1998] ("NEMA"), viz. the Environmental Impact Assessment ("EIA") Regulations 2014 [Government Notice ("GN") Nos. 324, 325, 326, and 327 in Government Gazette No. 40772 of 7 April 2017]. These regulations came into effect on 7 April 2017.

2<sup>nd</sup> Floor, 1 Corp Street, Cape Town, 8001  
Tel: +27 21 483 2660 Fax: +27 21 483 3633  
Email: Arabel.McClelland@westerncape.gov.za

Private Bag 9086, Cape Town, 8000  
www.westerncape.gov.za/eadp


From:

To: 00067262826

01/08/2017 ANNEXURE 9/10/002

4. In light of the above, your attention is drawn to the listed activities in terms of the NEMA EIA Regulations, 2014 (as amended) as defined in GN No. 324, 325 and 327 of 7 April 2017. Please be advised that the proposed development does not constitute any listed activities in terms of the NEMA EIA Regulations, 2014 (as amended), as the mast will not exceed 15m and is located within an urban area. Environmental authorisation is therefore not required from this Department prior to the development thereof.
5. Please note that should any revision of the proposed development constitute a listed activity(ies) in terms of the NEMA EIA Regulations, 2014 (as amended) as defined in GN Nos. 324, 325 and/or 327 an application must be submitted and environmental authorisation obtained before such activity(ies) may commence.
6. The applicant is reminded of his/her general duty of care and the remediation of environmental damage. Section 26(1) of NEMA specifically states that – "Every person who causes, has caused or may cause significant pollution or degradation of the environment must take reasonable measures to prevent such pollution or degradation from occurring, continuing or recurring, or, in so far as such harm to the environment is authorised by law or cannot reasonably be avoided or stopped, to minimise and rectify such pollution or degradation of the environment."
7. Please note that the applicant must comply with any other statutory requirements that may be applicable to the undertaking of the activity.
8. Your interest in the future of our environment is greatly appreciated.
9. This Department reserves the right to revise or withdraw any comments or request further information from you based on any information received.

Yours faithfully



**HEAD OF COMPONENT  
ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 2  
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING**

CC: (1) Mr. E. Esquire (EnviroAfrica)

Fax: (086) 512 0154

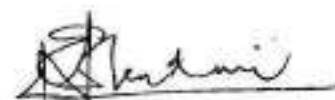
## ANNEXURE F

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR REMOVAL OF RESTRICTIVE CONDITIONS, CONSENT USE  
& DEPARTURE: ERF 115, FISHERHAVEN (3677)**

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

**Conditions**

1. that only the existing water connection and sewer conservancy tank will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that should additional services connections be required, the owner will be responsible for the payment of bulk services levies;
3. that the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 10400 - P: 2010: Drainage;
4. that any commercial food preparation facilities (e.g. restaurant/guest house etc.) must be provided with a grease trap, which must comply with the standards and specification of the Department: Operational Services;
5. 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 Area Manager: Hermanus for written approval;
6. that stormwater be allowed to discharge through Erf 115, Fisherhaven, unobstructed;
7. that no on-street parking be allowed.



**DENNIS HENDRIKS  
SENIOR MANAGER:  
ENGINEERING SERVICES**

04/04/18  
DATE



ANNEXURE G 1/4

TP-A Theart  
(Holivier)

Division of Telkom SA SOC Ltd

10 Jan Smuts Drive  
Pinelands  
7404

FILE NO:	EL 115-HFH ✓
SCAN NO:	
COLLABORATOR NO:	1095153

Candice Spammer

Tel: 021 414 5582

Fax: 086 480 0617

Email: spammecl@telkom.co.za

Our Ref.: WWIP\_WONR3533\_17

Your Ref.: 115 HFH 3677

27 October 2017

Attention: S Muller

Overstrand Municipality  
HERMANUS

**WAYLEAVE: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS, CONSENT USE AND DEPARTURES - ERF 115, 39 THE CRESCENT, FISHERHAVEN**

With reference to your application received August 2017.

I hereby inform you that Open Serve 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, 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.

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

ANNEXURE G 2/4

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 / Frederik5@openseve.co.za 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 Open Serve infrastructure be damaged while work is undertaken, kindly contact our representative immediately.

All Open Serve rights remain reserved.

Yours faithfully

  
\_\_\_\_\_  
Selwyn Bowers  
Operations Manager  
Wayleave Management: Western Region

This wayleave, Reference Number WWIP WONR3533\_17 is valid for 12 months from date hereof and is subject to the following conditions:

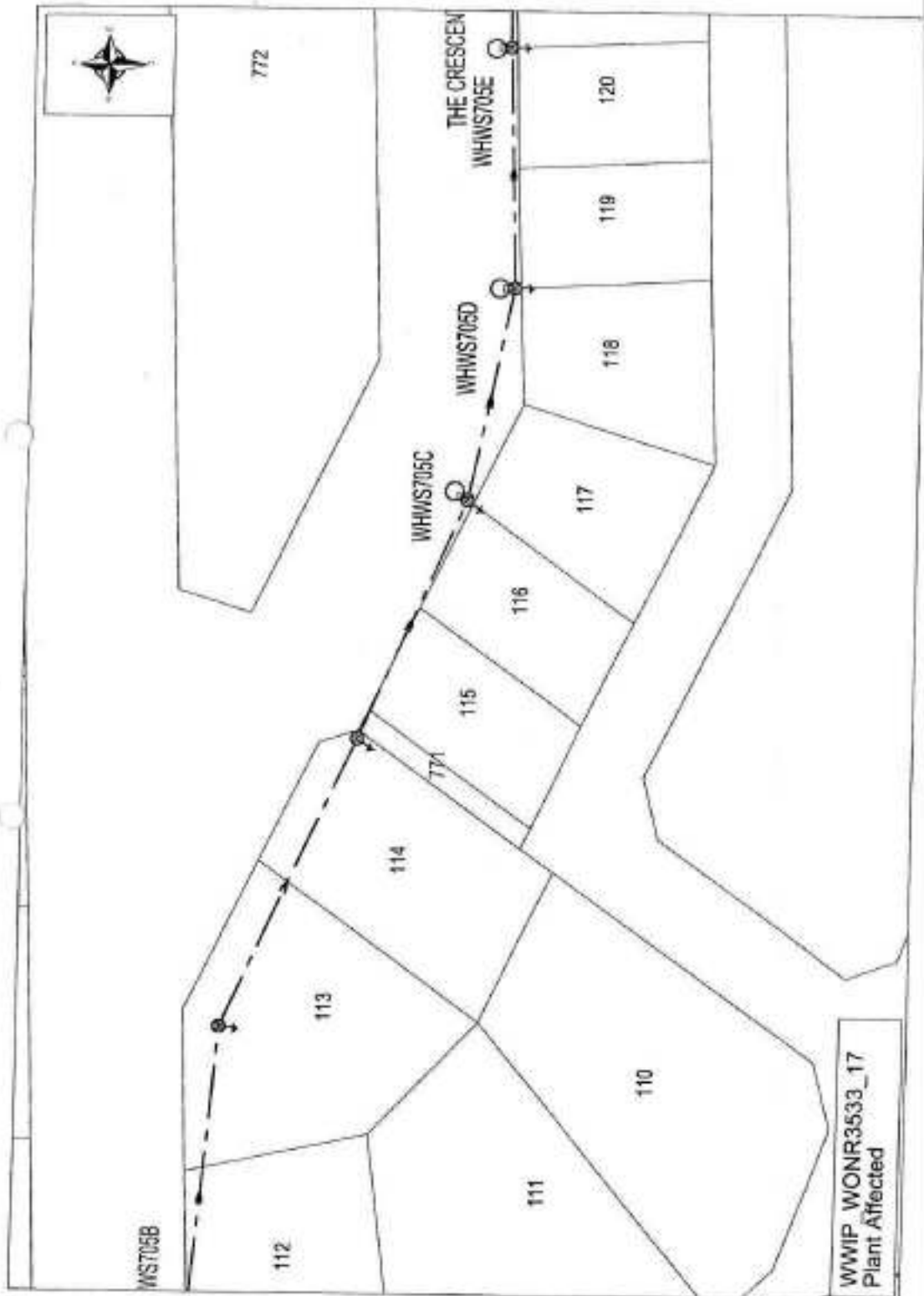
1. No mechanical plant or vibrator (type compactors may be used within three meters of any Open Serve Plant (I.E. any Telecommunication equipment above or below ground level).
2. The position of our plant affected by the proposal is indicated as approximate and **Frederik Swart** at Telephone No 081 363 7815 must be contacted at least 48 hours prior to commencement of the work, upon which the actual location of the Open Serve Plant will be indicated on site.
3. A written request must be submitted to Open Serve for consideration, should the of the work, upon which the actual location of Open Serve 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 Open Serve immediately, should the applicant locate any Open Serve Plant which is not indicated on the plans.
5. Should the applicant expose any Open Serve 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: 2017/10/27

By: C Spanner  
For Regional General Manager  
Western Cape

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 )	







*TRATHANT  
(Hokier)*



OVERSTRAND MUNICIPALITY  
P.O. Box 20  
HERMANUS  
7200

Date:  
08.09.2017

Enquiries:  
Mr David Williams  
Tel: 021 980 3102  
Fax: 021 980 3053

Attention: Lorian Isaac

PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS, CONSENT USE & DEPARTURE ERF  
115, THE CRESCENT - FISHERHAVEN  
YOUR REF: 115 HFH (3677)  
OUR REF: 02841/17

I refer to your letter dated 30 August 2017.

Eskom has no objection to the proposal provided that the following requests are adhere to:

1. Should it be necessary to relocate / support any of the existing services, at least 3 months notice in writing is required and the cost will be entirely for the account of the Developer / Applicant.
2. Eskom's right on the properties not to be affected.
3. All services indicated on included drawing to be verified on site (by Applicant)
4. Enclosed find a copy of the Occupational Health and Safety Act ( Act No. 85 of 1993)
5. (f) Included drawing indicates existing Eskom services in the vicinity and is for information / planning only and should not be issued.  
(f)(e) This is not an approval for applicant to undertake any work in close proximity of Eskom's services in proposed area as indicated on included drawing.  
(b) Formal application must be made to Eskom, Land Development, P.O.Box 222, Brackenfell, 7561 – Rochelle Fortuin.

Yours faithfully

*Forster*  
DD  
David Williams  
LAND DEVELOPMENT (BRACKENFELL)

FILE NO:	<i>EL 115 Fisherhaven</i>
SCAN NO:	
COLLABORATOR NO:	<i>1074068</i>

Western Region  
Eskom Road, Brackenfell 7563 PO Box 222 Brackenfell 7561 SA  
Tel +27 80 600 7566 www.eskom.co.za



*TP*



Munisipaliteit – U-Masipala – Municipality  
**OVERSTRAND**

**INTERNAL MEMORANDUM**

Aandag / For Attention:	Town Planning department: H. Olivier	Van / From:	Department Operational Services
Afskrif / Copy:		Datum / Date:	12 Julie 2017 <sup>ES</sup> 13/08/2018

Ref: Erf 115, Fisherhaven

**RE: APPLICATION FOR PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS, DEPARTURE AND CONSENT USE FOR ERF 115, FISHERHAVEN, HERMANUS**

The request for comment from the Department: Operational Services (Hermanus) dated 8 June 2017 with regard to the abovementioned proposal refers.

- Application for consent use on Erf 115, in order to allow the owner to erect a repairer structure / building on the premises.
- Departure from the building lines.
- Removal of restrictive title deed conditions.

**1. ANALYSIS**

**1.1. Water**

- 1.1.1. The existing water connection to Erf 115 shall be used to service Erf 115.
- 1.1.2. The proposed removal of restrictive conditions, departure and consent use will not have a significant impact on the existing municipal water supply network. The Directorate: Infrastructure and Planning must however give comment with regard to network capacity and the relevant Bulk Services Levies.

**1.2. Sewer**

- 1.2.1. The existing sewer conservancy tank on Erf 115 shall be used to service Erf 115.
- 1.2.2. The developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 10400 – P: 2010: Drainage.
- 1.2.3. The proposed removal of restrictive conditions, departure and consent use will not have a significant impact on the existing municipal sewer system. The Directorate: Infrastructure and Planning must however give comment with regard to network capacity and the relevant Bulk Services Levies.

C:\Users\seara\Desktop\departures\Erf 115, Fisherhaven 2018-03-14...docx

- 1.2.4. Any commercial food preparation facilities (e.g. restaurant / guest house etc.) must be provided with a grease trap, which must comply with the standards and specification of the Department: Operational Services.

**1.3. Streets**

- 1.3.1. Access can be obtained via Service Road.
- 1.3.2. Any additional and / or extended vehicle entrances will be for the owner's account.
- 1.3.3. 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 must be made to the office of the Area Manager: Hermanus for written approval.

**1.4. Storm water**

- 1.4.1. The "Common Law" shall apply with regards to storm water discharge.

**1.5. Parking**

- 1.5.1. "On-site parking" must be provided. The parking areas are to be provided at a ratio as described by the Town Planning Scheme, with permanent surfaces and layout to the satisfaction of the Department: Operational Services.

**1.6. Other services**

- 1.6.1. The Department: Operational Services does not have any information regarding any Telkom-, other telecommunications- and / or Electrical services which may be affected by the proposed development. The Electrical- and Traffic departments, as well as Telkom and other relevant service providers, must therefore also give their recommendations regarding the application.

**1.7. Refuse removal**

- 1.7.1. Refuse will be removed from sidewalks as per municipal arrangements.

**1.8. Irrigation water**

- 1.8.1. No irrigation water is available in this area.

**1.9. Waste Water Treatment Works (WwTW)**

- 1.9.1. The proposed removal of restrictive conditions, departure and consent use will not have a significant impact on the Waste Water Treatment Works. The Directorate: Infrastructure and Planning must however give comment with regard to the relevant Bulk Services Levies.

**1.10. Bulk Water Supply**

- 1.10.1. The proposed removal of restrictive conditions, departure and consent use will not have a significant impact on the bulk water supply, reservoirs or other bulk water infrastructure. The Directorate: Infrastructure and Planning must however give comment with regard to the relevant Bulk Services Levies.

**2. RECOMMENDATION**

- 2.1. With regard to the application of the proposed removal of restrictive conditions, departure and consent use on Erf 115, Fisherhaven towards erecting a to erect a repeater structure, the Department: Operational Services has no objection to the application, subject to the following conditions:
- 2.1.1. That the existing water- and sewer conservancy tank to Erf 115 shall be used to service Erf 115.
- 2.1.2. That any commercial food preparation facilities (e.g. restaurant / guest house etc.) must be provided with a grease trap, which must comply with the standards and specification of the Department: Operational Services.
- 2.1.3. That the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 10400 – P: 2010: Drainage.
- 2.1.4. That on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Department: Operational Services.
- 2.1.5. That any additional and / or extended vehicle entrances will be for the owner's account.
- 2.1.7. 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 Area Manager: Hermanus for written approval.
- 2.1.8. That refuse will be removed from sidewalks as per municipal arrangement.
- 2.1.10. That the Electrical- and Traffic Departments, as well as Telkom and any other relevant authorities and service providers not have any objections to the application.

Yours faithfully



**T.J. Marx**  
Principal Technician: Operational Services  
Hermanus



**J. de Villiers Pr. Eng.**  
Senior Manager: Operational Services  
Hermanus

ANNEXURE J 1/5

Vorster & Steyn  
Mitchell House  
16 Mitchell Street  
HERMANUS  
7200

Net consideration		
	Amount	Office fee
Price/Value	R 750 000.00	R 740.00
Stamp duty		
Other charges		
Total		

Prepared by me



CONVEYANCER  
MONICA KORF

T 000075010 / 2015

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

ANTON LUTHER POSTHUMUS

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney which said Power of Attorney was signed at HERMANUS on 27 AUGUST 2015 granted to him by

**JAN BASTIAAN RABE**  
Identity Number 5107025079086  
Married out of community of property

DATA / VERIFY  
25 JAN 2015  
TALJAARD DEBRA

DATA / CAPTURE  
21 JAN 2015  
LARRY FATGEVAN

SN  
GhasConvey 15.6.6.9

And the appearer declared that his said principal had, on 3 August 2016, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

**GERT PETRUS NICOLAAS KRUGER**  
**Identity Number 6707315054085**  
**Married out of community of property**

his Heirs, Executors, Administrators or Assigns, in full and free property

ERF 115 FISHERHAVEN in the Overstrand Municipality, Division of Caledon, Western Cape Province

IN EXTENT 516 (FIVE HUNDRED AND SIXTEEN) Square metres

**FIRST TRANSFERRED** by Deed of Transfer Number T 17674/1970 with Diagram Number 3555/70 relating thereto and held by Deed of Transfer Number 4250/2007.

A. **SUBJECT** to the conditions referred to in Certificate of Uniform Title Number T5659/1959.

B. **SUBJECT** to the conditions mentioned in Deed of Partition Transfer Number 8000/1931 in favour of Josias Servass Delpart, that Petrus Johannes Delpart and his successors in title of the property called ROOI SAND, part of AFDAKS RIVIER, transferred to him on 22nd October 1931, No 7998, shall have the right of trekking with his sheep twelve times a year over the property hereby transferred at a spot to be indicated by the said Transferee and his aforesaid.

C. **SUBJECT** as set forth in Certificate of Uniform Title Number 5659/1959;

(a) Not subject to condition C.(a) on page 2 of Deed of Transfer Number T4250/2007, by virtue of Section 53 of the Mining Titles Registration Amendment Act, 24 of 2003

(b) To the right to take land and remove materials for making and repairing public roads.

D. **SUBJECT** to the following special conditions contained in Deed of Transfer Number 17674/1970 imposed by the Administrator of the Province of the Cape of Good Hope in terms of Ordinance 33 of 1934 when approving of the establishment of Fisherhaven Township, namely :-



Ghose Convey 15.6.69

1. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under provincial Administration Notice No. 401 dated 17<sup>th</sup> October 1935, and in the memorandum which accompanied the said regulations.
2. The owner of this erf shall without compensation be obliged to allow electricity and water mains and the sewage and drainage including stormwater, of any other erf or erven within or without this township to be conveyed across this erf, if deemed necessary by the Local Authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto.
3. The owner of this erf shall be obliged, without compensation, to receive such material or permit excavation on the erf, as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the local authority.
4. The erf shall be subject to the following further conditions, provided especially that where, in the opinion of the Administrator after consultation with the Townships Board and the local authority, it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation, subject to compliance with such conditions as he may impose:-
  - (a) it shall not be subdivided;
  - (b) .....
  - (c) not more than two thirds of the area shall be built upon;
  - (d) no building, or structure, or any portion thereof, except boundary walls and fences, verandas and balconies shall be erected nearer than 2,35 metres to the street line which forms a boundary of this erf;
  - (e) in the event of the provisions of a Town Planning Scheme being made applicable to this erf, which provisions are more restrictive than the provisions contained in the above, then the provisions of such scheme shall apply.



x

E. **SUBJECT** to the conditions imposed in Deed of Transfer Number T17674/1970, imposed by the Transferor Company in its favour as owner of the remainder of Fisherhaven Township, and its successors in title and held by it by Deed Transfer Number 11975/1987, to wit:



"No buildings shall be placed on the land hereby sold until the plans and locations of the buildings have been submitted and approved by both the Company and the Local Authority."

IN the foregoing conditions the expression "the Company" shall mean LAKE MARINA PROPERTIES (PROPRIETARY) LIMITED and its successors in title.

- F. SUBJECT to the conditions contained in the endorsement dated 11<sup>th</sup> May 1970 on said Deed of Transfer Number 11975/1967, which endorsement reads as follows:-

Registration of Servitude

The within described land is subject to a servitude with regard to apportionment of water in terms of an Order of the Water Court (Water Court District No 11/64) dated 1.2.65, as will more fully appear on reference to the copy of the said Order annexed to Deed of Transfer No T 1190/60."

WHEREFORE the said Appearer, renouncing all right and title which the said

**JAN BASTIAAN RABE, Married as aforesaid**

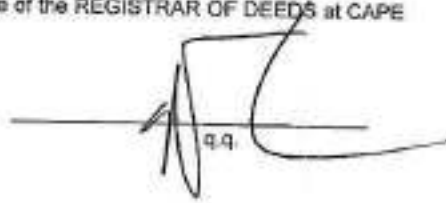
heretofore had to the premises, did in consequence also acknowledge him to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

**GERT PETRUS NICOLAAS KRUGER, Married as aforesaid**

his Heirs, Executors, Administrators or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R750 000,00 (SEVEN HUNDRED AND FIFTY THOUSAND RAND).

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 21 DEC 2015

  
R.R.

In my presence

REGISTRAR OF DEEDS





**WARD COMMITTEE: WARD 8  
WYKSKOMITEE: WYK 8**

Minutes of a Ward Committee meeting held on Monday, 11 September 2017, at 17:30 and a Public meeting at 18:30 at the Thusong Centre, Hawston.

*Notule van 'n Wykskomitee vergadering soos gehou op Maandag, 11 September 2017, om 17:30 en die Publieke vergadering om 18:30 by die Thusong saal, Hawston.*

**PRESENT****Committee members:**

Cllr. E Gillon (Chairperson)	: Ward 8 Councillor
Mr Isai Claasen	: Hawston Rugby Club
Mr Joe Dynaard	: Hawston Gesondheid en Welsyn
Mr Johan Smit	: Fisherhaven RPA
Mr Magrieta Arries	: Griqua National Conference
Mr Julius Booysen	: Overstrand APD
Mr Andrew Hills	: Fisherhaven Neighbourhood Watch
Mr Derrid Adams	: Efesiërs Pentecostal
Mr Titlus Jethas	: Bot Friends

**Officials:**

D Kearney	Area Manager
M Moolman	Snr. Administration officer
A Wyngaard	Snr. Administration officer

**Councillors:**

Cllr. F Africa

Members of public: 24

<b>1.</b>	<b>WELCOME</b>	
	The Chairperson welcomed everyone present and the meeting was opened.	
	<b>Noted</b>	
<b>2.</b>	<b>APOLOGIES</b>	
	<b>Apology:</b> G Van Der Ross - Hawston Development Association	
	<b>Absent:</b> G Williams - Pearly Shells	
	<b>Noted</b>	
<b>3.</b>	<b>APPROVAL OF THE MINUTES: 14 AUGUST 2017</b>	
	Acceptance of the minutes of 14 August 2017 was proposed by I Claasen, and seconded by J Smit	
	<b>Noted</b>	

9.	<b>TOWN PLANNING: ERF 115, 39 THE CRESCENT, FISHERHAVEN</b>	
	<p>The meeting was informed that there are several mistakes made in the document relating to the application for the tower on erf 115, 39 The Crescent, Fisherhaven. It was also mentioned that the picture in the documents is misleading. The concern is raised that the Town Planning Department allowed the document to be released for comment with all the blatant discrepancies.</p> <p>It is requested that the public submit their comment/objections, with motivation, to the Town Planning Department.</p> <p>The Ward Committee does not support the application. They have no problem with the tower itself, but they do have a problem with the placement of the tower. They indicated that such tower should not be placed in a residential area.</p> <p><b>Recommended:</b> That the Ward Committee strongly opposes the application for the tower to be erected on erf 11, 39 The Crescent, Fisherhaven.</p>	R Kuzhar
	<b>Other items discussed/mentioned</b>	
	<p><b>Streetlights</b> It was reported that the following streets required street lights:</p> <ol style="list-style-type: none"> <li>1. Plein Street</li> <li>2. Long Street</li> <li>3. Clinic Way</li> <li>4. Poppelier Street</li> </ol> <p>It also reported that the streetlights in Ferndale Street Hawston as well as the streetlights in Fisherhaven are giving problems. Out of order streetlights get reported, and soon after the Electric Department was there to fix the streetlights, it works for a short while and then the lights go out of order again.</p> <p>The Area Manager informed the Committee that there is no capital item for new street lights throughout the Overstrand. Ward Committees must budget for such items out of the Ward Specific Funds.</p> <p><b>Recommended:</b> That the short lifespan of the streetlights in Ferndale Street, Hawston as well as the streetlights in Fisherhaven be investigated by the Electrical Department, and That the need for streetlights in the following streets be forwarded to the Electrical Department:</p> <ol style="list-style-type: none"> <li>1. Plein Street</li> <li>2. Long Street</li> <li>3. Clinic Way</li> <li>4. Poppelier Street</li> </ol>	K Du Ploois
	<p><b>Access point for Wheelchairs at the Selfbou Store</b> It was brought to the meeting's attention that the access points at the Selfbou Store in Hawston are not completely wheelchair friendly.</p>	

## 4.4

**ERF 3054, 11 SEAVIEW DRIVE, BETTY'S BAY, OVERSTRAND MUNICIPAL AREA :  
REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE : MESSRS PLAN  
ACTIVE ON BEHALF OF ALPAC INVESTMENT CC**

3054 KBB (3205)

H van der Stoep

11 April 2017

(028) 313 8900

Hermanus Administration

**1. EXECUTIVE SUMMARY**

An application has been received on 1 February 2016 and a revised application dated 27 January 2017 from Messrs Plan Active Town & Regional Planners on behalf of Alpac Investments CC for the following :

- ❖ Removal of restrictive title conditions in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the removal of the restrictive conditions Clauses C.(i)(5)(b) and C.(ii)(m) of Title Deed T54244/2014 applicable to Erf 3054, Betty's Bay in order to utilize the existing dwelling as an upliftment centre.

Clauses C.(i)(5)(b) and C.(ii)(m) reads as follows:

"C.(i)(5)(b)

*It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith."*

C.(ii)(m)

*No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven."*

- ❖ Consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 in order to enable the owners to utilize the existing dwelling house on the property as an upliftment centre.

A Locality Plan of the property concerned is attached as Annexure A. The proposed Site Development Plan is attached as Annexure B, while the Motivation Report from the applicant in support of the proposal is attached as Annexure C. Title Deed T54244/2014 is attached as Annexure D and the Conveyancer Certificate as Annexure E.

**2. DECISION AUTHORITY**

Municipal Planning Tribunal

**3. BACKGROUND / SITE HISTORY**

The erf is located in Betty's Bay and measure 1675m<sup>2</sup> in extent. The erf is zoned Residential Zone.

An application was lodged for the removal of the mentioned restrictive conditions and the consent use. During the comment period, the objectors did indicate that the distribution is not correct and that the erf falls under the "special residential" erven as per the township establishment conditions of Sunny Seas in Betty's Bay. The applicant was informed accordingly and the application was revised and the distribution was corrected to inform each and every owner of Sunny Seas of the application via registered letters as per the process procedures.

The application as submitted dated 27 January 2017 reflects the abovementioned.

#### 4. SUMMARY OF APPLICANT'S MOTIVATION

The application is for the utilization of the dwelling consisting of five (5) bedrooms – two (2) guests per bedroom within the house - for the guests visiting the upliftment centre.

The land uses surrounding the application property consist of open space, dwelling houses and guest houses. The number of people will be the same as a guesthouse. The living area above the double garage consisting of a lounge, bedroom and bathroom will be occupied by the manager/owner. The guests visiting the upliftment centre do not require any medical intervention and do not have medical conditions that require a medical practitioner on-site.

The daily program consists of physical training under supervision and also taking part in daily lecture sessions. The guests are provided with food and the kitchen is seen as a communal facility. All activities are supervised and the present structures suffice to accommodate the upliftment centre, and no additional structures are proposed.

The proposed land use will have no more impact than a large family, two (2) families and/or guesthouse consisting of five (5) bedrooms, consisting of ten (10) people. The proposed land use is thus seen as negligible.

Services on the application property exist. The access to the property is from Penguin Terrace. In terms of the Overstrand Zoning Scheme two (2) parking bays for the owner and/or manager is required and one (1) parking bay per guestroom. The application property makes provision for seven (7) parking bays.

The Title Deed attached to the property has restrictive conditions relating to the proposed use for an upliftment centre. The conditions relate to the use of residential erven that prohibits any business use on the property. The upliftment centre will accommodate guests and thus qualify as a business.

In terms of the policy document applicable the application is in line with the following documents:

- ❖ Overstrand Spatial Development Framework, 2006, earmarks the erf as residential and the zoning of the application erf will remain residential.
- ❖ Overstrand Municipal Growth Management Strategy, 2010 locates the erf in Planning Unit 1, Betty's Bay East, earmarked as low density due to the interface with the mountain. The application does not propose any subdivision that will entail a higher density in the area. The proposed land use will be

accommodated within the existing structures and the impact will not be greater than the existing dwelling used for residential and/or guesthouse purposes.

- ❖ Heritage Value: Erf 3054, Betty's Bay has no heritage value as determined by the Overstrand Heritage Report, 2009.

The application complies with the Planning Principles indicated by the applicant:

### **Spatial Justice**

The proposed upliftment centre will provide a much needed social service to people in the peaceful area of Betty's Bay. The people accommodated will be the same number as a guesthouse.

### **Spatial Sustainability**

The proposed upliftment centre is accommodated in an existing urban area. A minimalistic approach is taken that will no impact on the conservation worthy area and land use will be in line with the character of the area.

### **Efficiency**

The application property is easily accessible.

### **Spatial Resilience**

A minimalistic approach is taken to accommodate the facility within the existing dwelling.

## **5. ADMINISTRATIVE COMPLIANCE**

Methods of advertising		Date published	Closing date for comments
Press	Yes	2 March 2017	7 April 2017
Gazette	Yes	1 December 2017	12 January 2018
Notices	Yes	2 March 2017	7 April 2017
Ward councillor	Yes	2 March 2017	7 April 2017
Total comments	<b>81 (EIGHTY ONE)</b>		
Total letter of support	<b>1 (ONE)</b>		
Was public participation undertaken in accordance with Section 45 - 49 of the Proposed Draft By-Law on Municipal Land Use Planning?			<b>Yes</b>
Was the application processed correctly (if no, elaborate below):			<b>Yes</b>
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			<b>Yes</b>

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

Name	Date received	Summary of comments	Recommendation
<b>Building Control</b>	03/03/07	Support subject to any building changes to be compliant with SANS 10400 and plans to be submitted.	Supported
<b>Area Manager : Kleinmond Admin</b>	07/03/17	Support application.	Supported
<b>District Health</b>	03/04/17	As an accommodation establishment, need to apply for a Health Certificate. The kitchen must comply with Regulation 962 – Regulations governing general hygiene requirements for food premises; need to apply for a Certificate of Acceptability for the kitchen.	Supported
<b>Fire Department</b>	07/04/17	See Annexure I.	Supported
<b>Engineering Services</b>	11/04/17	See Annexure H.	Supported

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Eighty one (81) objections were received from individuals and one (1) letter of support (see objections attached as Annexure F). The applicant's response to the objections received is attached as Annexure G.

The objections and reply can be summarized as follows:

### 1. Objection

***The subject property and surrounding erven of the Sunny Seas Township are Special Residential erven and may only be used to erect a dwelling on the subject erven and that no businesses may be established on these erven. These erven have no other rights, other than what is stipulated in the Title Deed.***

### Applicant's response

Erf 3054 Betty's Bay is indeed listed as one of the erven being referred to in the Title Deed and the Township Establishment Conditions as being a Special Residential erf. The land use of these erven is restricted to the following land use:

C.(i)(5)(b)

*“It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith.”*

C.(ii)(m)

*“No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven.”*

The erven in the Sunny Seas Township are governed by these land use restrictions. Cognisance however should also be taken of the Zoning Scheme that is also applicable to these erven. In the past, the Section 8 Scheme Regulations of the Land Use Planning Ordinance, Ordinance 15 of 1985 was used to govern land uses and land use restrictions consisting of prescribed building lines, height restrictions and coverage.

The Section 8 Scheme Regulations was replaced by the Overstrand Municipal Zoning Scheme that came into effect on 1 January 2014 that makes provision for more land uses and consent uses and can be seen as a modern version of the land use restrictions applicable to Single Residential Erven. With the implementation of the Zoning Scheme the Title Deed restrictions of the Sunny Seas Township cannot be ignored and has preference over the land use restrictions imposed by the Zoning Scheme Regulations, and therefore necessitates an application for the removal of the more restrictive Title Deed conditions in order to make use of the land uses referred to in the Zoning Scheme.

With reference to our motivation report we mentioned that the Residential Zone 1 zoning will be retained. Our application does not constitute a change of zoning, but the change of land use as being provided for in the Zoning Scheme as a consent use. We have made it clear in our motivation report that we are referring to the Zoning Scheme and not the Title Deed when we mentioned land use rights other than being residential.

The relevant Zoning Scheme makes provision for the following land uses under a zoning of Residential Zone 1 that reads as follows:

- (a) **Primary uses** are: day care centre, dwelling house, guest rooms, home occupation and second dwelling unit;
- (b) **Consent uses** are: crèche, green house, guest house, house shop, institution, place of instruction, place of worship, residential building and tourist accommodation.”

In order to make use of the above mentioned land uses other than being residential it is required that the Title Deed restrictions be addressed and therefore the reason for our application for the removal of the restrictive Title Deed restriction. Cognisance should also be taken that one of the following land use restriction have been imposed to all residential erven in Betty’s Bay that read as follows:

*“This erf shall be used solely for the purpose of erecting thereon one dwelling or other buildings for such purpose as the Administrator may from time to time after reference to the townships board and the local authority, approve, provided that of the erf is included within the areas of a town planning scheme, the local authority*

*may permit such other buildings as are permitted by the scheme, subject to the conditions and restrictions stipulated by the scheme.”*

*“It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith.”*

With reference to the above restrictions it is clear that all residential erven may only be used for erecting thereon one dwelling, therefore limiting the use of the erven to a single residential use. Subsequently the following restriction - *“no hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven”* - does not have to be in the Title Deed to prohibit any business use, because all erven are limited to a single residential use only and therefore any other land use will be in conflict with each residential owner’s Title Deed that resides in Betty’s Bay.

#### Town Planner’s response

It is correct that the establishment conditions indicated no business on the property, however the application to remove the condition to enable the upliftment centre.

## **2. Objection**

***The number of people accommodated and the impact of the proposed upliftment centre will be similar to a standard five (5) bedroom guesthouse.***

#### Applicant’s response

The reason for us comparing the proposed upliftment centre to a guesthouse can be summarised as follows:

- The maximum number of guests that can be accommodated within a guesthouse is ten (10);
- The maximum number of guestrooms are limited to five (5), sleeping two (2) guests per room;
- Even though no visitors are allowed, provision was made for one (1) parking bay per room and two (2) parking bays for owner / manager;
- As stated in our motivation, guests visiting the upliftment centre do not require any medical interventions and do not have medical conditions that require medical attention. It is also the reason why we referred to visitors as guests and not patients.
- Strict rules apply to guests visiting the upliftment centre in order not to be a nuisance to surrounding land owners.

#### Town Planner’s response

The comparison is valid in terms of people allowed. Should any of the other consent uses be implemented, the consent uses in terms of the zoning scheme listed are land uses in line with the land use of residential and that can be accommodated in a residential dwelling.

### 3. Objection

***Referral is made in the motivation to a Conveyancer Certificate, but no certificate was enclosed.***

#### Applicant's response

A Conveyancer Certificate accompanied our application submitted to the Overstrand Municipality. The municipality in return provided us with the notice and the information to distribute via registered post to owners of erven in the Sunny Seas Township. The Conveyancer Certificate was not included in the documents that we were instructed to distribute.

#### Town Planner's response

The objectors could at any time request the certificate and or any other relevant documentation submitted with the application. The objectors did request the Title Deed and thus could also request the Conveyancer Certificate.

### 4. Objection

***The primary right use of the subject property will remain residential. This contradicts and invalidates the proposal to change the restrictive Title Deed conditions.***

#### Applicant's response

The current zoning of Erf 3054, Betty's Bay will remain Residential Zone I. The application constitutes an application for a consent use to accommodate an upliftment centre. Even though the land use changes, the primary land use in terms of the Zoning Scheme will still be retained. Should the land be sold, the land use will revert back to being single residential and will the consent use lapse.

#### Town Planner's response

The zoning will remain residential in nature and thus should any owner intends to rezone the property, a process will have to be followed.

### 5. Objection

***The statement that surrounding land uses consist of mainly single residential, holiday houses and guesthouses is not true.***

#### Applicant's response

All residential erven in Betty's Bay are zone Residential Zone 1 and are either developed or vacant. Some of the developed residential erven are being used for other uses such as guesthouses, holiday houses and tourist accommodation. Making use of the following websites: *lekkerslaap.co.za*, *trevago.co.za* and *airbnb.com* we can list the following 13 advertised tourist accommodation establishments in the Sunny Seas area only:

- |                                   |                |
|-----------------------------------|----------------|
| ➤ Helm's Deep – Sea and Mountain: | Seaview Drive  |
| ➤ Nature's Haven In Betty's Bay:  | Seaview Drive  |
| ➤ Betty Blue:                     | Seaview Drive  |
| ➤ Sunny Seas:                     | Albertyn Drive |
| ➤ 210 Degrees South:              | Pearl Drive    |
| ➤ Havens Door:                    | Albertyn Drive |
| ➤ ZAR Beautiful:                  | Albertyn Drive |
| ➤ Paradise Getaway:               | Luckhof Road   |
| ➤ Sanity Getaway:                 | Anemone Street |
| ➤ Leopards View:                  | Mermaid Road   |
| ➤ Van Den Bergs Guesthouse:       | Albertyn Drive |
| ➤ Umoya Guesthouse:               | Dolphin Drive  |
| ➤ Kalliste B&B:                   | Dolphin Drive  |

Making use of the website *airbnb.com* we have noted ±141 tourist accommodation establishments in the Betty's Bay area.

We question that all these tourist accommodation establishments had their Title Deeds amended and that they applied for a consent use to utilise their dwellings for tourist accommodation purposes. The Title Deeds for residential erven of Betty's Bay make it clear that the residential erven may only be used to accommodate thereon one (1) dwelling and associated structures. With reference to specifically the Sunny Seas Township there is a restriction that prohibits the use of residential erven for a canteen, hotel, any form of business, etc. Please refer to the restrictions below:

*"No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven."*

#### Town Planner's response

Noted.

#### **6. Objection**

***The proposal is to run a business from Erf 3054, Betty's Bay that will have a negative impact on traffic and no parking bays are provided on-site for the proposed use.***

#### Applicant's response

The application is to accommodate an upliftment centre on the subject erf. One (1) parking bay per guestroom is provided and two (2) parking bays for owner/manager. Therefore seven (7) parking bays are provided on-site.

The upliftment centre does not allow day visitors and therefore the impact on the road infrastructure will be minimal. The parking bays will only be used when a guest to the wellness centre is dropped off or picked up after their upliftment sessions. Guests are not allowed to arrive with their own transport.

Town Planner's response

The parking is in line with a guest house and would not have more traffic than a five (5) bedroom guesthouse.

**7. Objection**

***The grey- and black water will have a negative impact on the environment.***

Applicant's response

With our application to utilise the existing dwelling as an upliftment centre it is proposed that the five (5) existing bedrooms be used to accommodate two (2) guests each. Being an existing dwelling with existing services and the fact that only ten (10) guests may occupy the five (5) bedrooms will not have a negative impact on the services.

Town Planner's response

The application is in an existing building and the Engineering Services Department did not indicate any additional requirements with regard to the existing services.

**8. Objection**

***There will be no economic benefit to the area of Betty's Bay.***

Applicant's response

In order to run an upliftment centre it would be required that the guests be provided with food, beverages, laundry facilities, etc. Local businesses are supported to provide food, beverages, reading material and other groceries. Furthermore, the existing dwelling requires routine maintenance and this is also where local contractors are used. It is therefore clear that Betty's Bay does benefit economically from the upliftment centre.

Town Planner's response

It is unclear to what extent the economic benefit should be, except the normal benefits of making use of local business establishments and services.

**9. Objection**

***Refuse and refuse removal poses problems such attracting animals such as rats and mice.***

Applicant's response

Refuse is managed similar to that of a dwelling, and because of the fact that guests reside at the upliftment centre it is required that the premises be kept clean at all times. The stench of garbage or any mice or rat infestation will not be tolerated by guests and it will be to the detriment of the facility.

Town Planner's response

The erf is subject to the removal of refuse by the Municipality.

**10. Objection**

***The land uses that can be accommodated within a zoning of Residential Zone 1 includes single residential dwelling, holiday homes and guesthouses. The proposed upliftment centre does not fit into any of these categories.***

Applicant's response

The primary land uses under a zoning of Residential Zone I are as follow:

- day care centre,
- dwelling house,
- guest rooms,
- home occupation,
- second dwelling unit.

The Overstrand Municipality Zoning Scheme also makes provision for consent uses that are compatible with the Residential Zone 1 zoning that are as follows:

- crèche,
- green house,
- guest house,
- house shop,
- institution,
- place of instruction,
- place of worship,
- residential building,
- tourist accommodation.

Application is made for a consent use for an upliftment centre that can be categorised under and institution. Institution is defined as follows:

*“a property used as a social, health or welfare facility, or for the administration thereof and includes a hospital, special needs school, clinic, homes for the aged, indigent or handicapped, a reformatory or place of detention, whether of commercial or charitable nature, but does not include a jail;”*

The Title Deed in respect of Erf 3054, Betty's Bay however has a Title Deed restriction that prohibits the above mentioned primary and consent uses other than residential and that is why we have also applied simultaneously for the removal of the restrictive Title Deed conditions.

Town Planner's response

The proposed use is allocated under institution and thus falls under the consent use category.

**11. Objection**

***The upliftment centre will have a negative impact on the character of the area.***

**Applicant's response**

The zoning of Erf 3054, Betty's Bay will remain unchanged. The primary land uses applicable to the subject property will therefore remain in place. The subject property can therefore easily revert back to single residential use only if deemed necessary in future.

The proposed land use is compatible with surrounding guest house land uses. Erf 3054, Betty's Bay can alternatively also be developed for guest house purposes (maximum five (5) bedrooms), home occupation or second dwelling purposes. However, developing Erf 3054, Betty's Bay for upliftment centre purposes will have the same impact than developing the subject property for guest house purposes.

We are therefore of the opinion that the subject property has the potential to be developed for the proposed land use since it will not have a greater impact than accommodating a large family in the existing dwelling, or accommodating two (2) families in the existing dwelling (main and second dwelling), or accommodating six to ten (6-10) guests on the subject property (guest house).

**Town Planner's response**

The centre is located in an existing residential building. It will have the same amount of people as a guesthouse. It is therefore unclear with regard to the character of the area. The character will remain residential.

**12. Objection**

***Walls and fences will impact negatively on the movement of wild animals.***

**Applicant's response**

The subject property is not fenced and has no boundary walls.

**Town Planner's response**

Noted.

**13. Objection**

***The application mentions that the maximum number of guests to be accommodated is ten (10), but currently it is close to twenty (20) guests being accommodated.***

**Applicant's response**

Our application is to accommodate a maximum number of ten (10) guests only in order to minimize the impact on the surrounding neighbourhood and this was also

why the proposed upliftment centre was compared to a land use such as a guesthouse.

Town Planner's response

The Municipality will only consider that has been applied for.

**14. Objection**

***No impact study was conducted for the change of land use to accommodate an upliftment centre.***

Applicant's response

Erf 3054, Betty's Bay is within an already developed residential area and it is proposed that the existing house and its infrastructure be used to accommodate an upliftment centre. The change of land use does not trigger any listed activities in terms of the National Environmental Management Act (NEMA) and therefore no impact study is necessary.

Town Planner's response

It is unclear what study needs to be done. NEMA is not triggered.

**15. Objection**

***The Municipality does not have the authority to deal with applications to remove Title Deed Restrictions - this can only be done by the Minister.***

Applicant's response

Legislation has changed and removal of restrictive Title Deed conditions is now being dealt with by the Overstrand Municipality. Application is made in terms of Chapter 4, Section 16(2)(f) of the Overstrand Municipality's By-Law on Municipal Land Use Planning, 2015, for the removal of restrictive Title Deed conditions. The correct procedure was followed in all aspects for the proposed removal of the restrictive Title Deed conditions and consent use.

Town Planner's response

The applicant is correct.

**16. Objection**

***The correct procedure was not followed to provide notices to all the residents of the Sunny Seas Township by registered mail.***

Applicant's response

We have been instructed by the Overstrand Municipality to send notices via registered post to all the land owners of the Sunny Seas Township and have also provided us with an address list. Notices were sent to a total of four hundred and thirty one (431) owners per registered mail of which we have proof of all addresses

where the notice have been sent to and corresponding tracking number of each notices.

Town Planner's response

Residents as per the municipal system located in Sunny Seas were given to the applicant for distribution.

**17. Objection**

***The objections included a petition for the tarring of Disa Road due to dust problems those residents in the vicinity is experiencing.***

Applicant's response

This petition has no relevance to our application. Disa Road is ±5km from the subject erf.

Town Planner's response

Noted.

**18. Objection**

***Betty's Bay is a lifestyle seaside village with a rural / country atmosphere. Thus there are only a small number of business properties. No land has also been earmarked for industrial development, as there is no need for such. The proposed upliftment centre is a special residential area, will therefore negatively impact on the character of the village.***

Applicant's response

Generally the people making use of the services of an upliftment centre comes from busy cities and suburbs for treatment. The tranquillity and country atmosphere that Betty's Bay has to offer is beneficial to them. The proposal for an upliftment centre is also not suited to be located within an industrial area and is not related to an industrial land use.

The application is for a small upliftment centre that will only cater for a maximum of ten (10) guests that require no medical intervention or that have no medical condition as stated in our motivation report. Therefore the proposed upliftment centre is compatible with the surrounding land uses and residential character of the Sunny Seas area.

Town Planner's response

The application is not for any industrial activity.

**19. Objection**

**Noise levels – the constant singing while running in the streets and gym equipment noise while practising. The aforementioned is not in line with a guesthouse operation in a tranquil environment.**

Applicant's response

None

Town Planner's response

The objector is correct in as far as the exercise activities are concerned. A private gym is usually owner related. A gym facility is allocated in a business area if utilized by a group of people and is not normally associated with a guesthouse. The referral to a guesthouse is due to the motivation of the applicant that the upliftment centre will have no more of an impact than a guesthouse.

**20. Objection****The upliftment centre caters for up to 20 people**Applicant's response

The application is for 10 people and not more, and should the application be approved the restriction of a maximum of 10 people at any time must be adhered to.

Town Planner's response

Agree with applicant.

**21. Objection****Chanting and the excessive light emanating from the building**Applicant's response

None

Town Planner's response

A site inspection was done at 2 occasions and chanting was not heard. Every owner of a house has a right to have indoor lights and it is their prerogative to either have it or not.

**22. Objection****People at the centre to transgress on other erven/properties**Applicant's response

None

Town Planner's response

This aspect has not been proven in terms of police action

**23. Objection****The upliftment centre will attract undesirables**Applicant's response

None

Town Planner's response

The centre has been operating on the erf for some time and no proof has been submitted in this regard

**The owners of the upliftment centre in their own capacity also submitted a response on the objections and will be dealt with as per reply. These aspects were not dealt with by the consultant.**

**Their response is as follows:**Owner's response

*Page 1 - 3: General comments and Introduction*

Town Planner's response

Noted.

Owner's response

*Page 3 - 5: Background to the need for the Upliftment Centre, known as Ocean Breeze.*

Town Planner's response

Noted.

Owner's response

*Page 5, Point 22: The By-Law of the Overberg did not make provision for an Upliftment Centre before 2015 and therefore is not unlawful.*

Town Planner's response

The By-Law is not the Overberg By-Law, but the Overstrand By-Law. It should be noted that the By-Law deals with procedural matters and the Overstrand Zoning Scheme, 2014 deals with the applicable land uses as allowed on erven. It should also be noted that a Municipal Zoning Scheme cannot cater for every type of land use that exists and similar land uses resort under an umbrella concept.

Owner's response

*Page 6, Point 30: Caledon Court Case No. OSC 14/2017 found the activity not unlawful.*

Town Planner's response

Point 31: In the case *Lester v Ndlambe Municipality & Another* [2014] 1 All SA 402 (SCA) is not applicable as the latter deals with a matter where the unlawfulness has been known beforehand and the building went ahead.

Owner's response

*Page 7, Point 32: Islamaphobia / Racism.*

Town Planner's response

No comment.

Owner's response

*Point 33: Title Deed Condition C(ii)(a) - "That the erf or any portion thereof shall not be transferred, leased or in any other manner assigned or disposed of to any Asiatic, African Native, Cape Malay or any person who is manifestly a "coloured person".*

*This class was omitted from all Title Deeds as it is unconstitutional.*

Town Planner's response

Agree with the applicant. The condition is not relevant in South Africa.

Owner's response

*Page 8 to 13: The comments refer to the different conveyance certificates obtained in respect of the conditions in the Title Deed. The applicant does not agree with the latest one received from Smith Tabatha Buchanan Boyes, dated 16 November 2016. The applicant elaborates in the above-mentioned pages on this matter.*

Town Planner's response

The planner is not a conveyancer and therefore cannot put a conveyancer certificate in dispute.

Owner's response

*Page 13: Erf 3273 is a Bed and Breakfast located in Sunny Seas and must abide by the same rules.*

Town Planner's response

The application referred to dated back to 2012 and the Department of Environmental Affairs and Development Planning dealt with the removal of restrictive conditions.

Owner's response

*Page 17: Erf 3108 is a Bed and Breakfast located in Sunny Seas and must abide by the same rules.*

Town Planner's response

Noted.

All other comments were dealt with thoroughly by the applicant's consultant.

Internal Departments

No objections or negative comments were received.

## 8. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)

### 8.1 Background

N/A

### 8.2 (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

Not applicable.

#### Spatial sustainability

The application addresses the social and environmental nature of the site and the adjacent areas. The economic pillar is being addressed in a lesser manner. The proposed land use is needed within the wider community extending beyond the boundaries of Betty's Bay. The proposed use will be located in the existing dwelling and thus will have no impact on the surrounding environment. The economic benefit is the services to be provided by local businesses.

#### Efficiency

The proposed land use will optimize the erf's allowed developable parameters as per the Zoning Scheme. The existing structures and services are utilized and the carbon footprint versus a new development will be less.

#### Spatial Resilience

The combination of primary and consent uses on a residential erf is to ensure spatial resilience in terms of flexibility of the Scheme. The aforementioned ensures the capability of the erf, its owner and area to accommodate land uses to ensure optimal use of a property and limit the impact of extensive

development for each and every possible land use. By implication ensures limiting impact on financial means and liability for the wider community.

**Good administration**

Procedure was followed and full public participation was applicable.

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

Same as Point 8.2 above.

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

Same as Point 8.2 above.

**8.5 (In)consistency with guidelines prepared by the Provincial Minister**

Not applicable.

**8.6 Impact on Municipal engineering services**

None.

**8.7 Outcomes of investigations/applications i.t.o other legislation**

Not applicable.

**8.8 Existing and proposed zoning comparisons and considerations**

The application is in line with the Overstrand Spatial Documents.

**9. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS**

**The financial or other value of the rights**

No financial gain as it is a non-profit organization.

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

No benefit will accrue.

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

There is no social benefit should the condition remains in place.

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

The rights enjoyed by the beneficiary will remain in place since the erf will remain residential and the right obtained will be subservient to the main activity, e.g.

residential. The rights of the Sunny Seas residents may be impacted upon due to the use not being exclusively residential.

#### 10. THE DESIRABILITY OF THE PROPOSAL

The application is for an upliftment centre, which the Municipality resolved should be placed under the term "Institution". The centre caters for any person, restricted to males only, who do experience stress, depression and/or low self-esteem. It is not a rehabilitation centre, since no medical personnel is attached to the centre.

The Overstrand Zoning Scheme does provide for consent uses that can be accommodated on Residential Zone 1 erven. The uses are restricted in size and extent in order to ensure that the residential character of the area is maintained. The centre has been operating in Betty's bay for some time and rented a house to conduct their operation, subsequently due to expenses the operators purchased a property to ensure that their investment is not subject to non-permanency as in the case of renting a property. The property purchased is located in Betty's Bay East, also known as Sunny Seas. The erf has an approved building plan and the operation is thus located in an existing approved building and internal services availability.

The land use proposed adheres to the same development parameters as a guesthouse. The amount of people in the centre is to accommodate ten (10) people with a manager and/or owner residing on the premises. The amount of parking provided is thus seven (7) parking bays, as indicated on the site plan. The access point to the erf will remain in place. Due to the fact that most of the visitors do not have vehicles, the impact on the street will be minimal and/or no more than a guest house.

The centre's policy is to ensure that the visitors remain in a structured environment, which entails workshops, exercise and prayer. It is clear that the centre is more of a wellness or step down facility, operating as a guest house, but in a structured manner.

Sunny Seas was approved in 1956. The Township Establishment Conditions earmarked the erf as Special Residential. Special Residential in terms of the Scheme has the allocation of Single Residential.

Ordinance 33 of 1934 was promulgated in October 1935. The definition for residential purposes in relation to the use of any erf means the erection of a dwelling or residential building, but should not exclude the erection of a place of assembly, school or institution as per previous Regulation 8 applicable to the area, before the Overstrand Zoning Scheme. Thus in the previous legislation the definition applicable to residential erven did provide for uses as per the application.

The Conditions of Establishment for Sunny Seas does make provision that conditions may by application be amended or suspended. The By-Law on Municipal Land Use Planning makes provision that restrictive conditions may be removed on application.

The removal of the restrictive conditions pertains to the erection of one (1) dwelling and associated outbuildings. It is correct that the erf has only one (1) dwelling, which is interpreted that when Sunny Seas were developed, the Zoning Scheme

was not in place allocating other land uses or consent uses to the development. Thus the interpretation is that the one (1) dwelling refers to residential dwelling for a single family. The condition to be removed is to enable the consent use for an institution as per the application. In order to ensure that the erf remain residential in nature it is proposed that the condition rather be amended to read as follows:

*“It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith and that the property is used primarily for residential purposes and an institution be allowed subservient to the residential use.”*

The following restrictive Title Deed condition relates to business and industrial uses:

*“No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven.”*

The restrictive condition relating to business, industrial, etc. is relevant in terms of the Scheme Regulations that any other use, except if the house is occupied by the owner, will fall under the interpretation of the application for an upliftment centre is a non-profit organization, depending on funds. However, it is not clear if all guests are staying for free and/or if the guests donate an amount for their stay. Due to the unclarity in this regard, the upliftment centre either pay in kind for people working there and/or does have a fee attached to the visitor.

In terms of the restrictive condition it is clear that the intention was to eliminate any business, industrial, etc. activities that may impact on noise and traffic pollution that may disturb the peaceful character associated with residential living. In recent years land uses that can be accommodated without disturbing the peaceful nature of the area and character has been accommodated on Residential Zone 1 erven, with strict development parameters. In this case the application for the upliftment centre can either been seen as a business or a boarding house. The latter will fall under similar development parameters as a guesthouse restricting the use and management of such a land use. Therefore it was a requirement that the condition be addressed in the application.

Similar to the aforementioned condition, it is advisable not to remove the condition, but rather to amend the condition to ensure that some of the land uses mentioned in the condition remain in place as it is not either a primary use and/or a consent land use as per the Overstrand Zoning Scheme. It is therefore proposed the condition be amended to read as follows:

*“no hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven with the exception of guesthouses and the institution (upliftment centre only).”*

The upliftment centre as per the application complies with the development parameters of a guesthouse. The development will be restricted to ten (10) people, the use is restricted to the existing dwelling and the owner and/or manager will reside on the property. The amount of parking bays is similar to that of a guesthouse. The comparison with the guesthouse is due to the fact that it is not an

institution with medical related beds, but rather a guesthouse with a structured management system, catering for a specific grouping of people.

The house, in which the centre is to be located, remains residential as per the Zoning Scheme and the services requirement remains as for a residential house. The access to the dwelling remains in place and no additional structures or uses are added that may have an impact on services.

The one aspect that needs to be addressed is the objections with regard to noise. The chanting as mentioned was investigated by the building inspector after working hours. He indicated all was quiet. The other aspect to be considered is the noise levels with regard to singing or shouting during the running exercise by the inhabitants of the centre in the quiet neighbourhood. This is a valid objection, since the area is quiet and tranquil and a guesthouse will not embark on all the guests to go running and singing at the same time.

However, this aspect can be mitigated, that should the running exercise be undertaken that no singing or shouting be allowed.

The last aspect is the utilization of the house gym on the premises. Noise levels of a group partaking in gym activities such as martial arts and weights do emanate an excessive amount of noise in a quiet neighbourhood. This aspect can be mitigated in as far as that equipment, especially the weights not be dropped on the floor, a rubber carpet be installed to assist with the buffering of the noise created by the equipment and that the door and indoors be kept closed while activities are taking place.

The applicant fully acknowledges the tranquillity and peacefulness of the area and is one of the reasons in locating the centre there. Thus in order to maintain the abovementioned reasoning of locality, the applicant must ensure that there is no impact on the environment especially in light of the fact that the application is not a primary right, but a consent use.

The Overstrand similar to the rest of South Africa does have a need for places of rest for people under stress. Not all cases relates to medical intervention, but rather to remove the person from its working surroundings to be able to recuperate. In this case the applicant opted to call it an upliftment centre due to its structured management system and catering for a specific grouping of people.

It can be reasoned that there are community zoned erven available in Betty's Bay, but it is in the ownership of either the Municipality or the Department of Public Works. The erven are large in extent and are held for clinics, school and other amenities such as police stations, etc. These erven are not intended for private initiatives on such a limited scale that warrant a community zoned erf to be used for an upliftment centre, especially as no medical intervention is required and or funded by public funds.

In evaluating the application, the objectors could not substantiate that the proposed land use will have more of an impact than a normal guesthouse with five (5) rooms. If the application is approved, the restriction of ten (10) people, two (2) persons per room will be strictly enforced.

**11. RECOMMENDATION**

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 on Erf 3054, Betty's Bay for the removal of the restrictive conditions Clause C.(i)(5)(b) of Title Deed T54244/2014 applicable to Erf 3054, Betty's Bay in order to utilize the existing dwelling as an upliftment centre, **be amended** to read as follows:

*"It shall be used for residential purpose, together with such outbuildings as are ordinarily required to be used therewith and that the property is used primarily for residential purposes and any other land as per the Scheme be allowed subservient to the residential use."*

2. that the application in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 on Erf 3054, Betty's Bay for the removal of the restrictive conditions Clause C.(ii)(m) of Title Deed T54244/2014 applicable to Erf 3054, Betty's Bay in order to utilize the existing dwelling as an upliftment centre, **be amended** to read as follows:

*"No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or entertainment whatsoever shall be opened or conducted on the Special Residential erven."*

3. that the application in terms of Section 16(2)(o) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (By-Law) on Erf 3054, Betty's Bay for a consent use in order to enable the owners to utilize the existing dwelling house on the property as an upliftment centre, **be approved** in terms of the provisions of Section 61 of the By-Law;

4. that the amendments in Points 1. and 2. and the approval in Point 3. above be subject to the following conditions:

- (a) that the consent use not be transferable;
- (b) that the amount of guests be restricted to ten (10) people;
- (c) that the consent use is valid only for an upliftment centre in its present form;
- (d) that parking be provided on-site as per parking layout bett3054s.drw, dated 01/2016, as submitted with the application;
- (e) that a maximum of one (1) permanently demarcated parking bay per guest room and two (2) for the owner/manager be provided within the erf boundaries, subject to the approval of the Authorised Official;
- (f) that the owner/manager resides on the premises, and that the owner be responsible for the proper management of the upliftment centre;

- (g) that no facilities (bar/restaurant or any other) be provided for residents or non-residents of the upliftment centre;
  - (h) that the selling or serving of liquor on the premises will not be allowed;
  - (i) 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;
  - (j) that the accommodation facility 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;
  - (k) that a single non-illuminated sign that complies with the Municipal By-Law on Signage, may be displayed on the premises;
  - (l) that the upliftment centre be conducted in such a manner that it is not found to be detrimental to the peacefulness and amenity of the surrounding area;
  - (m) that the gym noise levels be measured and the necessary mitigating measures such as rubber carpets be installed and the door(s) be closed during activities;
  - (n) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
  - (o) that this approval does not absolve the applicant from compliance with any other relevant legislation;
  - (p) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with;
  - (q) that all the conditions in the Services Report (attached as Annexure H), be complied with, and
  - (r) that all conditions imposed by the Fire Department (attached as Annexure I), be complied with.
5. that the applicant and objectors be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above conditions of approval.

## **12. REASONS FOR RECOMMENDATION**

- ❖ The application has followed due procedure.
- ❖ Eighty one (81) objections have been received.
- ❖ None of the internal departments have any objection.
- ❖ None of the municipal services will be needed.
- ❖ It is in line with policy documents.
- ❖ The impact will not be more than a guesthouse.

- ❖ The land use is not transferrable and will lapse once it ceases operating by the present owners.
- ❖ The noise levels can be mitigated.

**13. ANNEXURES**

Annexure A: Locality Plan  
Annexure B: Site Development Plan  
Annexure C: Motivation Report  
Annexure D: Title Deed T54244/2014  
Annexure E: Conveyancer Certificate  
Annexure F: Objections received  
Annexure G: Applicant's response to objections received  
Annexure H: Services Report  
Annexure I: Comment: Fire Department

**SIGNATURES****REGISTERED PLANNER**

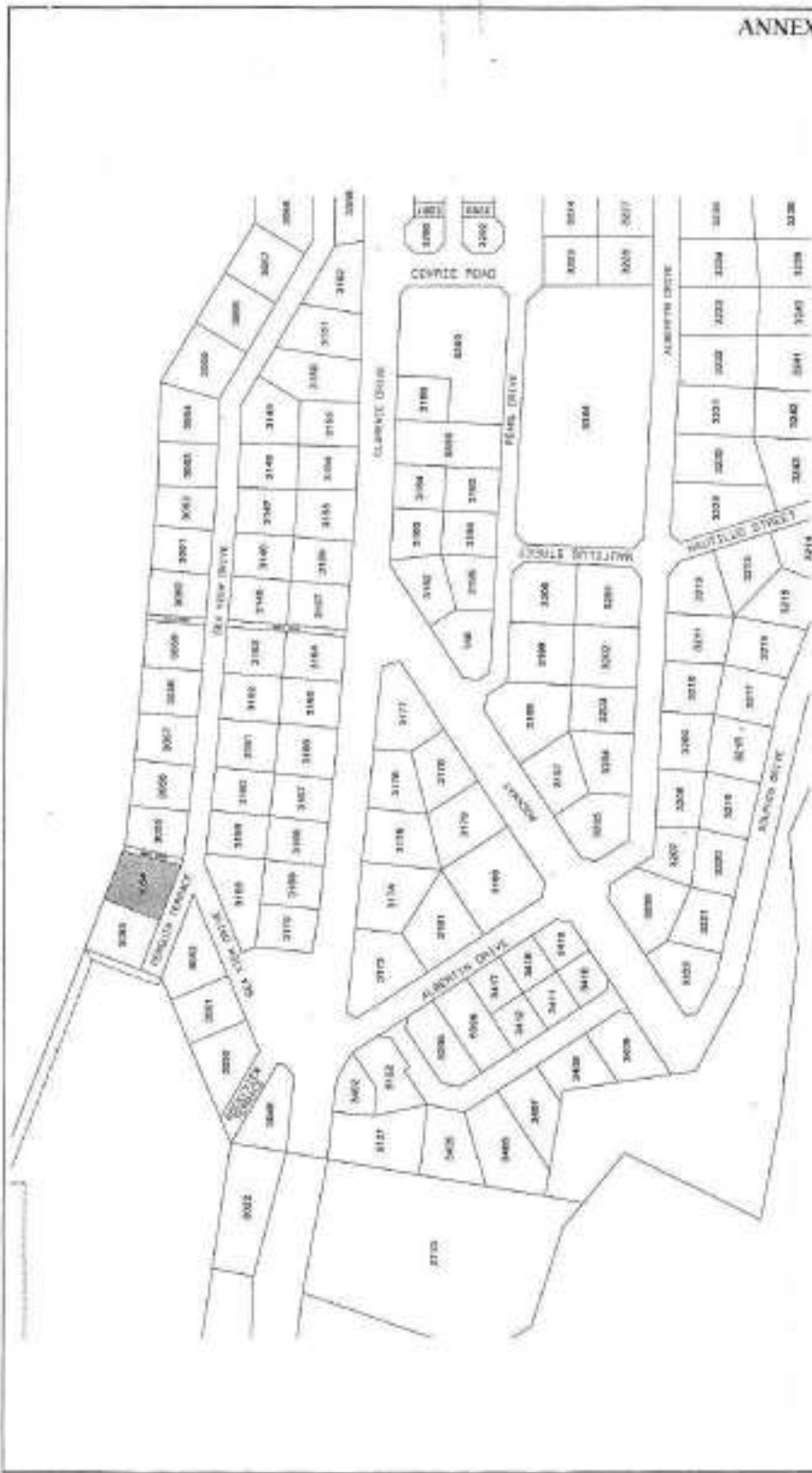
Name : **H VAN DER STOEP**

SACPLAN registration number: **A/1708/2013**

Signature : \_\_\_\_\_

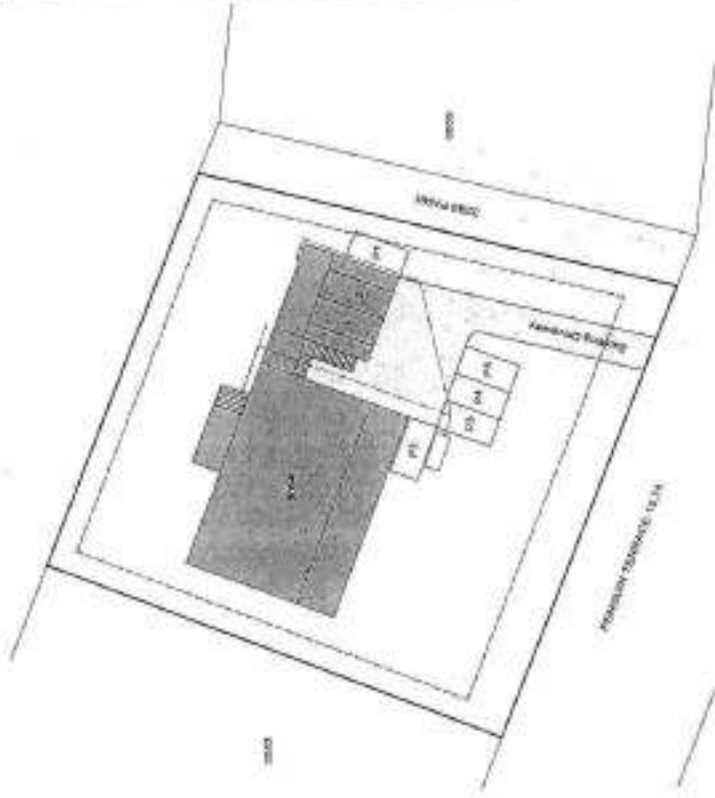
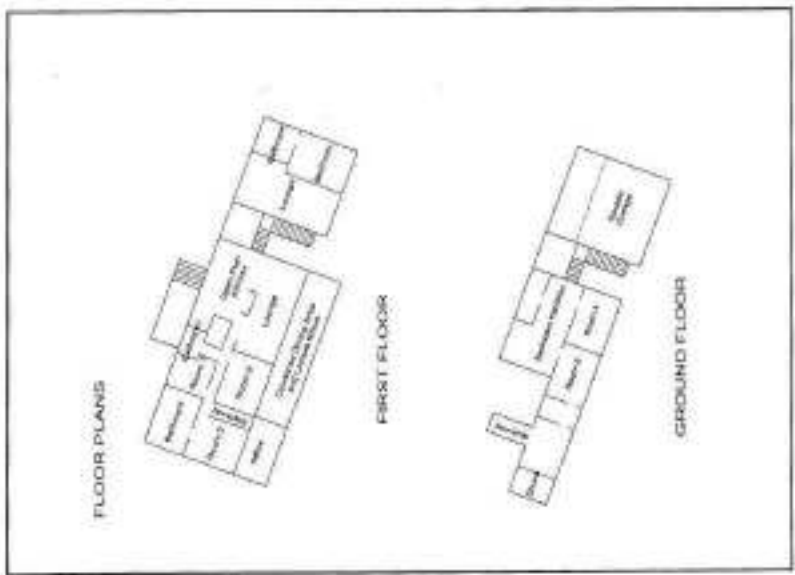
Date: \_\_\_\_\_

ANNEXURE A 1



<b>PLAN</b> Stads- en Streeksplanners Town & Regional Planners	All resources reproduced and subject to survey.	Property Description: <b>ERF 3054</b> <b>BETTYS BAY</b>	Plan Description: <b>LOCALITY MAP</b>	Scale: <b>NTS</b> Drawing No: 161020541.mw Date: 13/12/2016
	CROWN RIGHT RESERVED			

ANNEXURE B 1



	Property Description: <b>ERF 3054 BAY</b>	Plan Description: <b>SITE DEVELOPMENT PLAN</b>	Scale: <b>1:500</b> Drawing No: <b>14/2024/1/1</b> Date: <b>2024/01/11</b>
	All distances approximate and subject to survey. COPY RIGHT RESERVED		

APPLICATION FOR A CONSENT USE AND REMOVAL OF  
RESTRICTIVE TITLE DEED CONDITIONS:

ERF 3054 BETTY'S BAY

OVERSTRAND MUNICIPALITY

CALEDON DISTRICT

**1. BACKGROUND**

The owner of Erf 3054 Betty's Bay, Alpac Investments CC instructed Plan Active to apply for a consent use and the removal of restrictive Title Deed conditions in order to utilise the existing dwelling as an upliftment centre. No additional structures will be constructed. The detail of the proposal and current land uses will be described in detail further in this document.

**2. APPLICATION DETAILS**

**2.1 Property Description**

Erf 3054 Betty's Bay is 1675m<sup>2</sup> in extent, held by Title Deed T54244/2014 and is situated north of the R44 on Penguin Terrace. Please refer to the enclosed locality map.

The property is situated within an established single residential area with land uses that can be accommodated within a zoning of Residential Zone 1 and includes single residential dwellings, holiday homes and guesthouses.

**2.2 Application**

It is the owner's intention to utilise 5 bedrooms that will accommodate 2 guests per room visiting the upliftment centre. In order to utilise the existing 5 bedrooms within the house for guests visiting the upliftment centre an application is made for the

following:

- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the removal of a restrictive Title Deed condition in order to utilise the existing dwelling situated on Erf 3054 Betty's Bay as an upliftment centre.
- Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for a consent use to utilise the existing dwelling situated on Erf 3054 Betty's Bay as an upliftment centre on Erf 3054 Betty's Bay.

### 3. ZONING

Erf 3054 Betty's Bay is zoned Residential Zone 1 in terms of the Overstrand Municipality Zoning Scheme and has the following land use rights:

- (a) **Primary uses** are: day care centre, dwelling house, guest rooms, home occupation, second dwelling unit;
- (b) **Consent uses** are: crèche, green house, guest house, house shop, institution, place of instruction, place of worship, residential building, tourist accommodation.

### 4. LAND USE

Erf 3054 Betty's Bay is used for residential purposes and as an upliftment centre. A dwelling with a double garage is situated on the subject property. Please refer to the enclosed site development plan.

Land uses that surround Erf 3054 Betty's Bay are single dwellings, holiday houses, guest houses, public roads and public open spaces. It is therefore evident that erf 3054 Betty's bay is within a predominantly single residential area.

## 5. PROPOSAL

Due to the demand for wellness centres, upliftment centres and related land uses in the area, the owner decided to make use of the existing dwelling as an upliftment centre, and submit an application to utilise 5 of the existing bedrooms as guestrooms for people visiting the centre. The number of people accommodated within the existing dwelling will be similar to that of a standard 5 guestroom guesthouse and the owner / manager will also reside on the premises.

The dwelling is located on the southern portion of the property facing the lower lying areas of Betty's Bay and the ocean. The use of the existing dwelling consists of the following:

### **First Floor Main Dwelling**

- Open plan kitchen;
- Lounge;
- 2 Bathrooms;
- 3 Bedrooms;
- Study / Office;
- Dining area on the covered stoep;
- Stairway;
- Above double garage: Lounge;
- Above double garage: Bedroom;
- Above double garage: Bathroom.

### **Ground Floor Main Dwelling**

- Sauna;
- 2 Bedrooms;
- Bathroom Facilities;
- Double garage.

With this application it is proposed that 5 of the existing bedrooms be used as bedrooms for guests visiting the upliftment centre. Each room will accommodate 2 people that totals to a number of 10 guests. The lounge, bedroom and bathroom that are situated above the double garage will be used as accommodation for the manager / owner. Please note that guests visiting the upliftment centre do not require any medical interventions and do not have medical conditions that require medical

attention.

A daily program for guests will consist of physical training such as supervised jogging and training using gym equipment. A small gym is situated within the double garage as indicated on the site development plan. Guests will enjoy breakfast, lunch and dinner on the premises and will also take part in daily lecture sessions. The sauna situated on the ground floor will be accessible to guests. All activities on site will be supervised. Amenities such as the kitchen and lounge area can be seen as communal areas that will be accessible to the guests.

With reference to the existing uses within the dwelling such as the spacious bedrooms, kitchen, dining and lounge area and other factors such as the property's tranquil location on the foothills of the mountain with great views over the lower lying areas of Betty's Bay and the ocean makes it ideal to utilise the house as an upliftment centre.

With reference to the proposal above it is clear that all the land uses exist and that no additional buildings will have to be constructed. The proposed change of land use is only to utilise the existing bedrooms within the dwelling as guest rooms.

## 6. CHARACTER OF THE ENVIRONMENT

The subject property is situated at the foot of the mountains in Betty's Bay. This area is characterised as a medium to higher income area and Betty's Bay is generally seen as a tranquil and quiet holiday town.

Since the proposed upliftment centre will be accommodated within the existing structure on erf 3054 Betty's Bay, the impact on the streetscape and the general character of the area will be kept to a minimum. No internal alterations are proposed to the existing dwelling and will therefore have no impact on the surrounding properties or the character of the area.

The impact on the existing low traffic flow in the area will be kept to a minimum since only 5 of the existing rooms will be used to accommodate guests to the upliftment centre.

## **7. THE POTENTIAL OF THE PROPERTY (DESIRABILITY OF THE PROPOSED UTILIZATION)**

The zoning of erf 3054 Betty's Bay will remain unchanged. The primary land uses applicable to the subject property will therefore remain in place. The subject property can therefore easily revert back to single residential use only if deemed necessary in future.

The proposed land use is compatible with surrounding guest house land uses. Erf 3054 Betty's Bay can alternatively also be developed for guest house purposes (maximum five bedrooms), home occupation or second dwelling purposes. However, developing erf 3054 Betty's Bay for upliftment centre purposes will have the same impact than developing the subject property for guest house purposes. We are therefore of the opinion that the subject property has the potential to be developed for the proposed land use since it will not have a greater impact than:

- a. accommodating a large family in the existing dwelling, or;
- b. accommodating two families in the existing dwelling (main and second dwelling),  
or;
- c. accommodating 6-10 guests on the subject property (guest house).

## **8. IMPACT ON EXTERNAL ENGINEERING SERVICES**

### **8.1 PROVISION OF SERVICES**

All services on the subject property already exist.

#### **Water**

The existing water capacity on erf 3054 Betty's Bay will be sufficient for the purposes of the application.

### Sewerage

The existing sewerage capacity on erf 3054 Betty's Bay will suffice for the purposes of the application.

### Electricity

Eskom is the electricity supplier to the subject property. It is not anticipated that the proposed development will necessitate an upgrade in the available electricity supply.

### Solid waste

Refuse / waste are collected by the municipality once a week and will remain unchanged.

### Conclusion

There will be no changes in the services capacities required.

## **8.2 TRAFFIC IMPACT, PARKING AND ACCESS**

Access to erf 3054 Betty's Bay will remain unchanged from Penguin Terrace.

The Overstrand Zoning Scheme Regulations determines that 1 parking bay per room and 2 parking bays for the owner / manager has to be provided for a wellness centre.

Ample parking is available on the subject erf as indicated on the proposed site development plan.

7 parking bays are provided onsite and should be sufficient to accommodate guests. 1 parking bay per guestroom is provided with 2 parking bays within the double garage for the owner / manager.

The proposed upliftment centre is a low impact land use and subsequently the proposed application will not adversely affect traffic flow, the streetscape or the general character of the area.

## **9 TITLE DEED**

There are restrictive title deed conditions that have to be removed to accommodate an upliftment centre on Erf 3054 Betty's Bay.

- Please refer to Clause No. C(i)(b) and C(ii)(m) of Title Deed T54244/2014 that read as follows:

C(i)(b) "It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith."

C(ii)(m) "No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven."

Due to the fact that the existing dwelling will now be used to accommodate guests at the upliftment centre and that it qualifies as running a business, the house will not be utilised as dwelling to accommodate a single family and it would therefore be required that the above mentioned restrictions be removed. Please refer to the enclosed Conveyancer Certificate from Smith Tabata Buchanan Boyes.

## **10 FORWARD PLANNING & OTHER LAND USE DOCUMENTS**

### **10.1 OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK (2006)**

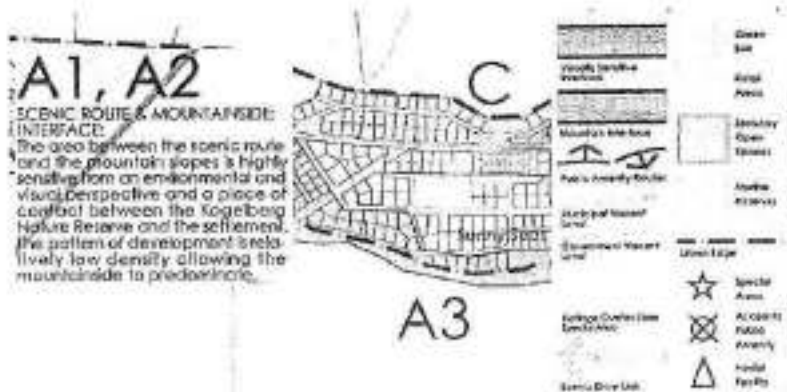
The Overstrand Spatial Development Framework (SDF), 2006, earmarks the area where erf 3054 Betty's Bay is situated, for residential purposes as indicated on the map below:



The zoning (Residential Zone I: Single Residential) for the subject property will remain unchanged. The primary land use of the subject property will remain for residential purposes and therefore the proposal is still in line with the existing spatial planning policies for the area.

**10.2 OVERSTRAND MUNICIPAL GROWTH MANAGEMENT STRATEGY (OMGMS, 2010)**

The Overstrand Municipal Spatial Growth Strategy (2010) stipulates that the subject property falls within planning unit no. 1 in Betty's Bay East. Furthermore the subject property is also situated in the Mountain Management Zone as depicted below:



This application does not propose to subdivide the subject property and therefore the application will have no impact on the density of the area. Furthermore the proposed land use will be accommodated within the existing structures on the subject property and therefore the impact on the biophysical environment will remain unchanged. The proposed land use is a low impact land use (similar to a guest house on the subject property) and therefore the impact on the environment will not be greater than developing the subject property for guest house purposes.

In the light of the above mentioned the proposed consent use and removal of restrictive Title Deed conditions fall within the existing planning for the Betty's Bay area.

## **11 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION**

### **11.1 HERITAGE VALUE**

Erf 3054 Betty's Bay is not situated within the Heritage Overlay Zone as determined by the Overstrand Heritage Report (2009). The subject property is also not earmarked for heritage conservation purposes in terms of the OMGMS (2010).

The existing structures on the subject property will remain unchanged. The application does not involve changing the character of a site larger than 5000m<sup>2</sup>. It should also be noted that there are no structures on the subject property older than 60 years. The subject property is not associated with any important persons or groups or important events and activities. The subject property has no association with the history of slavery and is not used for living heritage.

The proposed consent use and removal of restrictive Title Deed conditions do therefore not trigger any listed activities in terms of Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

In the light of the above mentioned it is evident that the proposed consent use and removal of restrictive Title Deed conditions will not have a negative impact on the heritage value of the Betty's Bay area.

#### 11.2 ENVIRONMENTAL IMPACT

The proposed consent use and removal of restrictive Title Deed conditions do not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

#### 12 ACCESS ROAD

Access to Erf 3054 Betty's Bay is obtained directly from Penguin Terrace. Please refer to the enclosed Locality map on site development plan for easy reference. This access is an existing access that is currently being used.

#### 13 PLANNING PRINCIPLES

The planning principles of spatial justice, spatial sustainability, efficiency and spatial resilience of this application can be described as follows:

Spatial Justice: The proposed upliftment centre will provide a much needed social service to people within the peaceful area of Betty's Bay. The number of people that will be accommodated within the existing dwelling will be similar to that of the standard 5 guestroom guesthouse as previously mentioned.

Spatial sustainability: The proposed upliftment centre is accommodated within an established urban area consisting mainly of single residential houses, holiday houses and guesthouses. The existing dwelling will be utilised for the purpose of a functioning upliftment centre as mentioned in our motivation. A minimalist approach was taken with the proposed upliftment centre and therefore it will have no impact on the conservation worthy areas and the land use will be in line with the character of the area.

Efficiency: The proposed upliftment centre will be easily accessible and is conveniently located within an urban area utilising the existing dwelling.

Spatial Resilience: as mentioned in this document and minimalist approach was taken to accommodate the upliftment centre within the existing dwelling.

Our firm 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.

#### **14 RECOMMENDATION**

- The proposed consent use and removal of the restrictive Title Deed conditions will not have a negative effect on the current character and land values of the surrounding erven.
- The area is already disturbed and the infrastructure exists on a well maintained erf and will not have a negative impact on the area.
- A minimalist approach was taken in order to minimise disturbance of the character of the area and to compliment the functionality of the township. The proposed upliftment centre would therefore be limited to a total number of 10 guests.
- The proposal creates great economic potential while it retains the integrity of the environment.

With regards to the above mentioned it will be appreciated if Council would approve and recommend the proposed.

- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the removal of a restrictive Title Deed conditions in order to utilise the existing dwelling situated on Erf 3054 Betty's Bay as an upliftment centre.
- Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for a consent use to utilise the existing dwelling situated on Erf 3054 Betty's Bay as an upliftment centre on Erf 3054 Betty's Bay,

52

Bisset Boehmke McBain  
11th floor Triangle House  
22 Riebeeck Street  
Cape Town  
8001

Prepared by me  


Deeds Office		Office Use
Particulars	1 600 000,00	400,00
Mortgage Capital Account		
Reason for exception		Deeds Office

CONVEYANCER  
Carl Christian Burger

VERBIND		MORTGAGED	
VAT FOR R		R 1 300 000,00	
000028E05 / 2014		REGISTRAR/REGISTRAR	
28-10-13			

000054244 / 2014  
I 00000000000000000000

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

RONEL ELS

appeared before me, REGISTRAR OF DEEDS at Cape Town, the said appearor being duly authorised thereto by a Power of Attorney which said Power of Attorney was signed at Hermanus on 28 July 2014 granted to him by

The Executrix in the Estate Late  
STEPHANUS TERBLANCHE  
Number 11000/2012

DATA / VERIFY  
22 OCT 2014  
LARNY PATGEYAH

DATA / CAPTURE  
16 OCT 2014  
#PWCYBARD NOLUNAVO



And the appraiser declared that the deceased died on 16 April 2012 and whereas his principal had, on 2 June 2014, truly and legally sold by Private Treaty, and that he, the said Appraiser, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

ALPAC INVESTMENTS CC  
Registration Number 2009/165613/23

or its Successors in Title or assigns, in full and free property

ERF 3054 BETTYS BAY  
IN THE OVERSTRAND MUNICIPALITY,  
DIVISION OF CALEDON, WESTERN CAPE PROVINCE

IN EXTENT 1675 (ONE THOUSAND SIX HUNDRED AND SEVENTY FIVE)  
Square Metres

FIRST TRANSFERRED BY Deed of Transfer No.T1909/1967 with diagram No. B799/1956 relating thereto and held by Deed of Transfer No.T46956/1993.

- A. SUBJECT to the conditions referred to in Certificate of Township Title No.T369/1956.
- B. SUBJECT further and ENTITLED to the benefit of the conditions referred to in the servitude endorsements on Certificate of Consolidated Title No. T3720 /1937, which endorsements are dated and read as follows:

(1) DATED 24 JUNE 1940:

By Deed of Transfer No. 6068/40 certain conditions relating to (b) prohibition of Petrol Station on land (c) wood and iron buildings (e) slaughter poles, cattle kraals (f) manufacture of bricks, tiles etc. have been imposed on the property thereby conveyed for the benefit of the owner and its successors in title of the remainder of the property held hereunder as will more fully appear on reference to the said Deed of Transfer.

(2) DATED 22 OCTOBER 1948:

By D/T 24234 DATED 22.10.48 certain conditions relating to water supply, type of business that may be carried on, prohibition of petrol station on land, slaughter poles, cattle kraals, wood and iron buildings, non-division, manufacture of bricks and tiles, have been

imposed, as will more fully appear on reference to the said Deed of Transfer."

(3) DATED 18 JULY 1949 :

By D/T 11915 dd. 18.7.1949 the remdr. of the land held hereunder is entitled to a right of way over Erf 487 Betty's Bay (Ext No. 1) and marked A.E.D. on the diagram thereof. Subject to conditions as will more fully appear on reference thereto.

(4) DATED 1 DECEMBER 1950 :

By Deed of Transfer No. 18877/50 dated this day certain conditions relating to water supply, type of business that may be carried on, planting of trees, prohibition of Petrol Station, slaughter poles, cattle kraals, manufacture of bricks, tiles, etc. non subdivision, have been imposed against and for the benefit of the remaining extent of the property hereby conveyed measuring 5900,6815 ha. as will more fully appear on reference to said Deed of Transfer.

(5) DATED 28 AUGUST 1951 :

By Deed of Transfer No. 14934/51 dated 28.8.51 certain conditions relating inter alia to :-

prohibition against erection of certain types of building, slaughter poles, cattle kraals, pig-sties, cowsheds; manufacture of bricks, tiles, etc. the value of erections; water supply arrangements etc. have been imposed over the remainder of the land thereby conveyed in favour of the owner and successors in title to the remainder measuring 5955,3544 ha. held hereunder, as will more fully appear on reference to said Deed of Transfer.

(6) DATED 28 AUGUST 1951:

By Deed of Transfer No. 14935/51 dated 28.8.51 certain conditions relating inter alia to:-

arrangements re water supply, submission of plans for approval, fencing to be used, planting of trees, use of land for Tea Garden or Room; approval re types of trade to be undertaken; erection of only one building; prohibition against erection of Petrol Service Station, and other certain types of buildings, slaughter poles, cattle Kraals, pig-sties, cowsheds, manufacture of bricks, tiles etc. subdivision without permission etc., which conditions are imposed in favour of the owner and successors in title to the remainder measuring 5954,9428 hectares held hereunder, as will more fully appear on reference to said Deed of Transfer.

GhaurGoway 15.1.201

C. SUBJECT FURTHER to the following conditions contained in Title Deed No. T1909 / 1957, namely:

(i) Imposed by the Administrator of the Province of the Cape of Good Hope under Ordinance 33 of 1934, as amended, upon approval of the establishment of Sunny Seas Township:

- (1) Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Administration Notice No. 401 dated 17th October 1935, and in the memorandum which accompanied the said regulations.
- (2) The owner of this erf shall without compensation be obliged to allow electricity and water mains and the sewage and drainage including stormwater of any other erf or even within or without this subdivision to be conveyed across this erf if deemed necessary by the Local Authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto.
- (3) The owner of this erf shall be obliged, without compensation, to receive the material or permit excavation on the erf as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the Local Authority.
- (4) Pending the establishment of a Local Authority for the Township, the sewage of this erf shall not be disposed of otherwise than by means of a properly constructed septic tank if the nature of the soil permits, otherwise into a properly constructed vacuum tank serving one or more erven. If any such tank is situated on this erf the owner shall, without compensation, be obliged to remove it after three months' written notice served upon him by such Local Authority.
- (5) This erf shall be subject to the following further conditions provided especially that where, in the opinion of the Administrator after consultation with the Townships Board and the Local Authority, it is expedient that the restriction in

*Ghosh* 15.12.81

any such condition should at any time be suspended or relaxed he may authorise the necessary suspension or relaxation subject to compliance with such conditions as he may impose:

- (a) It shall not be subdivided.
  - (b) It shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith.
  - (c) Not more than half the area thereof shall be built upon.
  - (d) 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 nor within 3,15 metres of the rear or 1,57 metres of the lateral boundary common to any adjoining erf provided that with the consent of the Local Authority an outbuilding not exceeding 3,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation, may be erected within the above prescribed rear space. On consolidation of any two or more even this condition shall apply to the consolidated area as one erf.
  - (e) In the event of the provisions of a Town Planning Scheme being made applicable to this erf, which provisions are more restrictive than the provisions contained in the above, then the provisions of such scheme shall apply.
- (ii) Imposed by Hangklip Beach Estates Limited as being applicable to all plots in Sunny Seas Township as being in favour of the registered owner of any property in the Township:
- (b) No wood and/or iron buildings of any description shall be erected on this erf nor shall corrugated iron be used for roofing purposes.
  - (c) No cattle, horses, sheep, goats, pigs or poultry shall be kept on this erf without the written consent of the Company.
  - (d) Save with the consent in writing of the Company and of any Local Authority, the owner shall have not have the right to make or cause to be made upon the erf for any purposes

whatsoever any bricks, tiles or earthenware pipes or other articles of such nature, nor shall he have the right (save and except to prepare the erf for building purposes) to dig or quarry any earth, gravel, lime or stone thereon.

- (e) No building (including outbuildings) shall be erected on this erf of a superficial area of less than 99 square metres.
- (f) No noxious trade or noxious business shall be carried on on this erf.
- (g) The Transferee shall not camp overnight or light fires on the erf save with the written consent of the Company; nor shall he permit any other person so to do.
- (h) No garage or service station may be erected or carried on on this erf, provided that this condition shall not apply to erven Nos. 1 and 263.
- (i) Until a Local Authority takes over the supply of water for the Township the Company or its successors in title shall be allowed to levy a charge on erf-holders for the service of administering the water of the Township, which charge shall be subject to the approval of the Administrator. This charge, however, shall not be levied until the erf-holder requests that the water be connected to this erf. The Company reserves the right, however, subject to the consent of the Administrator, to install a system for measuring the consumption of water supplied and to make charges based upon such consumption.
- (j) That the Company or its successors in title shall make a charge of R10.00 (Ten Rand) for the connection of water to the nearest point on this erf.
- (k) The buildings, including all fences and gardens or other gates, shall be of good design and sound construction and the plans, elevations and the specifications thereof must be lodged with and approved by the Company before tenders are called for, and no alterations in the plans, elevations and specifications when so approved shall be made without the consent in writing of the Company. The location of the buildings on the site must also be approved by the Company. The buyer shall not commence building operations until he has received the written approval of the Company to his plans, elevations and specifications. In the event of a breach of this Clause the Company shall have the right to interdict the buyer from proceeding with his building operations and shall have the option to repurchase the erf upon payment of the cost price thereof without compensation for improvements.

- (j) Outbuildings shall not be built prior to the erection of the main dwelling or building which shall be a complete building and not one partly built and intended for completion at a later date.
- (m) No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven.
- (n) No canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever with the exception of boarding houses) shall be opened or conducted upon the General Residential erven.
- (o) No signs, advertisements, advertisement boardings or other lettering shall be erected on this erf, nor shall any advertisements, signs or lettering be painted on any buildings, walls or fence erected or to be erected on the said erf save and except with the written approval of the Company.
- (p) No debris, scrap or other unsightly material shall be deposited on the said erf nor shall the purchaser or his successors in title deposit or allow to be deposited any debris, scrap or other unsightly material on the said erf without the written consent of the Company first had and obtained.
- (q) In the foregoing conditions the expression "the Company" shall mean "The Hangklip Beach Estates, Limited, as owner of the remaining extent of the Township" and its successors in title to the whole of such remainder.



Guaranteed 15.1.201

WHEREFORE the said Appearer, renouncing all right and title which the said

**Estate Late STEPHANUS TERBLANCHE**

heretofore had to the premises, did in consequence also acknowledge the said Estate to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

**ALPAC INVESTMENTS CC**  
Registration Number 2009/165613/23

or its Successors in Title or assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R1 500 000,00 (ONE MILLION SIX HUNDRED THOUSAND RAND).


(IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at Cape Town on

13 OCT 2016

In my presence

REGISTRAR OF DEEDS







  
Ghaasthuis 15.1.2.07

## Conveyancer Certificate

I, Hanlie Ferreira hereby certify that a search was conducted in the Deeds Registry, Cape Town, regarding the following property:

Erf 3054 Bettys Baai

Situated in the Overstrand Municipality

Division Cape

Western Cape Province

In Extent : 1675.0000 Square meters

Held by Deed of Transfer Number: T54244/2014.

The following restrictive conditions are applicable and will have to be dealt with:

Clause No. C(i)(b) and C(ii)(m) of Title Deed T54244/2014 that read as follows:

C(i)(b) "It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith."

C(ii)(m) "No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven."

Signed at Cape Town on the 16th of November 2016



Hanlie Ferreira

SMITH TABATA BUCHANAN BOYES  
2ND FLOOR, 5 HIGH STREET  
ROSENPARK  
TYGERVALLEY, 7536

ANNEXURE F 1/186

TPA Thent  
(C.H. v.d. Stoep)Loretta Gillion - REHABILITASIE-SENTRUM VIR VERLAAFDES: SUNNY SEAS,  
BETTIES BAAI

From: Santie Pienaar <pienaarsantie@gmail.com>  
 To: <loretta@overstrand.gov.za>  
 Date: 17/06/2016 12:51 PM  
 Subject: REHABILITASIE-SENTRUM VIR VERLAAFDES: SUNNY SEAS, BETTIES BAAI

Erf 3054, Betty's Bay

Geagte Heer

**REHABILITASIE-"SENTRUM" VIR VERLAAFDES te Sunny Seas, Betties Baai**

As permanente inwoner van Sea Way 2, Betties Baai, teken ek ten sterkste beswaar aan teen die bedryf van 'n rehabilitasie-"plek" in 'n residensiele area te Sunny Seas, Betties Baai.

Redes van beswaarmaking:

- \* 'n Sentrum vir rehabilitasie teen verslawing hoort onder geen omstandighede binne 'n residensiele area nie, nog te meer nie in 'n area waar inbrake/kwaaddoen/see-stropery hoogty vier soos in Betties Baai nie.
- \* Vanaf so 'n "sentrum" word die omgewing fyn bespied en kwaaddoen-planne intensief beplan indien dit in 'n residensiele area is. Dis 'n lewensbedreigende situasie vir inwoners van die omgewing.
- \* Indien so 'n sentrum bedryf word deur opgeleide, SABS-goedgekeurde personeel, onder streng toesig en doelgerigte rehabiliterings-programme, kan dit in afsondering tot voordeel van 'n gemeenskap strek, maak verseker NIE binne 'n residensiele area nie.

Graag sou ek skriftelik terugvoer wou ontvang t.o.v:

1. Wie bedryf hierdie sentrum/akkommodasie?
2. Is dit deur die Overstrand Munisipaliteit goedgekeur?
3. Wie finansier dit hier tussen woonhuise?
4. Wie verskaf die opleidingsprogramme? SABS-goedgekeurde programme?

Vriendelik die uwe

S.M.Pienaar - 072 425 6050  
 Sea Way 2  
 Betties Baai  
 Erf 3900

17 JUN 2016

FILE NO:	EL 3054/B
SCAN NR:	50
COLLABORATOR NO:	911954

21 JUN 2016

TP

ANNEXURE F 2/184

**KEITH JENKINGS**  
ATTORNEY NOTARY CONVEYANCER

Your Ref:  
Our Ref: KEJ/sc/T9912

7 Sunninghill Road,  
7800 WYNBERG

P O Box 19003  
7824 WYNBERG

Tel: (021) 762 1516 / (021) 762 1519  
Fax: 086 616 5628  
Email: jenkstlaw@yebo.co.za  
Docex: 26, Wynberg

TRAT heat  
(Huld Steep)

2016-06-07



The Municipal Manager  
Overstrand Municipality  
16 Paterson Street  
HERMANUS  
7200  
TELEFAX: (028) 313 2093  
Email: [Loretta@overstrand.gov.za](mailto:Loretta@overstrand.gov.za)

FILE NO:	E1305466
SCAN NO:	
COLLABORATOR NO:	911030

Dear Sir // Madam

**Re: APPLICATION FOR REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE BY ALPAC INVESTMENT CC (REGISTRATION NO. 2009/165613/23) OVER ERF 3054 BETTY'S BAY COMMENTS IN TERMS OF SECTION 51 AND SECTION 52 OF THE OVERSTRAND MUNICIPALITY BY-LAW OF MUNICIPAL LAND USE PLANNING, 2016**

I represent Mrs Susan Turton-Botha who is the owner of Erf 3056 Sea View Drive, Betty's Bay.

My client hereby opposes and objects to the Removal of the Restrictive Title Deed Conditions and Consent Use as applied for by the owner of Erf 3054 Betty's Bay (hereinafter referred to as the "Applicant").

My client's reasons are as follows:-

1. My client will firstly comment on the application submitted by the applicant. In paragraph 2.1 of the application, the applicant states that the current land use can include single residential dwellings, holiday homes and guesthouses. At the moment, in the area surrounding the property, there are only single residential dwellings and holiday houses but no guesthouses. In fact, Betty's Bay is essentially an area which has holiday homes, residents who are retired persons and some families where the parents commute to towns outside of Betty's Bay to work. Betty's Bay has very few businesses and they are mainly situated

Keith Evan Jenkins (BA, LL.B.)

P 21 JUN 2016

21 JUN 2016

on Clarence Drive. The character of Betty's Bay is that of a small village of mainly holiday makers and retired persons.

2. In paragraph 2.2, the applicant states that he wishes to operate a "so-called" upliftment centre. In other parts of the application, the applicant refers to opening an institution. The applicant provides very few details as to the nature of the institution and the upliftment centre. The owner refers to the people who will visit the upliftment centre as guests. However, it is my client's contention that the use of the words "guests" is a misnomer as it implies that the institution will be similar to a guesthouse. My client's property is in close proximity to the applicant's property as it is one plot away from the property and the plot between the two properties is a vacant plot. The applicant has been running the upliftment centre since it took ownership of the property in 2014 in contravention of the by-laws of the Overstrand Municipality and my client has been able to observe its modus operandi. Firstly, at times, there have been more than ten persons with up to sixteen adult males at any one time, staying in the property. There have been only men aged between 20 to 40 years of age at the centre and no women and children. The activities involve physical training such as jogging and gym type activities, lectures and loud noise. At night, the noise levels are excessive and the first floor is lit with fluorescent lighting which is very bright. There are no curtains or blinds on the windows and the light shines outside and is a form of light pollution. There do not seem to be any domestic workers on the property so the "guests" do all their own domestic chores such as cleaning, tidying etc. The persons staying at the property are more like persons being assisted in some form of a recovery programme than guests. Also, no means of the occupants' owned transport has been observed since 2014 other than the communal used vehicle to transport the occupants which is normally a bakkie. With ten occupants and a manager and his family, it will mean that there will be least fourteen people staying on the property at any one time which is an excessive amount of people for a single dwelling.
3. In paragraph 5, the applicant states that there is a demand for wellness centres and upliftment centres in the area. There is no demand for an upliftment centre in Betty's Bay. The people visiting the upliftment centre are not from Betty's Bay but have been brought to Betty's Bay from other parts of South Africa. If the applicant runs an upliftment centre with two person per bedroom, it would be similar to a boarding house with the exception that the applicant's occupants would have to be part of the activities of the upliftment centre which is in contravention of the current land use of the property. It should be noted that the Applicant is already running the upliftment centre prior to obtaining approval and is in contravention of the Title Deed Restrictions and the current zoning of the property.
4. In paragraph 8, the applicant requests the upliftment of Title Deed Restrictions so that it can operate the upliftment centre. My client is opposed to the upliftment of these Title Deed Conditions. The restrictive conditions in the Title Deeds are there to serve a particular purpose which is to retain the character of Betty's Bay as a place for families. The Title Deed restrictions specifically state that there should be no hotel, boarding house, canteen, restaurant, bioscope, shop,

g

factory or any place of business or entertainment whatsoever on these Erven. Should the Title Deed restrictions be uplifted, then it will immediately change the character and ambience of the area as businesses will be able to operate from the area. It will also create a precedent. Once the upliftment centre is allowed to operate legally, then it would be difficult to prevent other upliftment centres, wellness centres and institutions from opening in the area thus changing the character of the area.

5. In paragraph 9, the applicant states that the proposed consent use and removal of the restrictive Title Deed Conditions will not have a negative effect on the current character and land values of the surrounding erven. It is my client's contention that the opening of the upliftment centre will have a negative effect on the current character of the area. Since the applicant has been operating the upliftment centre, my client has come to Betty's Bay less frequently as it is no longer the quiet place that it used to be where my client could get away from the hustle and bustle of the city. Now, my client's previously peaceful and quiet home is situated next to a place where much activity takes place all day and late into the night. The quiet and stillness which my client previously experienced has been taken away by the activities of the upliftment centre. This will also have a negative effect on land values as it will no longer be sought after as a prime holiday area. My client notes that the owner of the plot next to the upliftment centre has put the plot up for sale and despite being many months on the market, it has not been sold as yet. The Application states that the proposal creates great economic potential which by implication suggests a commercial activity which is contrary to what the Title Deed permits and which will change the character of the area.
6. It is also a concern for my client that should this application be successful that the applicant will not operate within the conditions of the approval. The upliftment centre has been operating since 2014 in direct contravention of the by-laws of the Overstrand Municipality and the Title Deed Conditions of the property. The Municipality has tried to engage the applicant but to no avail. The applicant has evaded service of a summons on it and correspondence sent to it by the Municipality has been ignored.
7. On the diagram attached to the application, the applicant states that the area next to the property is a park. This is not the case. The land has a servitude running over it for the purpose of running utilities such as cables etc. Furthermore the area behind the properties in Sea View Drive is not a public open space but a biosphere which is a protected area and not for use by the general public.
8. My client also wishes to record that the local Ward Councillor Lisel Krige and the Betty's Bay Ratepayers Association are opposed to the present illegal activities on the property as well as the Application for the Removal of Restrictive Title Deed Conditions and consent use.

B

For the reasons as set out above, my client hereby opposes the Application for the removal of the restrictive conditions and for the consent use.

Yours faithfully

  
KEITH JENKINGS

ANNEXURE F 6/184

Telephone: 028 2729998  
 Email: [dmbza@sonicmail.co.za](mailto:dmbza@sonicmail.co.za)

PO Box 402  
 Betty's Bay  
 7141  
 17 May 2016

Town Planning  
 Overstrand Municipality  
 Hermanus

for attn : Leonora

TP- A Theart  
 (Hild Steep)



Dear Sirs,

OBJECTION WRT PROPOSED DEVIATION FROM TITLE DEED RESTRICTION ERF3054,  
 BETTY'S BAY

I, David M Bossenger the owner and full time occupier of Erf 3162, Seaview Drive, Betty's Bay wish to bring to your attention my strongest possible objection to the application by ALPAC Investment CC for a deviation consent on the abovementioned property to enable them to run an institution.

Reasons:

As a long term resident of Betty's Bay I appreciate the quietness and to a degree the solitude that is found in the village. One of the reasons for moving to the Sunny Seas area from the Jack's Bay area was the restrictions in the title deeds of the erwen in the area which prohibit "boarding houses" and restricts the use consent to single residential. This implies a certain degree of solitude and quietness especially in the Sunny Seas area with its large erwen. This will be lost if an institution aka a rehabilitation centre/boarding house is permitted.

The present, illegal use of the erf as a rehabilitation centre has, over the past few years, brought this into perspective. Up to 15 persons are accommodated on the erf. There is a daily gym/ running activity both on the erf and in the local roads that causes undesirable activity of noise and bother to the local residents.

The extra noise pollution caused by the extra cars and occasional motor bike visitor accompanied by excessive speeding on roads not designed for more than 20kph.

The loud noises emanating from the property on Sunday evenings.

The light pollution every evening from the "dining room" in the enclosed stoep on the top floor of the property which burn till well after 2200hrs.

The fact that the said property was raided by police with many cars speeding on roads not designed for this purpose.

The general alteration in the deviation from the quietness of the area as well as the fact that laundry water gushes down the driveway carrying phosphate enriched water into the fynbos - something which it is not designed to accept.

It is my considered opinion that the above factors invade my privacy and will affect the value of my house and I therefore request that the application be refused.

Yours faithfully,

DM Bossenger

FILE NO: EL 3054-88
SCAN NO: 55
COLLABORATOR NO: 911946

21 JUN 2016



**BBRA / BBBV** TP - A Theart  
 LH Vid Staep  
 Betty's Bay Ratepayers' Association  
 Bettysbaaise Belastingbetalersvereniging

ANNEXURE F 7/184



The Municipal Manager  
 Overstrand Municipality  
 16 Paterson Street  
 PO Box 20,  
 Hermanus  
 7200  
 Email: [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

FILE NO: EL 3054	14 June 2016
SCAN NO: 54	
COLLABORATOR NO: 911940	

Dear Sir,

**FILE REF 3054 KBB (3205) PENGUIN TERRACE / 11 SEAVIEW DRIVE  
 BETTY'S BAY: PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND  
 CONSENT USE: PLAN ACTIVE ON BEHALF OF ALPAC INVESTMENT CC**

As Chairperson of the Betty's Bay Ratepayers' Association (BBRA), I write in support of the members of our Association -some 400 property owners.

I wish to comment on the notice given in terms of Section 51 and 52 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016.

It must be noted that the erven in the entire Sunnyseas Area of the Betty's Bay Township are all zoned as 'special residential' to my knowledge. In view of this zoning, property owners, are restricted in accordance with their registered title deeds to the conditions prescribed.

I have received several complaints from our members in the Sunny Seas area, that the conditions as prescribed in the said title deeds, were not enforced timeously by the municipality, as the owner was allowed to use the property for other purposes as 'special residential', since 2014 and prior to this application for the removal of restricted conditions. It is with grave concern that we have taken note of the current state of affairs. This issue was also discussed at length at a ward 10 meeting, chaired by the Ward Counsellor, Lisel Krige, where concerned citizens expressed their unhappiness with the situation.

The application for the removal of the Restrictive Title Deed Conditions and Consent Use in order to utilize the existing dwelling as an upliftment centre/also called institution in the application, claims that the current zoning is that of residential zone 1. According to my knowledge, the Sunny Seas area and this specific stand, is zoned as 'special residential'. This has the implication that all the residents of the Sunny Seas area should be consulted on the matter.

**The BBRA opposes and objects to the Removal of the Restrictive Title Deeds Conditions and Consent Use as applied for by the owner of Erf 3054.**

Chairman: R.J. Perold  
 020 272 3054  
 BBRA - P O Box 45, 985, s Bay 7141

Treasurer: Anneli de Kock  
 022 340 4919

Secretary: Anneli de Kock  
 020 272 29898

BBBV: Postbus 43, Bettysbaai, 7141

20 JUN 2016



## **BBRA / BBBV**

Betty's Bay Ratepayers' Association  
Betty'sbaaise Belastingbetalersvereniging

The reasons are as follows:

1. This application is not supported by a needs assessment conducted within the area amongst residents, to confirm that the community has a need for such a facility. From all the complaints received from property owners, it is clear that not all the affected parties were consulted on the matter. Betty's Bay is an area with holiday homes, permanent residents who are mostly retired and a small number of families, where the man/woman is still employed outside the town.
2. Betty's Bay is a lifestyle seaside village with a rural/country atmosphere. Thus there is only a small number of Business Properties. No land has also been earmarked for Industrial Development, as there is no need for such. The proposed upliftment centre in a special residential area, will therefore negatively impact on the character of the village. The current zoning and Title deed restrictions as imposed by the Hangklip Beach Estates Limited, serve the purpose to maintain the character of the village. Therefore noise and light pollution is limited to a great extent.
3. It is not only the ratepayers in Sunny Seas that will be affected, should Council approve this application, but the entire village. The approval as such will create a precedent. It is foreseen that more applications would then certainly follow in terms of relaxation and/ or waving of title deeds restrictions.

Yours faithfully,

**(W.R.B. PEROLD)**  
**CHAIRPERSON BETTY'S BAY RATEPAYERS ASSOCIATION**

Chairman: Rob Perold  
028 272 8054

BBRA: P.O. Box 48, Betty's Bay, 7141

Treasurer: Adrian de Kock  
082 940 4019

BBBV, P.O. Box 48, Betty's Bay, 7141

Secretary: Adrian de Kock  
028 272 8050

ANNEXURE F 9/184

The Municipal Manager  
Overstrand Municipality  
PO Box 20  
Hermanus 7200



Re: Erf 3054 Seaview Drive, Betty's Bay.  
Removal of constrictive conditions and consent use

The Title Deeds imposed by the Hangklip Estate on the residents of Sunny Seas are explicit in explaining their rights with reference to Clause C (ii) (n) and C (ii) (m).

In view of the fact that all the properties above Clarence Drive in Sunny Seas have even more restrictive Title Deed conditions that limit all these properties to residential only. May I suggest you familiarize yourselves with all the conditions of the relevant Title Deeds.

With reference to the foregoing, my commentary follows:

Herald 5 May Edition:

- The advertisement contains incorrect information and is also vaguely worded. *Institutional rights* does not clearly define the intent of the current owners of the property. A more elaborate explanation and justification should have been supplied.
- I followed up by viewing the documents on display in the Kleinmond Library, only to find, to my dismay, that they were incomplete.

Should Sunny Seas property owners not have obtained a copy of the relevant Herald containing this notice – they are ignorant of all these

FILE NO:	Erf 3054 BB
SCAN NO:	51
COLLABORATOR NO:	911931

27 Jun 2016

proposals which I regard as being contra to the spirit in which we legally bought our properties. And to the conditions of our Title Deeds by which we abide.

In addition, Clause 17 (w) (5) (a) of the National Building and National Building Regulations of 1977 is prescriptive of how any change of Title Deed should take place. This has been ignored.

#### Queries

- How come this undefined business at 3054 Seaview has been allowed? It has been a year since 'it' (whatever 'it' may be) has been in operation.
- If the conditions of the Title Deeds were indeed drawn to the attention of the owners, how come the rights of 99.99% of the Sunny Seas population must accept them?
- Why were all the residents of Sunny Seas not informed by the Municipality of the proposed change?

In this instance, I have no other choice than to strongly object to the removal of the constrictive conditions.



Louis van Heerden

I am the registered and resident owner of Erf 3221 Dolphin Drive in Sunny Seas, Betty's Bay.

15 June 2016.

ANNEXURE F 11/184

TP-ATheart  
(C H vld Staep)Posbus 820  
SOMERSET WES  
7129

23/05/2016

Die Municipale Bestuurder

OVERSTRAND MUNISIPALITEIT  
POSBUS 20  
HERMANUS  
7200

Geagte Heer/Dame

**ERF. 3054 SEAVIEWRYLAAN 11, BETTIESBAAI: OPHEFFING VAN BEPERKENDE VOORWAARDES EN VERGUNNINGSGEBRUIK**

1. Ons, Louis Schabbert Wessels en Susanna Johanna Wessels, is trustees van die Sulich Trust registrasie nr: IT510/2001 wat 'n titelhouer is van Erf 3245 Sunny Seas dorpsgebied Bettiesbaai.
2. Ons verwys na u advertensie in Overstrand Herald van 05/05/2016 waarin u twee van die beperkings soos wat onderskryf word in die titel akte T54244/2014 wil ophef.
3. Graag wys ons u daarop dat volgens die Wet op Nasionale Rou-regulasies en Bou Standaarde nommer 103 van 1977 en die "Removal of Restrictions Act" 84 van 1967, hierdie proses soos wat u dit voorstel onwettig is en ons daarteen wil beswaar maak.
4. Ons beskou die stigting van 'n "inrigting" of "upliftment centre" in 'n bestaande woonbeurt totaal onvanpas en onaanvaarbaar is en wil hierteen beswaar maak.
5. Indien u voortgaan met u plan sal ons ongelukkig ons tot die reg moet wend.
6. Ons vertrou egter dat u nie sal voortgaan met u beplande opheffing van bestaande regulasies op hierdie onwettige wyse nie.

Vriendelike groete,

DR LS WESSELS

MEV SJ WESSELS

FILE NO:	E2 2014/BB
SCAN NO:	49
COLLABORATOR NO:	911929

23/05/2016



DEPARTEMENT VAN JUSTISIE  
REPUBLIC VAN SUID-AFRIKA

## MAGTIGINGSBRIEF

Ingevolge artikel 6(1) van die Wet op Beheer oor Trustgoed, 1988 (Wet 57 van 1988)


No: IT510/2001

Hiermee word gesertifiseer dat LOUIS SCHABORT WESSELS  
en SUSANNA JOHANNA WESSELS

gemagtig word om as trustees van die SULICH TRUST

op te tree.

GEGEE onder my hand te KAAPSTAD op hede die            dag van            2001

  
Asst. Meester van die Hooggeregshof



SB

ANNEXURE F 13/184

Posbus 278,  
Betty'sbaai  
7141  
10 Junie 2016



Munisipale Bestuurder  
Overstrand Munisipaliteit  
Posbus 20  
Hermanus  
Meneer,

1/3 Erf 3054, Seaview rylaan 11, Betty's baai en die opheffing van beperkende voorwaardes en regningsgebruik.

1. Ek, J de Koker, is die titelhouer van erf 3336, Sunny Seas, Betty's baai.
2. Die opheffing van beperkende titel voorwaardes ten einde die eienaars van erf 3054 in staat te stel om 'n inrigting vanaf die eiendom te bedryf is vir my totaal onaanvaarbaar en wel om die volgende redes:
  - Die erwe bokant Clarence rylaan, wat hierdie besondere erf insluit, se titelaktes beskryf die erwe juis as "special Residential" wat bogenoemde teenstaan.
  - Ons dorpie bestaan hoofsaaklik uit vakansie huise waarvan slegs 'n klein persentasie permanent bewoon word deur meestal afgetrede bejaarde persone.
  - U beskryf nie die aard van die inrigting nie! Ons verneem die huidige situasie is dat sogenaamde dwelm verslaafdes daar gehuisves word vir "rehabilitasie".
  - Ons het dié inligting met 'n omweg bekom, maar ons kommer is bevestig deurdadig van die inwoners van erf 3054 nou die dag 'n man gesoek het wat, volgens hulle, "afgedwaal en gevaarlik" is!!!
  - Die manier waarop die inwoners van erf 3054 in ons strate op militaristiese manier gemarsjeer word en oefeninge doen skep vrees en onsekerheid onder die inwoners wat gewoon is aan 'n alledaagse rustige vakansie atmosfeer.
  - Die groep bly dan ook nie net op die paal nie, maar betree sonder toestemming privaat eiendomme.
3. Wat my egter die meeste ontstel is dat ek u kennisgewing van 'n mede inwoner ontvang het! Is u nie veronderstel om ons as titelhouers skriftelik in kennis te stel van u voorneme nie. Die inwoners wat naaste aan erf 3054 woon was nie eens bewus van u voorneme nie!!
4. Weet die uitstedige eienaars van eiendomme en vakansie huise in die omgewing van u voorneme? Hulle het nie 'n Overstrand Herald tot hul beskikking nie!
5. Indien u hierdie voorneme van die eienaars van erf 3054 toestaan, al is dit met die beste voorskrifte en beperkings, voorspel ek dat dit definitief die waarde van ons eiendomme en die aansien van ons dorpie nadelig gaan beïnvloed.

Johan de Koker

028 272 9281/083 282 5326

FILE NO:	EL 305466
SCAN NO:	50
COLLABORATOR NO:	911930

ANNEXURE F 14/184

Tel: 028 2729506

TR A-Theart  
(Huldstoep)Posbus 192  
Bettysbaai  
7141  
16 Junie 2016

Die Munisipale Bestuurder  
Overstrand Munisipaliteit  
Posbus 20  
HERMANUS

Meneer

Erf 3054 Seaviewrylaan 11, Bettysbaai: opheffing van beperkende voorwaardes en vergunningsgebruik

1. Ek, F J J van der Westhuizen, is die titelhouer van erf 3242, Sunny Seas dorpsgebied, Bettysbaai.
2. In die eerste paragraaf van u advertensie in die Overstrand Herald van 5 Mei 2016 verwys u, onder andere, na Klousules C(i)(b) en C(ii)(n). Beide hierdie klousules bestaan nie in die afskrif van Titelakte T54244/2014 wat u kantoor aan my beskikbaar gestel het nie. Vir die doel van hierdie skrywe aanvaar ek egter dat u in werklikheid moes verwys het na klousules C(i)(5)(b) en C(ii)(n).
3. Klousule C(ii) van die genoemde Titelakte lees "Imposed by Hangklip Beach Estates Limited as being applicable to all plots in Sunny Seas Township as being in favour of the registered owner of any property in the Township". Ek heg hierby aan 'n Aktebesorger sertifikaat waarin dit bevestig word dat elke eienaar van enige Erf in Sunny Seas Dorpsgebied regte het of mag hê ten opsigte van klousules C(ii)(n) en C(ii)(m) wat u wil verwyder.
4. Klousule 17(w)(5)(a) van die WET OP NASIONALE BOUREGULASIES EN BOUSTANDAARDE NO. 103 VAN 1977, en klousule (4)(b) van die REMOVAL OF RESTRICTIONS ACT 84 OF 1967, skryf 'n prosedure voor wat in sulke gevalle gevolg moet word. U het hierdie voorgeskrewe prosedure nog nie gevolg nie en twee van die beperkings wat u wil ophel kan nie gedoen word voordat u aan die voorgeskrewe prosedure voldoen het nie. Hierdie voorgeskrewe prosedure maak, onder andere, daarvoor voorsiening dat 'n afskrif van die kennisgewing (feitlik korrek) per geregistreerde pos aan die persone in wie se guns die serwituit, beperkende voorwaarde of ander bepaling geregistreer is, gestuur word.
5. Ek en nog 'n persoon het maande gelede, seker baie na aan 'n jaar, hierdie huidige onwettige gebruik van die betrokke huis met u Direkteur:

FILE NO:	205466
SCAN NO:	48
COLLABORATOR NO:	911925

Infrastruktuur en Beplanning bespreek. Tydens hierdie gesprek is ons onder die indruk gebring dat daar 'n poging aangewend word om hierdie onwettige benutting te staak. Dit is absoluut onaanvaarbaar dat die Munisipaliteit toelaat dat die regte van titelhouers vir maande lank geskend word. Die regte prosedure is dat die onwettige benutting onmiddellik, wanneer dit onder die aandag van die Munisipaliteit gebring word, gestaak moet word en dat goedkeuring daarvoor vooraf verkry moet word.

- 6 Hierdie besondere erf, tesame met andere aan die bokant van Clarence rylaan, is deur die Administrateur geproklameer as 'n "Special Residential erf" waar 'n inrigting soortgelyk aan wat nou daar be-oog word, nie bedryf mag word nie. Indien 'n inrigting soos be-oog word daar toegelaat word, sal dit die waarde van die ander eiendomme nagatief beïnvloed want wie wil nou so 'n bedryf langs of in jou omgewing ha.
- 7 Die gebruik van die woord "inrigting" of "upliftment centre" is totaal onvoldoende. Waarvan moet hulle ge"uplift" word? Is hulle gewoontemisdadigers, dwelmsmokkelaars, verkragters, spioene of wat? Daar word na tien persone verwys, maar ek het al in die hoogs gedissiplineerde peloton waarin hulle in die strate van Sunny Seas marsjeer vyftien persone getel. Daar word voorgestel dat tien persone in vyf kamers gehuisves word. Waar word die mense wat na hulle omsien geherberg? Daar is geen kommunikasie tussen die mense wat in hierdie gebou tuisgaan en die res van die gemeenskap nie. Dit is 'n totale geheimsinnige "inrigting". Die persone wat daar ge"uplift" word is nie van die plaaslike omgewing nie maar word van elders ingevoer. Die mense wat in hierdie dorpsgebied woon het nie "uplifting" nodig nie en wil nie gepla word deur mense wat wel "uplifting" nodig het nie.
- 8 Indien al die bogenoemde faktore in aanmerking geneem word het ek geen ander keuse as om u te versoek dat die aansoek nie toegestaan word nie. Ek versoek derhalwe dat die onwettige benutting van die eiendom binne 30 dae na 17 Junie 2016 gestaak word.

Die uwe  
  
 F. J. v. d. Westhuizen



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P.O. Box 23685  
Claremont, 7735

15 June 2016

Attention: The Municipal Manager

Overstrand Municipality  
PO Box 20  
Hermanus  
7200

CC: [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

Dear Sirs



TP A Theart  
(CH Jd strap)

FILE NO:	ER 3054-BB
SCAN NO:	52
COLLABORATOR NO:	911934

**RE: ERF 3054, 11 SEAVIEW DRIVE, BETTYS BAY, OVERSTRAND MUNICIPAL AREA,  
REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE**

With reference to the above and in particular the notice which appeared in the Overstrand Herald on the 5<sup>th</sup> of May 2016 (Municipal Notice number: 73/2016), I advise that I am the administrative trustee of The Wavecrest Trust which is the registered owner of Erf 3018, Bettys Bay and situate at Dolphin Drive, Sunny Seas, Bettys Bay.

Please note that the aforesaid notice was by pure chance handed to me by a local resident since the beneficiaries of the trust live in Johannesburg and Cape Town. It is considered that the trust should have received a specific notice via prepaid registered mail in relation to the above application.

Please record and take note of the trust's objection to the aforesaid application based upon the following:

- a) The aforesaid notice merely makes mention that the owner of Erf 3054 applies for the removal of restrictive conditions of title to enable the owners to "operate an institution on the property". No mention is made of the nature of the institution but I have been given to understand that same is for the purpose of operating a drug rehabilitation center of some sort.
- b) It is furthermore my understanding that the owner is already (and has been for a considerable time) been operating an illegal "institution" at the subject premises and is now belatedly applying for the removal of the restrictive conditions as well as a consent use to enable the owners to operate the aforesaid institution after the fact.

/s/

Municipal Manager      Clerk      Charles Erens      Alfred Diederik

20 JUN 2016



ESTABLISHED 1988

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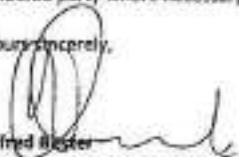
-2-

- c) By removing the restrictive conditions of title (which is desirable) it would pave the way for any other owner in the area to apply for a similar removal of restrictive conditions which is not desirable.
- d) The Title Deed of the applicant's property contains a clause reading "imposed by Hangklip Beach Estates Limited as being applicable to all plots in Sunny Sees Township as being in favour of the registered owner of any property in the Township" (my underlining). The relevant Act regulating National Building Regulations and Standards (Act no. 103 of 1977) as well as the Removal of Restrictions Act no. 84 of 1957 prescribes the requisite procedures for the removal, *inter alia*, of restrictive conditions of title. It is submitted that these regulations have not been followed.
- e) The activity is out of character with the area and not desirable.
- f) The Doctrine of Legality (the legal principle which you are no doubt aware of and furthermore the numerous decided cases ruling on the issue) would prohibit any consent use after the fact and as such it is necessary that the requisite notice be serviced on the owner (immediately) to cease the activity which is conducted at present.
- g) The subject property is a "Special Residential Erf" and the current activity is specifically prohibited.

I hereby reserve the right to make further representations at the necessary place and forum and also as and when further information may come to light.

For record purposes, kindly acknowledge receipt of this letter and also register the trust as an interested and affected party where necessary.

Yours sincerely,

  
Alfred Bester  
(Trustee of The Wavecrest Trust)  
DIRECTOR – FIDUCIARY SPECIALIST

Sheela Kishor

Chris Hensby

Charles Dicks

Alfred Bester

ANNEXURE F 18/184

From: David Home <david@home.za.net>  
 To: <krista@overstrand.gov.za>  
 Date: 17/06/2016 11:15 AM  
 Subject: Municipal Notice No. 73/2016

TR A Theart  
 CH Vld Steep)  
 Erf 3054, Betty's Bay

To Whom It may concern,

Regarding Municipal Notice No. 73/2016, regarding application for removal of restrictive title conditions applicable to erf 3054, Betty's Bay, regarding running of an institution.

My Details  
 David & Tricia Home  
 3193 Pearl Drive  
 Betty's Bay  
 david@home.za.net  
 083 556 9117



I hereby register my interest in this matter as I am a resident of the immediate area in which the institution wishes to function. My comments and concerns are listed below, in no particular order.

1. No attempt has been made by the owners and/or operators to contact us, as close residents, to inform us as to their plans, objectives, methods of operating etc.

2. As the owners and/or operators have wilfully engaged in operations contrary to existing title conditions, and continue to wilfully operate disregarding municipal conditions, I believe that the owners and/or operators will likely continue to operate without due regard to the laws applicable. Precedence has been set where there is wilful defiance and contempt of the law, and this attitude is unlikely to change.

3. Current operations have resulted in a change to the local feel of the immediate area, where residents at said institute engage in regular walking exercise in the surrounding streets, in large groups. While no known problems have arisen from this, it has resulted in family and neighbours feeling less secure, and unwilling to walk in the streets unaccompanied. Clearly there is a level of inadvertent intimidation due to the size of the groups of men walking around. This therefore has a direct impact on our lifestyle in Betty's Bay. This is further exacerbated due to the fact that the residents of said institute are strangers to the area, unlike the permanent residents, who are known and recognised.

4. It is indisputable that drugs are closely linked to crime. This raises the very real and legitimate concern that there may be currently, or in the future, criminal activities due to the presence of the institution and its residents. In order to explain this point, I give an example below.

**EXAMPLE SCENARIO.**

Drug dealers become aware of the institution and decide to target the residents. As there are no fences, restrictions, or guards, they have easy access to the residents. Furthermore, as the residents engage in outside activity, open access to them is possible. As the residents are recovering addicts, they are exceedingly vulnerable to being tempted

FILE NO:	Erf 3054/68
SCAN NO:	53
CO-LABORATOR NO:	911938

17 JUN 2016

21 JUN 2016

engage in further drug use. In order to get money for selling drugs, the dealers target them, offering, initially, free drugs. Once the target is "hooked" again, the offer of free drugs is withdrawn and payment is now required. As they do not have cash with them, the residents are encouraged to turn to crime, and are thus tempted to engage in petty, serious, and even dangerous crimes, in the immediate neighbourhood. This is in order to obtain cash, sell-able items, or trade-able items in order to pay the drug dealers.

END

I sincerely believe this above scenario is a very real, legitimate and possible scenario. This would have a devastating effect on the Betty's Bay area.

While an institution for recovering addicts is admirable, and such institutions are necessary, I believe that the willingness to ignore the laws, and operate illegally show that the the owners and/or operators are not interested in running a legitimate operation.

The above forms a summary of my submission and expression of interest. I would like to receive receipt of my submission, and to be informed of any progress, changes, open and/or closed meetings regarding this situation.

Kind regards

David Home.

ANNEXURE F 20/184

028 272 9509  
082 895 0870Seaviewrylaan 3145  
BETTYSBAAI  
15 Junie 2016TP A Theat  
(H v/d Stoep)Me H. v/d Stoep  
Senior Stadsbeplanner  
Overstrand Munisipaliteit  
HERMANUS

FILE NO:	EL 3054-88
SCAN NO:	H7
REPLICATOR NO:	911920



Geagte Me v/d Stoep

OPHEFFING VAN BEPERKENDE VOORWAARDES ERF 3054, SEAVIEWRYLAAN 11, BETTYSBAAI

Munisipale kennisgewing Nr 73/2016 verwys.

Ek en my eggenote is eienaar van Seaviewrylaan 3145, Bettysbaai, en ook permanente inwoners van genoemde eiendom.

Die eiendom te Seaviewrylaan 11 ( 3954 ) is ongeveer 300 meter van ons eiendom af. Sederd die " inrigting " wat op genoemde perseel bydryf word, hulle bedrywighede begin het, ervaar ons op, feitlik 'n daaglikse basis, dat die mense wat daar " behandel " word, in tipiese militêre styl soos 'n infanterie peloton in die straat verby hardloop en dreunsing.

Dit gebeur soms dat daar in die aand 'n geskree in die eiendom is soos wat mens hoor in universiteits koshuse wanneer eerstejaar studente ontgroen word.

Daar is oënskynlik nie toegangsbeheer by die perseel nie. In Nov 2015 was ek bo in my huis toe die huishulp baie benoud geskree het uit die waskamer. Toe ek afhardloop met die trap het ek een van die inwoners van daardie " inrigting " binne in my werkskamer aangetref. Hy het my op en af bekyk en my eerste indruk was dat hy besig was om te takseer of hy my gaan vat en of ek dalk te veel vir hom gaan wees. ( Ek is 64 jaar oud. ) Ek het hom gelas om onverwyld my e eiendom te verlaat. Hy het in 'n vreemde taal begin praat en nader gekom na my toe. Ek het 'n hammer van die rak gegryp en hom opdrag gegee om dadelik pad te gee. Hy het toe omgedraai en weggehardloop. Ek het dadelik die polisie in Kleinmond gebel en die saak verduidelik en hulle gevra om uit te kom. Wat nooit gebeur het nie.

'n Paar minute later het daar twee ander van die " inrigting " af gekom en na die man gesoek. Hulle het hom later gevind en het saam met hom teruggestap na hulle perseel.

Dit is geen geheim dat dwelmafhanlikes onvoorspelbaar is en soms uiters gevaarlik is nie.

Ons het in Bettysbaai kom aftree uit die Noordwes provinsie. Die stilte, ongerepthed en veiligheid was van die grootste oorwegings waarom ons hierdie eiendom gekoop het. Hier is oorwegend ouer mense en dames wat alleen woon in ons straat. Die gevoel is dat ons vrede nou bedreig word

P 17 JUN 2016

H. v/d Stoep

aangesien hierdie 'n residensiele area is en daar waarskynlik baie ander plekke is wat baie meer geskik is om 'n sentrum vir dwelmverslaafdes te plaas.

Hiermee wil ons ernstig veroek dat u nie die aansoek van ALPAC INVESTMENT CC seos vervat in hulle aansoek, sal goedkeur nie. Dit is nou makliker as om te wag tot daar 'n insident plaasvind wanneer iemand besoe of gedood word!!

Die uwe,

Frik en Linda Le Roux  
510911 5047 080 ( Frik )  
550915 0060 080 ( Linda )



ANNEXURE F 22/184

To: Senior Town Planner  
 Ms. H van der Stoep  
 Overstrand Municipality  
 Hermanus.  
 The Municipal Manager  
 Overstrand Municipality  
 P O Box 20  
 Hermanus  
 7200



Date: 12/06/2016

TP A Theart  
 (H van der Stoep)

FILE NO:	EL 3054-6B
SCAN NO:	12
COLLABORATOR NO:	911523

To whom it may concern,

**Re: Municipal Notice No: 73/2016 ERF 3054, 11 Seaview Drive, Betty's Bay, Overstrand Municipal Area: Removal of Restrictive Conditions and Consent use: Plan Active (obo Alpac Investments.)**

In accordance with the provisions of Section 51 and 52 of the said By – Law, We wish to submit our written objection to the above request for reasons as follows:

1. I am the property owner of erf 3160 Seaview Drive, Betty's Bay
2. The property was purchased for our retirement years, and the area was chosen due to its "village" feel, small holiday town and safe environment to name a few.

**In regard to the application submitted by the owner of Erf 3054 Betty's Bay: I submit the following comments.**

**Point 2.1**

The area of Betty's Bay, specifically Seaview Drive, is zoned RESIDENTIAL ZONE 1, in terms of the Overstrand Municipal Zoning Scheme and I am requesting that this remains in force and the area remains a residential area. If businesses are allocated approval to operate in this area the impact on the environment will be negatively affected. The current infrastructure, namely the roads would need to be upgraded etc...

**Point 2.2**

The request from the owner to have the property to be used as an institution and the removal of restrictions Act, Act 84 of 1967, for the removal of restrictive title deed conditions should be rejected. The owner is referring to an "institution" which as I understand is not legally registered and therefore does not exist.

15 JUN 2016

**Point 4**

Land use: All properties in Seaview Drive are Zoned for Residential use, and therefore subjected to the current By-Laws that are in existence. I believe, that the current property, erf 3054 is in contravention of these laws and is operating a business.

**Point 5 Proposal**

The owner of Erf 3054, sees similarities in a Guest House and his proposal. I would disagree. His proposal omits some important details, namely, is the proposed centre available to anyone? Is the centre a private initiative with some form of professional expertise in wellness or has been sanctioned by a higher legal authority? Is the proposed wellness centre a profit making business and therefore liable for income tax?

**Point 8**

The Title Deed: I strongly request that the proposed change to the current restrictions pertaining to erf 3054 is rejected and the current deed conditions remain in force. The proposal lacks both substance and offers no economic potential or added value for the area. The area of Betty's Bay has maintained a uniqueness in its offering to its home owners and the many visitors to the area. It is internationally recognised as a picturesque seaside village largely unspoilt by commercial businesses.

Regards



Paul and Dawn Bischoff

Erf 3160 Seaview Drive

Betty's Bay

Contact Number: 0824527864

E mail : paulrisch@mweb.co.za

ANNEXURE F 24/184

Our Ref: Letter 2016 08 04.docx  
 Your Ref: Municipal Notice No. 73/2016  
 Date: 12 June 2016  
 Attention: The Municipal Manager



TP: A Theart  
 CH: vbl Stoep

Municipal Manager  
 Overstrand Municipality  
 Patterson Street  
 HERMANUS  
 7200

FILE NO:	EL 3054 BB
SCAN NO:	
COLLABORATOR NO:	910800

Dear Sir

RE: Municipal Notice No. 73/2016

OVERSTRAND MUNICIPALITY

ERF 3054, 11 SEAVIEW DRIVE, BETTYS BAY, OVERSTRAND MUNICIPAL AREA: REMOVAL OF RESTRICTIVE CONDITIONS CONSENT USE: PLAN ACTIVITY (obo ALPAC INVESTMENT CC)

**WRITTEN COMMENTS**

**Name:** Kornelius Lion-Cachet

**Address:** 3159 Seaview Drive (Owners)

**Contact Details:** [kornelius.lc@gmail.com](mailto:kornelius.lc@gmail.com), 083 555 0077, 5 Mountain Rose Road, Protea Valley, 7530

**Interest in Application:** Neighbour

**Reasons for comments:** Oppose removal of restrictive conditions application on Erf 3054

The property is used currently un-lawful already for institutional reasons and the following conditions are experienced.

- 1) We experience continued noise disturbance through singing and shouting of a group of young men especially during sundown and night times. Each evening for example the group of young men start shouting the name "Allah" for an hour, commencing with a pulsating song and ending most loud, enthusiastically and aggressively. During the day there are many times gymnasium sounds of weights being moved and shouts of young men vocally pronounced their efforts, and punching and kicking sounds into a punching bag. Very strict routine of song and vocal prayer is followed through the day and night. All of those change the character of the residential area which consists of holiday homes in the Kogelberg biosphere.

- 2) We experienced light pollution during night times which have a negative effect on the character of the area with no street lighting and where all residents are keen not to pollute the environment with lights protruding beyond erf boundaries. Erf 3054 installed fluorescent lights on the balcony protruding many erfens, lighting up a large area at night (including our property and beyond). This is contradictory to the character and intent of the residential and environmental area. The owner and residents of the house prove to be insensitive in this regard to all the surrounding residents acting without consideration to the environment.
- 3) The already un-lawful use of the property for institutional and/or rehabilitation purposes prove an anticipated future attitude of disregard to bylaws and title deed restrictions. The approval of the request to remove some restrictive conditions could therefore, in anticipation, lead to other un-lawful activities.
- 4) These recorded negative impacts on the residents and area could lead to the de-evaluation of property values, and although the owner of erf 3054 could benefit economically from the renting out for institutional and rehabilitation purposes, the rest of the residents in the area could experience the opposite.



Kemeels Lion-Cachet

ANNEXURE F 26/184

TR A Theart  
C H vld Stoep

Loretta Gillion - Fw: PA15034



**From:** <terrsimo@mweb.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 24/04/2017 08:29 AM  
**Subject:** Fw: PA15034  
**Cc:** <planactive@bermanus.co.za>

Re: Erf 3054, Betty's Bay

Dear madam

I refer to the above and my e-mail to the applicant. Unfortunately I have not received a reply and thence was unable to make a reasonable evaluation of this application. Giving that they have been remiss in this issue I would be obliged if you would indeed lodge an objection to this application as I have not been given the courtesy of a reply from the applicant to enable me to respond appropriately by the 7th April.

Sincerely

Terry Simon  
 erf 3380 Mermaid Road

**From:** [terrsimo@mweb.co.za](mailto:terrsimo@mweb.co.za)  
**Sent:** Thursday, March 09, 2017 2:50 PM  
**To:** [planactive@bermanus.co.za](mailto:planactive@bermanus.co.za)  
**Subject:** PA15034

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	37
COLLABORATOR NO:	1016510

Dear Sirs

The above was received by us today. Please respond to the following to enable us to evaluate this proposal with greater understanding so we can respond accordingly.

1. What is an upliftment centre, what is the target market and what type of guests is it envisaged to attract.
2. You advise in 3 zoning that the erf has the following rights – this is indeed not true as you are applying for the title deed restriction to single dwelling only to be removed. The area where commercial rights are allowed in Sunny Seas is clearly shown on the map on page 8.
3. In 4 you advise that erf 3054 is used as an upliftment centre – you are therefore not applying for a future use but to condone an already illegal use of the property. You also refer to surrounding guest houses. Please indicate the erven on which they are sited.
4. in 5 you refer to the demand for wellness centres and upliftment centres and related land uses in the area. From where does this demand stem and please provide evidence of it. We have had our house for some 28 years and have never heard of such a demand. YOU state that the number of people accommodated will be similar to a standard 5 bedroom guest house, but there are none to in the area to our knowledge

24 APR 2017

You also refer to guests visiting the centre not requiring medical interventions. I repeat my question - what is an upliftment centre

5. In 7 you refer to the impact being compatible with surrounding guest house land use? – see 3 above. Your assumption c that a commercial enterprise is no different from family ownership a or b is

totally off the mark. Betty's Bay owners enjoy peace, quite, low lights, fynbos and nature. Commercial enterprise owners and guests have different objectives and attitudes.

6. Under 9 you refer to an enclosed conveyancer certificate – what is the relevance of this and none was enclosed.

7. In 10 you state the primary use of the subject property will remain for residential purposes. This contradicts and indeed invalidates your whole your proposal to change this to commercial and remove the title deed restrictions.

8. In 10.2 you state the impact on the environment will not be greater than developing the subject property for guest house purposes – but a guest house is not permitted on this property.

9. In 13 you refer to a much needed social service to the people of Betty's Bay– much needed by whom and to whom. Although we have owned our property since 1987 we have never been asked or

consulted as to whether such a facility was required.

10. In 13 you also state the area consists "mainly" of single residential, holiday houses and guesthouses. This is blatantly not true.

11. In 14 you state the proposal creates great economical potential – yet nowhere in the whole document do you refer to this – the only economical potential we can foresee is for the applicant.

I trust you will provide a quick and enlightening response to the above which will persuade us that we should not object to this proposal without having a properly understanding, which I am afraid your communication as it stands does not provide.

Sincerely

TJ and JM Simon

FILE NO:	EL 3054
SCAN NO:	Betty's Bay
	49
COLLABORATOR NO:	1012145

TR A Theart  
(H. J. de Stoop)

### VENTER FAMILIE

6 April 2017



Die Munisipale Bestuurder  
Overstrand Munisipaliteit  
Hermanus Administrasie  
Per epos

### BESWAAR TEEN OPHEFFING VAN TITELBEPERKINGE EN VERGUNNINGSGEBRUIK VAN ERF 3054 BETTIESBAAI

Geliewe hiermee ons beswaar te ontvang teen die voorgenome opheffing van titelbeperkings en vergunningsgebruik van bogenoemde erf.

#### VERKEER

Ons is al vir meer as tien jaar inwoners van die rustige aftreedorpie wat Bettiesbaai is. Deel van die aantreklikheid van die dorp, buiten sy natuurskoon en vars lug, is die rustige karakter van die inwoners en veral die stilte op die strate waar dit tans vir residensiële gebruik gesoneer is.

Die voorgenome veranderinge maak voorsiening vir die bedryf van 'n besigheid, wat heeljaar 'n in- en uitvloei van mense sal lewewegbring. Daar is dus ekstra lading geplaas op die toevoerroetes, en daar word geen voorsiening gemaak vir parkering van die persone wat van die besigheid se dienste wil gebruik maak nie.

Die paaië, buiten die hoofpad en sekere systrate, is oorwegend nou grondpaaië wat nie geskik is vir 'n toevloei van mense en voertuie wat vir verlengde periodes geparkeer sou staan nie.

Die blote vloei van meer verkeer op die rustige strate van ons dorp sal reeds 'n nadelige uitwerking hê op mense soos ons wat lief is om in die dorp te stap.

#### VEILIGHEID / MISDAAD

Dit is waarskynlik 'n mooi beskouing om te verwys na die voorgenome besigheid as 'n opheffingsentrum. In der waarheid is dit 'n plek waar dwelm- of drankverslaafde persone tuis sal gaan en gehuisves sal word, in verskillende stadiums van hul verslawing.

Die persone lewer vanuit hul verslawing 'n risiko van terugval na hul voormalige lewe, en is sodanig ook 'n risiko vir die fisiese veiligheid van alle inwoners en eiendom in die omgewing.

[Pick the Date]

0 -7 APR. 07

Die van der merwe familie

Dit is 'n bewese feit dat dwelm- en drankverslaafdes se inhibisies aan bande gelê word en nie sal skroom om geweld te gebruik, of oneerlik op te tree soos met diefstal, om aan hul verslawing se drange te voldoen nie. Al is dit bloot 'n risiko, is die risiko gegrond op voor die hand liggende redes.

Daar is baie kwesbare, bejaarde teikens in 'n afgeleë en ongepoliseerde gebied soos Bettiesbaai, wie se naaste Polisie-stasie in Kleinmond geleë is, meer as 10 km ver.

Dit is dus deel van ons beswaar dat die Munisipaliteit nie moet tittelbeperkings ophel wat sulke toestande kan bevorder nie.

#### GERAAS

Die inwoners van Bettiesbaai, het ons oor die jare gevind, is rustige en vredeliewende mense, soos ons. Daar word nie sommer harde musiek saans gespeel nie, daar is nie ontwinging met oproerige onluste of soortgelyke probleme nie.

Die bedryf van 'n besigheid vir dwelm- en drankverslaafdes het die potensiaal om dit geheel en al te verander – vanaf die behoefte vir ambulans vir noodgevallen met behandeling van inwoners tot harde musiek saans wat nie beperk sal word deur die normale gebruik van 'n residensiële eiendom, sonder intrekking op die regte van buurmense nie.

#### EIENDOMSWAARDE

Die aansoek maak melding dat daar nie enige nadelige uitwerking sou wees op die eiendomswaarde van nabygeleë erwe nie. Dit is onsin om te glo dat die oprigting van 'n besigheid vir dwelm- en drankverslaafdes nie 'n nadelige uitwerking sou hê op sodanige waarde nie.

As die leser hom- of haarself in die situasie sou indink dat hy 'n eiendom in die mark wil plaas, maar alle potensiële kopers eers langs dié besigheid verby moet neem, kan dit nie anders as om 'n negatiewe indruk te skep by sodanige kopers nie. Eiendomswaarde sal dus negatief geraak word, en val in 'n ander kategorie as byvoorbeeld die vergunningsgebruik vir die bedryf van 'n gastehuis.

Die aansoek maak melding dat daar 'n groot behoefte bestaan vir die bedryf van so 'n besigheid in die area waar dit opgerig is, maar gee geen staving vir sodanige stelling nie. Daar is legio ander "opheffingsentrums" beskikbaar in die omgewings waar die behoefte daaraan groter is as in Bettiesbaai. Die aansoek wil effektiwelijk verseker dat die aansoeker alleenreg, in die sin van 'n monopolie, sal hê om so 'n diens te lewer in die area.

Dit is in plaas daarvan om mee te ding met ander bestaande besighede in areas waar daar groter behoefte is vir die voorgestelde diens wat gelewer sal word.

Dit is onbillik om die inwoners van Bettiesbaai te belas met die nadelige impak op hul finansies, ten bate van 'n individu wat homself finansiële bevoordeel met die oprigting van hierdie besigheid.

#### TITELBEPERKINGE

Die tittelbeperkings gelys onder titelakte T54244/2014, spesifiek C(ii)(m) wat die bedryf van 'n besigheid verbied in 'n residensiële gebied, bestaan vir baie goeie redes en die Munisipale Raad moet uiters huiwerig wees om in te meng daarmee.

Die van der merwe familie

Vir die redes hierbo aangevoer is dit in ons submitisie dat die aansoek om opheffing van die titelbeperkings en bestaan van 'n vergunningsgebruik, van die hand gewys moet word.

Die skrywer meld spesifiek dat ons ons regte voorbehou om 'n regsaksie in te stel teen enige party wie ons regte benadeel.

Ons vertrou die bogenoemde sal u aandag en oorweging geniet.

**MET OORREGTE DANK**

**Willem en Barbara Magdalena Johanna Venter**

6 April 2017

FILE NO:	ER 3054
	Bettys Bay
SCAN NO:	48
COLLABORATOR NO:	1012141

ANNEXURE F 31/18L



7 April 2016

RE THE APPLICATION FOR A CONSENT USE AND REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS OF ERF 3054 BETTYS BAY (Hold sheep) OVERSTRAND MUNICIPALITY CALEDON DISTRICT. TR 4 Theat

We, Adriaan Nicolaas Smuts, ID no 4910315044087 and Naomi Smuts, ID no 5309230066086 are the holders of Erf 3161 in Sea View Street in Bettys Bay.

We STRONGLY OPPOSE of this application to remove for consent use and removal of restrictive conditions in the title deed of Erf 3054, Bettys Bay by Alpac Investments.

Bettys Bay are known for its beauty and serene environment where many of proud owners and retired people live and want to live. Now it appears that we all may be exposed to drug users and criminals if this application is approved by Overstrand, and it may even lead to an influx of people with wrong motives, acting as so-called visitors to their friends and family.

Such a grant may even lead to negative change in the value of property prices and also on the municipality itself.

Traffic will also become an issue with lot more movement of cars and parking in the street will have a negative effect on the movement of all other vehicles in the streets affected and especially that of the residents.

Grey water that will flow from the house because of bath or shower water used constantly by the so called patients and staff members of which no mention is made of how many will be on the premises as surely people under a rehab must surely be under constant

TP

7 APR. 2017

observation. One also ask the question will if only one septic tank will cope with that many people constantly on the premises. Then there are the question of toilet, laundry and dish water. Grey water also kill and is harmful to Fynbos

What will the age group that they will take for rehabilitation be and will they be allowed to move around freely in the area in their free time which in itself pose a constant risk for the rest of the people living in the surrounding areas and pose the question how are they keep them occupied as they will supposedly not on a holiday camp.

What happen and how will they be supervised at all times, day and night and at the premises and if they go out. This is a worrying risk.

This centre can lead to an influx of unwanted elements such as drug dealers in the area and this will lead to extra security problems.

There will be no economic benefit to the area of Bettys Bay as meals and all services will be supplied like meals to them. The Only beneficiary will be Alpac Investment CC if the so called guests pay for this so-called upliftment.

Refuge removal for such a large group pose other problems like stench and unwanted animals like rats, mice etc.

We strongly object against this application as we have experienced a similar upliftment centre in Melville Johannesburg which lead to the influx of unwanted unsavoury characters.

We want a quiet, tranquil environment to live in without fear and risks.

I hope that the property owners objections will be taken very serious.

Surely Alpac Investments can find a more suitable business premises for their business or so called upliftment centre.

A N SMUTS

N SMUTS

Loretta Gillion - Re: Objection to further development of 3054 Seaview Drive, Sunny Seas, Betty's Bay

From: Jos Visser <josvis@sonicmail.co.za>  
To: Loretta Gillion <lpage@overstrand.gov.za>  
Date: 08/04/2017 08:56 AM  
Subject: Re: Objection to further development of 3054 Seaview Drive, Sunny Seas, Betty's Bay

TR A Theart  
C Mulder (steep)

Sunny Seas is a single residential area as confirmed in the Herald which does not include boarding houses or rehabilitation centers of sorts. It is about time that the Municipality implement its own laws and by-laws.

J & JC Visser



On 04/06/2017 12:11 PM, Loretta Gillion wrote:

Dear Sir / Madam

Receipt is hereby acknowledged of your e-mail.  
Please provide our office with reasons for your objection, as well as a postal address.

Regards

Loretta Gillion  
Administrator: Town Planning



Overstrand Municipality  
A: 16 Patricor Street, Hermanus, 7200 | P: P.O. Box 20, Hermanus, 7200  
T: +27 (0)28 313 8800 | F: +27 (0)28 313 2093  
E: loretta@overstrand.gov.za | W: www.overstrand.gov.za

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

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By replying to this e-mail or opening any attachment you agree to be bound by the provisions of the disclaimer.

Please consider the environment before printing this correspondence.

To: Visser, J & JC (20170408) (08:56) - 10 04 2017 08:56 AM  
To the Municipal Manager, Overstrand Municipality

FILE NO: EL 3054  
SCAN NO: Betty's Bay  
[H]

COLLABORATOR NO: 1012134
--------------------------

Please note my urgent objection to the development of 3054 Seaview Drive, Sunny Seas, Betty's Bay, as advertised in the Herald of the 2nd

10 APR 07

From: Jos Visser <josvis@sonicmail.co.za>  
 To: <loretta@overstrand.gov.za>  
 Date: 06/04/2017 08:15 AM  
 Subject: Objection to further development of 3054 Seaview Drive, Sunny Seas, Betty's Bay

To the Municipal Manager, Overstrand Municipality

Please note my urgent objection to the development of 3054 Seaview Drive, Sunny Seas, Betty's Bay, as advertised in the Herald of the 2nd March 2017.

Also please acknowledge receipt of this objection

TR A Theart  
C H vld Stoep)

J & JC Visser  
 2893 Clarence Drive  
 Betty's Bay  
 0833803246  
 0842442084



FILE NO:	62054
	Betty's Bay
SCAN NO:	06
COLLABORATOR NO:	1011273

TP 6-2-17

ANNEXURE F 36/184

From: Catherine Jausaud <catherine.jausaud12@gmail.com>  
To: <iretta@overstrand.gov.za>  
Date: 03/04/2017 05:02 PM  
Subject: Development of 3054

TR A Theart  
(H Jol Stoop)

I would like to strongly object to the further development of 3054 in Sunny Seas in Betty's Bay.

Can u please acknowledge receipt of this E mail. Many thanks

Regards  
Catherine Jausaud  
Erf no 4211 Crassula Avenue Betty's Bay



Sent from my iPhone

FILE NO:	EL 3054
	Betty's bay
SCAN NO:	43
COLLABORATOR NO:	1010147

3 APR 2017

TR A Theart  
(Hubstrop)



Loretta Gillion - Re: Development of 3054

**From:** Catherine Jaussaud <catherine.jaussaud12@gmail.com>  
**To:** Loretta Gillion <lpage@overstrand.gov.za>  
**Date:** 07/04/2017 12:03 PM  
**Subject:** Re: Development of 3054

My objections are based on the breach of conditions of the relevant title deeds.

Regards  
Catherine Jaussaud

Sent from my iPhone

On 04 Apr 2017, at 7:40 AM, Loretta Gillion <lpage@overstrand.gov.za> wrote:

Dear Ms Jaussaud

Receipt is hereby acknowledged of your e-mail. Please provide our office with reasons for your objection.

Regards

Loretta Gillion  
Administrator: Town Planning



Overstrand Municipality  
A: 16 Poterson Street, Hermanus, 7200 | P: P.O. Box 20, Hermanus, 7200  
T: +27 (0)28 313 8900 | F: +27 (0)28 313 2823  
E: loretta@overstrand.gov.za | W: www.overstrand.gov.za

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	Hb
COLLABORATOR NO:	1012131

Unioi Slogan: "To be a centre of excellence for the community"

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By replying to this e-mail or opening any attachment you agree to be bound by the provisions of the disclaimer.

♻️ Please consider the environment before printing this correspondence.

From: Catherine Jaussaud <catherine.jaussaud12@gmail.com> [07/04/2017 06:12 PM]

I would like to strongly object to the further development of 3054 in Sunny Seas in Betty's Bay.

Can u please acknowledge receipt of this E mail. Many thanks

Regards

P 2 APR 17

06 April 2017

The Municipal Manager  
Overstrand Municipality  
Hermanus Administrative  
PO Box 20  
Hermanus  
7200



TR A Theart  
(Huld Stoep)

**Fax:** 028 313 2093**E-mail:** [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

**ATTENTION:** Ms H. Van Der Stoep  
**PLAN ACTIVE REF:** PA15034

Dear Madam

**RE: APPLICATION FOR REMOVAL OF TITLE DEED RESTRICTIONS AND  
CONSENT USE OF ERF 3054, BETTY'S BAY**

I refer to registered letter dated 28 February, 2017 and attachments, received from Plan Active Town and Regional Planners, in the above matter (Ref: PA15034).

My details are as follows:

**Full Name:** Joanne Marie Haslett**Interest:** Joint owner of Erf 3341, Betty's Bay (together with VG Haslett).**Current contact details:** Cell: 064 7421097

**Physical address:** E012, The Empire Building, Beach Road, Muizenberg.  
(Kindly DO NOT send any post to this address)

**Postal Address:** Postnet Suite 534, Private Bag X4, Sun Valley, Fish Hoek,  
7987.

According to the said correspondence dated 28 February 2017, received from Plan Active Town and Regional Planners (see part 1. Background); this matter relates to application by the owners of Plot 3054 for removal of Title Deed restrictions in order to use the existing property as an upliftment centre.

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	66
COLLABORATOR NO:	1011553

2/

P

7 APR 17

2.

According to information obtained from Overstrand Municipality regarding the nature and meaning of "Upliftment" centre; I was advised that the facility is for people recovering from Alcohol and /or drug addictions, stress related issues and or depression. The facility apparently serves as part of a rehabilitation process before residents are placed back into Community and/ or family Life. I asked for the name of the upliftment centre, and was advised that that it is T/A Ocean Breeze Upliftment Centre.

I hereby lodge an **objection** to the application for removal of title deed restrictions and consent use of ERF 3054, for the following reasons:

1. The property is situated within an established single residential area and, according to the property description in part 2.1 of the application details submitted by Plan Active; the land uses that can be accommodated within a zoning of Residential Zone 1 includes Single residential dwellings, holiday homes and guesthouses. The proposed upliftment centre does not fit into any of these categories.

As far as I am aware, the restrictions on the Title Deed regarding land use take precedent over any other attempt to change the land usage. I believe that the conditions imposed in the Title Deed of the property are there to ensure that the character of Betty's Bay is maintained. I believe that the restrictions in the title Deed, are in place for good reason and are there for our protection.

2. If you allow this removal of Title Deed Restrictions and consent use of land; you are setting a precedent for further similar centres / institutions. According to correspondence dated 28 February 2017, received from Plan Active Town and Regional Planners (see "**point 5. Proposal**", on the Application document); there is a "**demand for wellness centres, upliftment centres and related land uses in the area.....**"

3. According to the aforementioned correspondence from Plan Active Town and Regional Planners (see "**point 6. Character of the Environment**", on the Application document);

"No internal alterations are proposed to the existing dwelling and **will therefore have no impact on the surrounding properties or the character of the area**".

That may be so; but having an upliftment centre in the area will, I believe, have a serious impact on the value of the surrounding properties and on the character of the area.

3.

4. According to the aforementioned correspondence from Plan Active Town and Regional Planners (see "point 7. The Potential of the property (Desirability of the proposed utilization" on the Application document):

"The proposed land use is compatible with surrounding guest house land uses. .... However, developing erf 3054 Betty's Bay for upliftment centre purposes will have the same impact than developing the subject property for guest house purposes. ....since it will not have a greater impact than:

- a) accommodating a large family ....., or
- b) accommodating two families ....., or
- c) accommodating 6 – 10 guests .....(guest house)"

I do not believe you can compare the upliftment centre to a family home or guest house, and I do not believe you can compare it's impact on the area and / or the general character of the area, to that of a family home or guesthouse.

5. According to the website (OBUC.co.za), the recovery process at the upliftment centre will be a minimum of 12 Weeks.  
Why, if the residents are not yet ready for re-integration back into their communities; is the community of Betty's Bay expected to agree to such removal of Title deed restrictions and land use.

I cannot possibly know what future implications the proposed removal of Title Deed restrictions and consent use might have on our Erf, but I wish to avoid any future problems with regard to anything that may affect the value of our erf, and/or negatively impact on any of the following; including, but not limited to;

- General Character of the area.
- The Serenity and peaceful atmosphere of the area.
- Security and safety of the area.

I trust that this objection, to the application for removal of Title Deed restrictions, will be favourably considered.

Yours Faithfully



JM Haslett

From: "Rea Borchers" <reaborchers@mweb.co.za>  
To: <oretia@overstrand.gov.za>  
Date: 06/04/2017 12:35 PM  
Subject: objection to rezoning Erf 3054 Bettles Bay



TR A Theart  
CH vd Stoep

dear madam

BREACH OF CONDITIONS

OF TITLE DEEDS WARD 10

As a longtime resident of Bettles Bay (since 1981) I wish to voice the strongest objection to the proposed rezoning of Erf 3054, Seaview Drive. The drug rehabilitation centre should never have been allowed to commence operations in the first place.

The Municipality should have been aware of the title deed conditions relating to this area and imposed them. There can be no reason for permitting this kind of activity in an area specifically termed 'single residential'. There are many industrial and other areas available for this kind of activity.

It is obviously totally undesirable to permit a hostel for a number of drug addicts in the middle of a neighborhood of single residential dwellings. There are many environmental and aesthetic reasons to object to this proposed abuse of the area. However, my objection will focus only on the unfair and detrimental consequences to the persons who live in the neighborhood.

The property owners in that road did not buy there with the expectation of such a transformation of their surroundings. They bought because of the remoteness and peacefulness of the area, and because of the terms of the title deed. Undoubtedly, they will experience an immediate and negative alteration in the desirability of their location. They will no longer live there without disquiet.

The applicants, in an attempt to win the approval of the surrounding residents, seem to have disguised the nature of their establishment by calling their hostel "an upliftment centre". This name change changes nothing. Anyone who has dealt with addicts knows that, before agreeing to undergo rehabilitation, they would have supported their addiction for many years by illegal means, such as theft. Many of them will even be there against their will. Moreover, addicts do not just easily become "uplifted". They relapse, often repeatedly, and they escape.

No-one can deny that the temptation for these addicts to prey on the vulnerable, and mostly aging, neighbours will be irresistible. Without doubt the entire neighborhood must suffer, and the property owners, in particular, suffer loss on their investments.

I repeat, people purchase property in this area because the title deeds protect them from inappropriate development. Failure by this Municipality to refuse this development amounts to a betrayal of all the ratepayers of

FILE NO:	EL 3054
	Betty's Bay ✓
SCAN NO:	
COLLABORATOR NO:	1011417

FP

6 APR 2017

ANNEXURE F 42/184

Bellies Bay

Kindly lodge my objection, and acknowledge receipt of this correspondence.

yours faithfully

Mrs MM Borchers  
Erg 2857  
Protea Road  
Bellies Bay

—  
This email has been checked for viruses by Avast antivirus software.  
<https://www.avast.com/antivirus>

**Loretta Gillion - AANSOEK OM OPHEFFING VAN TITELBEPERKINGE EN  
VERGUNNINGSGEBRUIK VAN ERF 3054 BETTIESBAAI**

**From:** Petrus Basson <petrusb@mintek.co.za>  
**To:** "loretta@overstrand.gov.za" <loretta@overstrand.gov.za>  
**Date:** 06/04/2017 03:22 PM  
**Subject:** AANSOEK OM OPHEFFING VAN TITELBEPERKINGE EN  
VERGUNNINGSGEBRUIK VAN ERF 3054 BETTIESBAAI  
**Cc:** Petrus Basson <petrusb@mintek.co.za>



TR A Theart  
(M. J. de Stoop)

PB2017/1

6 April 2017

Die Munisipale Bestuurder  
Overstrand Munisipaliteit  
Hermanus Administrasie  
Posbus 20  
Hermanus  
7200

FILE NO:	EL 3054
	Bettiesbaai ✓
SCAN NO:	
COLLABORATOR NO:	1011415

Me. H. Van Der Stoep

**RE: AANSOEK OM OPHEFFING VAN TITELBEPERKINGE EN VERGUNNINGSGEBRUIK  
VAN ERF 3054 BETTIESBAAI**

Die volgende besware word geopper teen die aansoek van Alpac Investment CC:

- 1) Opheffing van die genoemde titelbeperinge vir Alpac Investment CC sou onregverdig wees teenoor die huidige eienaars van eiendom in die Bettiesbaai omgewing, wat hul eiendom wel onderhewig aan bg. titelbeperinge bekom of gebou het.
- 2) Die voorgestelde gebruik van die eiendom (op Erf 3054) as 'n opheffingsentrum ("upliftment centre") sal die residensiële karakter van die buurt en omliggende omgewing ontstier en versteur.
- 3) Die voorgestelde gebruik van die eiendom (op Erf 3054) as 'n opheffingsentrum ("upliftment centre") sal 'n negatiewe impak op die heersende stilte in die buurt en omliggende omgewing hê.
- 4) Die voorgestelde gebruik van die eiendom (op Erf 3054) as 'n opheffingsentrum ("upliftment centre") sal wel 'n negatiewe impak op die waarde van bestaande eiendomme in die buurt en omliggende omgewing hê.
- 5) Die voorgestelde gebruik van die eiendom (op Erf 3054) as 'n opheffingsentrum ("upliftment centre") hou ook 'n veiligheidsrisiko in vir die inwoners van die buurt en onmiddellike omgewing, asook eiendom in die omgewing.

P  
6 APR 17

Die Uwe  
Petrus Basson  
Eisnaar (Erf 3203)

Albertynrylaan 3203  
Bettiesbaai

P. Basson  
Dr. W. P. Basson  
Posbus 550  
Bettiesbaai  
7141

Tel.: 083 656 0410 (h)  
Epos: [petrusb@mintek.co.za](mailto:petrusb@mintek.co.za)

Loretta Gillion - ERF 3054 SUNNYSEAS: OBJECTION

From: Stefné van Dyk <svdbarok@gmail.com>  
To: <loretta@overstrand.gov.za>  
Date: 06/04/2017 11:11 PM  
Subject: ERF 3054 SUNNYSEAS: OBJECTION



TR A Theart  
(C H vd Stoep)

Municipal Manager  
Municipality  
OVERSTRAND

Dear Sir/Madam,

ERF 3054 SUNNYSEAS: OBJECTION

I hereby object to allowing a development on erf 3054, Betty's Bay contrary to the restrictions applying to the said plot and so registered against the title deed in the Deeds Office.

This will be detrimental to all the landowners in the vicinity who bought and developed their properties under the restrictions imposed without the right to deviate therefrom. By the precedent created all other landowners in the vicinity will also be negatively affected.

The applicants in this matter were aware of the restrictions from the time of purchase.

Please note this objection.

Please acknowledge receipt of this mail.

Yours,

S van Dyk  
Occupier and spouse of owner erf 2943  
Betty's Bay

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1011413

TP

ANNEXURE F 46/184

Mr Peter Watson

3331, Cnr Oyster and Clarence Road, Bettys Bay | 0828029911 | pdougwatson@gmail.com

2 April 2017

The Municipal Manager  
 OverStand Municipality  
 Hermanus Administration  
 P.O. Box 20  
 Hermanus  
 7200  
 Dear Sir/Madam



TR-Heart  
 C Mulder (steep)

FILE NO:	EL 3054
SCAN NO:	Betty's Bay
COLLABORATOR NO:	1011410

**Reply to the Application for the removal of the title deed restrictions and consent use of Erf 3054 Bettys Bay / PA15034 / my erf 3331 Bettys Bay**

Whilst the establishment of an upliftment center is honorable and noteworthy, there are too many unanswered questions to this application.

Bettys Bay can be described as a quiet and peaceful area with many elderly individuals which are currently on retirement and includes numerous vacant holiday homes and erf's.

To the average person, the words "upliftment Centre" is a wide-ranging word and could actually mean anything from a spa to a mental home?

Having comparisons to a guest house environment is totally questionable as the intention of a guest house and the upliftment center is different. A guest house has persons which have paid to enjoy and stay temporary in our community. An Upliftment Centre's intention is totally different, for instance if it equates to a drug rehabilitation center, I believe we would be bringing unwanted characters into a community which otherwise does not have this element.

The original intention of the title deed restrictions was to create a community that bears a resemblance to the environment and when we start to alter this, we start to change the Bettys Bay Environment, its community and its people.

I think the applicant should be open about their intention. I am getting the impression that the word upliftment center is used in a deliberate attempt to be vague and mislead other title deed holders.

Whilst it has been indicated that no medical assistance is required, what kind of "rehabilitation" are we speaking about, if it has to do with substance abuse, it would raise far more questions.

Having strangers in the community would impose security and community threats.

With the current information to this application, I would oppose the application.

2

v. 1.1.1

Sincerely,  
Peter Watson



15 Kingfisher Walk  
Pinelands 7405  
6 April 2017

TR A Theart  
(H Jd Stoep)

The Municipal Manager  
Overstrand Municipality  
Hermanus Administrative  
PO Box 20  
Hermanus 7200

Attention: Ms H Van Der Stoep

**Re: APPLICATION FOR REMOVAL OF TITLE DEED RESTRICTIONS AND CONSENT USE OF ERF 3054  
BETTYS BAY**

As the owners of Erf 3422 Bettys Bay, we hereby object to this application for the

1. Removal of the Title Deed restrictions on Title Deed T54244/2014 (with ref to clauses C(i)(5)(b) and C(ii)(m))
2. Consent use of Erf 3054 to enable the owners to utilize the existing dwelling as an Upliftment Centre.

To our knowledge there has already been "an institution" (referred to as a Drug Rehab Centre by local residents) operating illegally on Erf 3054 and this matter has been taken to court.

The terminology "Upliftment Centre" is vague and it is not clarified as to exactly what the proposed business entails.

There is no "demand for wellness centre, upliftment centre's and related land uses in the area" as stated in point 5: proposal in the Application.

Such an application could set a precedent for other vague "centre's" in the future

Bettys Bay is a unique place situated in a Bio-Reserve and this should be protected.

We object to both parts of this application.

Yours sincerely

*GP and CL Clark*

GP and CL Clark

021 5315044

FILE NO:	GL 3054
	Bettys Bay
SCAN NO:	
COLLABORATOR NO:	1011408

p 25/02/17

ANNEXURE F 49/184

From: "L. E. Swanepoel" <leswanepoel@gmail.com>  
To: <loretta@overstrand.gov.za>  
Date: 06/04/2017 07:57 PM  
Subject: Proposed Sea View dr development

*Re. Erf 3054, Betty's Bay*

The Municipal Manager

Dear sir,

We strongly object to the proposed development at 3054 Seaview dr in Sunnyside as these erven are defined as special Residential erven.

C. J. Swanepoel  
D.P. Swanepoel  
Clarence dr. 2898

Sent from my iPad

*TP-A Theart  
C H vd Stoep*



FILE NO:	<i>EL 2054</i>
	<i>Betty's Bay</i>
SCAN NO:	
COLLABORATOR NO:	<i>1011405</i>

*TP*

*v. 49/184*

Loretta Gillion - Re: Objection. 3054 Seaview Drive Erf 3054

TP A Theart  
CHuldshoop  
Betty's Bay

From: Lynda Tannett <lyndatannett@gmail.com>  
To: Loretta Gillion <lpage@overstrand.gov.za>  
Date: 06/04/2017 06:53 PM  
Subject: Re: Objection. 3054 Seaview Drive Erf 3054



Thankyou for your quick response.  
My objections are that the property should have no commercial enterprise  
and in theory should be single RESIDENTIAL.  
Another point is that Bettys Bay has no policing of any nature and that property could become a  
serious problem.  
Sincerely  
Mike Tannett  
Erf 2398

On 06 Apr 2017, at 12:08 PM, Loretta Gillion <lpage@overstrand.gov.za> wrote:

Dear Sir

Receipt is hereby acknowledged of your e-mail.

Please provide our office with reasons for your objection, as well as a postal  
address.

Regards

Loretta Gillion  
Administrator: Town Planning



**Overstrand Municipality**  
A: 16 Paterson Street, Hermanus, 7200 | P: P.O Box 20, Hermanus, 7200  
T: +27 (0)28 313 8900 | F: +27 (0)28 313 2593  
E: loretta@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.

Local Time: 2017/04/06 12:08 PM

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1011402

3 APR 17

ANNEXURE F 51/184

From: Lynda Tannett <lyndatannett@gmail.com>  
To: <loret@overstrand.gov.za>  
Date: 05/04/2017 07:02 PM  
Subject: Objection, 3054 Seaview Drive Erf 3054

TR A Thout  
CH Ad Stop

I hereby object to any further development to the above property in Bettys Bay.  
Please acknowledge receipt of this e-mail.  
Thank you.  
MR and Mrs Mike Tannett  
Erf 2398  
Bettys Bay



FILE NO:	EL-3054
	Betty's Bay
SCAN NO:	
	07
COLLABORATOR NO:	1011282

TP 6 APR 17

ANNEXURE F 52/184

Loretta Gillion - Application for removal of title deed restrictions ..... plot 3054 Bettys Bay.

**From:** \*Jeanne Rogers\* <jeannegayrogers@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 06/04/2017 06:21 PM  
**Subject:** Application for removal of title deed restrictions ..... plot 3054 Bettys Bay.  
**Cc:** <plansactive@hermanus.co.za>

TP A Theart  
(Huld Stoep)

The Municipal Manager  
 Overstrand Municipality  
 Hermanus.  
 ( For attention Mrs H Van Der Stoep. )

6 April 2017

From : Jeanne Rogers,  
 Plot 3381 Mermaid Road,  
 Sunnyside, Betty's Bay, 7141.

Telephone :  
 Home 0282729047  
 Mobile 0820629513

Email :  
[jeannegayrogers@gmail.com](mailto:jeannegayrogers@gmail.com)

Interest in the application :  
 I am a resident in the area, and am not wanting the consent to be granted.  
 Full reasons to follow.

Reasons for comments :  
 To keep my area of residence safe and peaceful, as befitting a Biosphere of International standing and registration.

Dear Municipal Manager,

I bought my plot in Betty's Bay about 40 years ago as a retirement place.  
 I have worked as a social worker, active in the field of Child Protection and Child Rights for the past 50 years, working in the NGO field, as you well know with small remuneration. all these years, knowing I will retire to peaceful pretty quiet Betty's Bay one day.  
 About 12 years ago I built my small house there, having saved all my life to make this dream come true. However even now I am forced into continuing to work as a consultant, trainer, assessor & moderator in my field, just to afford to continue living in this wonderful Overstrand municipal area, our little piece of heaven.  
 What I am trying to say is we as Betty's Bay residents are mostly elderly, and pay dearly for the privilege of living here, and it does not feel fair that we are having a drug rehab centre foist upon us just like this.  
 I beg to disagree with the sentence from Section 5 of the application: "Please note that guests visiting the upliftment centre do not require any medical interventions and do not have any medical conditions that require medical attention."

0 207 ( )



FILE NO:	EL 3054 Betty's Bay
SCAN NO:	
COLLABORATOR NO:	101397

Because of my years of experience in the child and family welfare field, I am very aware of the sadness and seriousness of drug abuse, the poor success rate for real recovery from addiction, as well as the pain and terror and torment of withdrawal symptoms etc. This is not a peaceful easy process, and organisations offering this service should be registered as treatment centres with the government depart of Health or at least with the Department of Social Development, they need to comply with the licensing rules and regulations.

These places are not meant for the Betty's Bays of the world, the people who need this rehabilitation are mostly young people, needing serious intervention to stop their dependence on drugs, they do not need an UPLIFTMENT centre, they need serious intervention and therapy. Is an upliftment centre not a euphemism here? I have been told by friends and neighbours and once by patients themselves, that the place focuses on drug rehabilitation, particularly the serious drugs like heroin. One Friday evening after dark my little grand-daughter called me to the door, and there was a young man asking for "donations for the drug rehab up on the hill."

I also totally disagree with a sentence in Section 13 : "The proposed upliftment centre will provide a much needed social service to people within the peaceful area of Betty's Bay." This is truly nonsense. We do not need upliftment centres because we are fortunate enough to live in Betty's Bay!

It is my opinion that calling a drug rehabilitation centre an upliftment centre is misrepresentation, or at least not totally honest.

In addition I know the actual house on Plot 3054 well, as when I was having my house built , I stayed there in the small flat over the garage, renting from the elderly couple who were the owners then. I do not think it is entirely suitable for drug rehab or an upliftment centre. It was designed for the couple who owned it, with some extra bedrooms for their adult children and families to visit for short holidays. The " combined dining room and lecture room" is no more than a very long and narrow enclosed balcony.

In Section 14, I disagree that "The proposal creates great economic potential.....", please explain what is meant by this ?

In the same section 14 : ".....will not have a negative effect on the current character and land values of the surrounding erven", I completely disagree, I would never buy near there if the truth were known to me, and many people I have spoken to agree with me.

In conclusion I seriously request the Overstrand Municipality to turn down this application.

Thank you.

Yours sincerely,

Jeanne Rogers.

Municipal Manager  
Overstrand Municipality  
PO Box 20  
Hermanus  
7200

TR A-Thout  
C Hold Stoop

FILE NO: EL 3054 Betty's Bay
SCAN NO:
COLLABORATOR NO: 1011393



Dear Sir

**OBJECTION TO THE REMOVAL OF RESTRICTIVE CONDITIONS AT ERF 3054 (11 SEAVIEW DRIVE), BETTY'S BAY**

I refer to the application for the removal of restrictions from the title deed for Erf 3054 and for consent to use the house on the property as an 'Upliftment Centre', as advertised in the *Overstrand Herald* of 2 March 2017 and elaborated on per registered mail.

I am the owner of Erf 3214, Sunny Seas, Betty's Bay and, as an interested and affected party, I herewith place my objection to the above-mentioned application made by Plan Active on behalf of Alpac Investment CC, for the reasons provided below.

1. All properties along Seaview Drive and other roads in Sunny Seas above Clarence Drive (which includes Erf 3054) have more restrictive title deeds than the properties below Clarence Drive. Zoned as a 'Special Residential' area within Betty's Bay and, indeed, the Kogelberg Biosphere Reserve – an area recognised to be of international importance by UNESCO – the title deeds of these erven purposively restrict the opening or operation of any business whatsoever. The zoning and restriction of activities should be both respected and honoured. There should therefore be no guest houses of any sort, centres or similar businesses in this area.

Removing restrictive conditions for Erf 3054 would not only show disregard for the importance and privilege of co-managing this unique area, it would also set a precedence for the removal of restrictive conditions for other erven in this zone, and of any restrictive conditions for other zones of the reserve in general.

By removing the restrictive conditions, Overstrand Municipality would thus jeopardise the intrinsic value and attraction of the area – the principal reason why I chose to purchase my property and live here.

2. Apart from the above-mentioned points, I also object to the application for consent to use Erf 3054 as an 'Upliftment Centre':
  - a. There is insufficient information from the proposal to understand the purpose and objectives of the proposed upliftment centre, the associated activities and instruction of guests, and their expected period of stay – certainly not enough information on which to base a decision to remove restrictions and/or base consent. A full proposal should be submitted for assessment and comment.

- b. Since I moved here permanently in March 2016, the property is quite obviously already used as some sort of centre and home for a number of young men. I have heard under good authority that the owner of Erf 3054 was instructed by the municipality at the beginning of 2016 to halt all such activities until such time all restrictions have been removed and legal consent is granted. Activities have nevertheless continued. If the municipality has been unable to control this, I have no confidence that the municipality would have control over the numbers of guests and the activities of the centre if consent were granted.

It is with these points in mind that I strongly object to the application for the removal of restrictive conditions and for consent to use it as an upliftment centre. I earnestly request that you maintain the current legal restrictions in this area.

Kindly acknowledge receipt of this letter.

Yours sincerely



Dr R. Spaggiari  
Rightful owner: Erf 3214, Betty's Bay  
6 April 2017

PO Box 288, Betty's Bay  
Tel: 082 907 9075 (mobile)  
021 855 3056 (home)  
Email: rspaggs@gmail.com

ANNEXURE F 56/184

TR A Theart  
CH (old stamp)

Loretta Gillion - Objection to change of Title Deeds Erf.3054, Sunny Seas

From: laluna1 <laluna1@netscape.net>  
 To: <loretta@overstrand.gov.za>, <laluna1@netscape.net>  
 Date: 06/04/2017 05:17 PM  
 Subject: Objection to change of Title Deeds Erf.3054, Sunny Seas



PLEASE, CONFIRM RECEIPT OF THIS E-MAIL!

We are hereby lodging an objection to any proposed development/change of title deed of Erf 3054, Sunny Seas, Betty's Bay, on the following grounds:

Sunny Seas Township was established in 1934 with Title Deeds that differ from those of the earlier development of Betty's Bay. In particular, the area above Clarence Drive along Seaview are defined as Special Residential Erven.

Fact: The Deeds are very specific and stipulate that there is to be no commercial enterprise whatsoever. In addition only single family dwellings may be built.

Therefore the fact that ERF 3054 operates as a rehabilitation center, after drug rehabilitation, should have never happened in the first place. When the business was asked to cease operations, they did not obey. They now made application to operate a Wellness/Upliftment Centre which is still in defiance of both the order to stop operating and of the restrictions imposed by the Deeds. Conceding any changes to the legislation governing these Seaview properties would set a precedent that affects everyone who lives /owns property in this area.

We specifically bought on the Seaview side in Sunny Seas because of the restrictions of title deeds, which we understood forbids business and therefore limits amount of traffic, noise levels etc. even in the future.

We also oppose the fact, that any business dealing with recovering drug addicts, should be allowed to operate without adequate medical supervision, professionally trained staff, appropriate registration etc.

To simply use the name 'Upliftment/Wellness centre', instead of calling it by its real name 'drug rehabilitation centre' does not change the nature of the business going on inside. Or could we or our family check into this wellness centre when in need of recuperation? No. Therefore it is not a guesthouse /wellness centre, since the public can not use it as such/book a room there.

So, since ANY kind of business is not permitted under the specifications of the Title deeds in our SPECIAL RESIDENTIAL ONLY part of Sunny Seas (all the erven on the Seaview side of Clarence Drive) and because any unregistered, unsupervised by appropriate medical staff, drug related business (especially since it caters exclusively to males) is by us, my husband and me, living on Seaview Drive directly, considered dangerous, we hereby STRONGLY oppose that permission is granted to officially operate this business or ANY business on the Seaview Drive side in Sunny Seas (stipulated in Title Deed no T 1909/1957 under Ordinance 33 of 1934), respectively that the change of title deeds will be permitted.

Elke Pittersberger and Dennis Lepore  
 3065 Seaview Drive  
 Sunny Seas  
 7141 Betty's Bay

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1011390

Sent from my Samsung device

L 10:27

ANNEXURE F 57/186

THE TRUSTEES FOR THE TIMEBEING  
 THE ELEPHANT ROCK INVESTMENT TRUST  
 P.O. BOX 23685  
 CLAREMONT 7735  
 FACSIMILE 021 6711026 E-MAIL cmurphy@legacyfs.co.za



The Municipal Manager  
 Overstrand Municipality  
 Hermanus Administrative

3<sup>rd</sup> April 2017

ATTENTION Ms H van der Stoep

TR A Theart  
 (H Jd Stoep)

PER E-MAIL loretta@overstrand.gov.za

Dear Sirs

Erf 3054, Sea View Drive, Betty's Bay, Overstrand Municipal Area: Application for Removal of Restrictive Conditions and Consent Use: PlanActive (obo Alpac Investments CC)

**FORMAL OBJECTION TO BE NOTED**

I refer to the above application. I am the administrative trustee of The Elephant Rock Investment Trust, the owner of Erf 3109 Sunny Seas, Betty's Bay. The trust is an interested and affected party in relation to the above application.

I hereby confirm that the trustees are against the current use of the property as an Upliftment Centre or a Wellness Centre, as this is contrary to the spirit of the residential area which is Sunny Seas, and is contrary to the current use and title deed conditions.

In the notice dated the 28<sup>th</sup> of February 2017 mention is made as follows;

*'Due to the demand for wellness centres, upliftment centres'*

1. What demand is the applicant speaking of? What proof does the applicant have that such a demand exists? Does it exist in Bettys Bay for Bettys Bay residents? A mere statement saying there is a demand is not sufficient.
2. Define what an upliftment centre and wellness centre is? The general idea of the same is one of either a charitable enterprise to uplift underprovided communities or people with disabilities, or if W=wellness, then a form of spa or physiotherapy component. I am advised that the actual purpose of the current use, is one of a drug rehabilitation centre for "patients" from outside Bettys Bay and indeed outside the province. This is not in keeping with a) the residential component of Sunny Seas, nor is it congruent with a wellness centres or an upliftment centres.

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1011385

P 6 APR 2017

ANNEXURE F 58/186

THE TRUSTEES FOR THE TIMEBEING  
THE ELEPHANT ROCK INVESTMENT TRUST  
P.O. BOX 23685  
CLAREMONT 7735  
FACSIMILE 021 6711026 E-MAIL cmurphy@legacyfs.co.za

This is not acceptable in a residential holiday town environment.

We accordingly insist that the owners be instructed to immediately to stop the illegal use of the property and we formally object to it being used for anything other than a residence, and do not condone any amendments to either the title deeds of the property, or any amendments to the land use.

Yours



Christopher Murphy  
Trustee – Elephant Rock Investment Trust

24 Maart 2017

Die Munisipale Bestuurder [Aandag Me H v d Stoep]  
Overstrand Munisipaliteit  
Hermanus Administrasie  
Posbus 20  
**HERMANUS** 7200



TR A Theart  
(Child stoep)

**AANSOEK OM OPHEFFING VAN TITELBEPERKING  
EN VERGUNNINGSGEBRUIK ERF 3054 BETTY'SBAAI**

Geagte Meneer/Dame,

Ek verwys u vriendelik na bostaande aangeleentheid asook my navraag en die antwoorde van ALPAC INVESTMENT CC daarop.

Ek vind die inligting wat as respons op my navraag aangebied is volledig ontoereikend en aanduidend dat wat hier beoog word as 'n UPLIFTMENT en/of WELLNESS CENTRE hoegenaamd nie anders as vanuit die Menshelp Dissiplines beskou kan word nie. Die inligting oor presies wat met hierdie "Centre" [sic] bedoel word is totaal onvoldoende en my vermoede is dat hierdie niks anders gaan wees as 'n gastehuis waar sekere, tot nog toe, onverklaarde dienste aan die publiek gelewer gaan word.

Totdat daar meer duidelikheid is oor presies wie [lees MALES] hier sal tuisgaan en wat die presiese rede en doelstellings hiervan gaan wees maak ek hiermee graag my onvergenoegdheid met die geradbraakte antwoorde op my navraag aan u bekend en dui ek in besliste wysse aan dat ek nie geneë neem met die opheffing van die bestaande titelbeperkings en vergunningsgebruik van Erf 3054, Betty'sbaai nie.

Vriendelike groete.

H Guy Roberts

Erf 3099  
391 Clarencerylaan  
Betty'sbaai 7141

FILE NO:	EL 3054
SCAN NO:	Betty's Bay ✓
COLLABORATOR NO:	1011381

TP

ANNEXURE F 60/184



NIME VERTOË SEAVIEW RYLAAN.TXT

028 272 9509  
rylaan 3145  
082 895 0870  
BETTIESBAAI

TRATheart  
(H v/d Stoep)

Seaview

2017

7141  
5 April

FILE NO:	EL 3054
	Bettiesbaai
SCAN NO:	09
COLLABORATOR NO:	1011292

Die Senior Stadsbeplanner  
Me H. van der Stoep  
Overstrand Munisipaliteit

loretta@overstrand.gov.za

Geagte Me van der Stoep

MUNISIPALE KENNISGEWING NR 36/2017

Ek is Frederik van Zyl le Roux, ID 510911 5047 080 en mede eienaar ( saam met my eggenote Linda Hofmeyr) van Seaview rylaan 3145 Bettiesbaai. Ons woon al ongeveer sewe jaar in Bettiesbaai en het hier kom aftree.

Met hierdie skrywe wil ons ten sterkste beswaar maak teen die voorgenoem opheffing van die titelbeperkinge en vergunningsgebruik van Erf 3054 Bettiesbaai deur Alpac Investment CC soos vervat in dokument PA 15034 uitgereik deur plan Active Stads & Streeksbeplanners asook u kennisgewing 36/ 2017.

Ons wil begin deur te sê dat ons nie noodwendig onderlê is in Munisipale prosedures en skryfwyse wat moontlik mag bestaan nie en dat ons ons punte van beswaar neerskryf soos ons dit ervaar in die deurlees van genoemde dokument PA 15034.

Die aansoek stel dit duidelik dat slegs 5 ( vyf ) kamers in die woning met twee gaste per kamer gebruik sal word. Dit is absoluut onwaar aangesien ons so onlangs as Sondag 19 Maart 2017 twee groepe gaste van die betrokke instelling voor ons huis sien verby draf het, bestaande uit elf ( 11 ) gaste elk. Dit is dubbel wat in die aansoek beweer word. Daar is geen misverstand hieroor nie aangesien ons die twee groepe gelyktydig waargeneem het terwyl hulle twee verskillende roetes gedraf het.

Rakende die " Character of the Environment " word die area as "tranquil and quiet holiday town " beskryf. Seaview rylaan is nie 'n vakansie dorp nie aangesien die oorgrote meerderheid van die inwoners permanente inwoners, en hoofsaaklik pensioenarisse is. Mense wat juis die stilte en rustigheid opsoek na 'n lang loopbaan en nou rus en vrede soek. Die gaste van die betrokke eiendom is besig om juis hierdie stil en rustige atmosfeer te vernietig aangesien hulle geneig is om tot baie laat snags hulle verblindende ligte te laat brand, en ook baie luidrugtig en uitbundig te skree en te raas tot middernagtelike ure.

Die aansoeker skep die illusie dat daar " surrounding guest houses " te vinde is. In die area waar die eiendom ter sprake gelee is, bekend as Sunny Sea's, is daar nie enige wettige gastehuis binne enkele kilometers te vinde nie. Dit is "n uitsluitlik " single residential use only " woonbuurt wat absoluut geen behoefte het aan enige " upliftment centre " of gastehuse nie!!

Page 1

06 APR 2017

## NUWE VERTOË SEAVIEM RYLAAN.TXT

Die aansoeker beweer in par 13 dat die " proposed upliftment centre will provide a much needed social service to people within the peaceful area of Bettysbay ." Dit is 'n absolute wanvoorstelling aangesien daar GEEN behoefte onder die permanente inwoners bestaan vir so'n sentrum nie!! Die teendeel is egter die waarheid. Daar is nienand wat wil hê dat hierdie " sentrum " in ons midde moet bestaan nie!

Daar is geen studie gedoen om te bepaal wat die wense en behoeftes van die permanente inwoners is nie. Die goedkeuring om die beperkende voorwaardes op te hef, sal 'n president skep om enige toekomstige veranderinge aan te moedig wat die hele aard en bedoeling van "single residential only " sal verkrag en nietig maak.

Soos in ons vorige beswaarskrif genoeld ( dd 15 Junie 2016 ) het ek persoonlik belêwe dat een van die " gaste " sonder my toestemming my werswinkel betree het en 'n baie dreigende houding teen my ingeneem het. Nadat hy etlike opdragte om my huis te verlaat ignoreer het, was ek genoodsaak om 'n hamer wat in die rak hang te neem om hom te laat beseef dat ek bedoel wat ek sê. My indruk was dat hy my takseer het om te besluit of hy my wou aanvat! Ek glo die hamer het die taksering in my guns laat swaai! Daar is ander insidente ook waar gaste inwoners geïntimideer het.

Ons versoek dus dat die aansoek van Alpac Investment CC soos gebring deur Plan Active Stads en Streeksbeplanners in dokument PA 15034 om sekere beperkende voorwaardes ten opsigte van Erf 3054, Bettysbaai, op te hef, nie toegestaan sal word nie!!

Die uwe,

Frik Le Roux en Linda Hofmeyr

ANNEXURE F 62/184

FILE NO:	EL 3054 Bettiesbaai
SCAN NO:	08
COLLABORATOR NO:	1011291

TR A Theart  
(Child Stoop)

Albert en Etde van Niekerk  
 vniakorabertfelds@gmail.com  
 Foon Albert: 0823269521  
 Foon Etde: 0835018949  
 Woning: Randon-moor  
 Seaviewrylaan 3071  
 Posbus 324,  
 Bettiesbaai,  
 7141.

Die Municipale Bestuurder,  
 Overstrand Munisipaliteit,  
 Hermanus Administrasie,  
 Posbus 20,  
 Hermanus,  
 7200.  
 Kandag: Mte H. Van Der Stoep  
 e-poe: horetta@overstrand.gov.za



Danie,

Aansoek om opheffing van titelbeperkings en vergunningsgebruik van Erf 3054 Bettiesbaai.

Hiermee bevestig ek ontvangs van 'n geregistreerde posstuk gerig aan die eienaars van erf 3071 Bettiesbaai met betrekking tot bogenemde erf 3054 Bettiesbaai.

Gebasseer op die inligting verskaf in die huidige dokument om bogenemde aansoek kan ons nie ons goedkeuring verleen nie. Ons benodig meer inligting ten opsigte van die ondergemelde sake wat ons as kardinaal beskou vir die aansoek.

Hiermee word u versoek om die volgende onduidelikhede in die dokument met die eienaars uit te klaar en aan ons te verskaf:

Die aansoek verwys na dat die toekomstige gebruik van die eiendom as "an upliftment centre". Dit in die eerste plek beteken daar gaan mense bly wat om een of ander rede opheffing nodig het wat deur verskeie omstandighede versorsaak is. Dit kan selfs mense insluit wat as gevolg van kriminele aktiwiteite opheffing nodig het. Mense wat padaanwysings by ons gevra het het verwys na 'n rehabilitasiesentrum. Daar moet meer duidelikhede verskaf word van watter aktiwiteite by die perseel vir die toekoms beplan word.

Die ophelingsentrum sal verskeie kundige personeelslede benodig; medies, sielkundig, weltynswork, administrasie en bestuur en baie belangrik toesig. Die voorlegging meld dat die besoekers nie medieseorg of behandeling benodig nie sonder meer besonderhede oor die besoekers se toestand moet die stelling ignoreer word. Daar word vlegs verwys na 'n bestuurder wat op die perseel gaan bly. Die kwalifikasies en bekwaamhede van die bestuurder word ook verswyg. Die bestuurder gaan die verantwoordelikheid dra om 10 persone oor alle dissiplines op te hef. Dit vereis besondere bewaamhede wat aan die gemeenskap verduidelik moet word.

Die Sunny Seas omgewing word bewoon deur hoofsaaklik afgetrede mense asook mense wat hulle wonings vir vakansie doeleindes gebruik. Die gedeelte Noord van Claremontrylaan het 'n atmosfeer ontwikkel waar inwoners na aan die natuur leef en sover moontlik die natuurlike omgewing.

1 15 APR 2017

ongeskonde laat. Die meeste eiendomme is dat nie ombain nie en die fynbos groei tot naby geboue. Hier is min menslike bedrywighede. Daar is weinig kriminele aktiwiteite wat hier plaasvind. Die gebied Noord van Clarencerylaan alangs Seaviewrylaan is gedefinieer as spesiale residensiële erwe met spesifieke titevoorwaardes, onder andere geen kommersiële aktiwiteit nie.

Die vestiging van 'n reabilitasiesentrum vir skep 'n risiko vir 'n toename in misdaad. Eerstens bestaan die moontlikheid dat van die inwoners as gevolg van 'n drang na dit wat hy gelos het 'n misdaad kan pleeg om sy drang te bevredig. Die omliggende eiendomme sal sogte teikens wees as gevolg van die huidige atmosfeer in Sunny Seas.

Die tweede risiko kan ontstaan as gevolg van dwelmhandelaars wat die sentrum as gevestigde mark beskou en hulle aktiwiteite na Sunny Seas uitbrei.

Dns het na hierdie omgewing verhuis om weg te kom van stedelike bedrywighede en besighede. Die feit dat ek ten minste 3km moet ry om 'n brood te koop spruit uit die feit dat ek die stil omgewing wil he en daarom hier bly.

Die besoekers aan die sentrum kom van oral oor die land. Dit is nie nodig dat die sentrum hier aan die westelike punt bedryf moet word nie.

Beste wense.

A J en E M C van Niekerk

5 April 2017

ANNEXURE F 64/184

FILE NO: EL 3054 Bettiesbaai
SCAN NO: 57
COLLABORATOR NO: 1011237

TR #Theart  
(M vld Stoep)

Albert en Eida van Mooker  
 vlnker@albertaida@gmail.com  
 Foon Albert: 0823269521  
 Foon Eida: 0835013969  
 Woning: Koudom-moai  
 Seoutewylaan 3071  
 Posbus 324,  
 Bettiesbaai,  
 7141.

Die Municipale Bestuurder,  
 Overstrand Munisipaleiteit,  
 Hermenus Administrasie,  
 Posbus 70,  
 Hermenus,  
 7200.  
 Aandag: Mv H. Van Der Stoep  
 e-pos: laretta@overstrand.gov.za



Dame,

Aansoek om opheffing van titelbeperkings en vergunningsgebruik van Erf 3054 Bettiesbaai.

Hiermee bevestig ek ontvangs van 'n geregistreerde posstuk gerig aan die eienaars van erf 3076 Bettiesbaai met betrekking tot bogenelde erf 3054 Bettiesbaai.

Die eiendom word deur ons verhuur en die huurooreenkomste kan ook in gedrang kom indien die aansoek slaag wat 'n verdere rede by die ondergemelde is waarom ons die aansoek teen staan. Die huurder besit 'n besigheid in Somerset Wes en huur 'n eiendom in Sunny Seas omdat hy in die spesifieke omgewing wil woon.

Gebaseer op die inligting verskaf in die huidige dokument om bogenelde aansoek kan ons nie ons goedkeuring verleen nie. Ons benodig meer inligting ten opsigte van die ondergemelde sake wat ons as kardinaal beskou vir die aansoek.

Hiermee word u versoek om die volgende onduidelikhede in die dokument met die eienaars uit te kluis en aan ons te verskaf:

Die aansoek ver wys na dat die toekomstige gebruik van die eiendom as "an upliftment centre". Dit in die eerste plek beteken daar gaan mense bly wat om een of ander rede opheffing nodig het wat deur verskeie omstandighede veroorsaak is. Dit ken selfs mense insluit wat as gevolg van kriminele aktiwiteite opheffing nodig het. Mense wat padsonwysings by ons gevra het het verwys na 'n reabilitasiesentrum. Daar moet meer duidelikheid verskaf word van watter aktiwiteite by die perseel vir die toekomstige beplan word.

Die ophettingsentrum sal verskeie kundige personele benodig, medies, sielkundig, wetsynswerk, administrasie en bestuur en baie belangrik toesig. Die voorlegging meld dat die besoekers nie mediese sorg of behandeling benodig nie sonder meer besonderhede oor die besoekers se toestand moet die stelling ignoreer word. Daar word slegs verwys na 'n bestuurder wat op die perseel gaan bly. Die kwalifikasies en bekwaamhede van die bestuurder word ook verwys. Die bestuurder gaan

307 27

die verantwoordelikeheid dra om 10 persone oor alle dissiplines op te hef. Dit vereis besondere bewaamhede wat aan die gemeenskap verduidelik moet word.

Die Sunny Seas omgewing word bewoon deur hoofsaaklik afgetrede mense asook mense wat hulle wonings vir vakansie doeleendes gebruik. Die gedeelte Noord van Clarencerylaan het 'n atmosfeer ontwikkel waar inwoners na aan die natuur leef en sover moontlik die natuurlike omgewing ongeskonde laat. Die meeste eiendomme is dus nie omhein nie en die fynbos groei tot naby geboue. Hier is min menslike bedrywighede. Daar is weinig kriminele aktiwiteite wat hier plaasvind. Die gebied Noord van Clarencerylaan alangs Seaviewrylaan is gedefinieer as spesiale residensiële erwe met spesifieke titevoorwaardes; onder andere geen kommersiële aktiwiteit nie.

Die vestiging van 'n reabilitasiesentrum vir skap 'n risiko vir 'n toename in misdaad. Eerstens bestaan die moontlikheid dat van die inwoners as gevolg van 'n drang na dit wat hy gelos het 'n misdaad kan pleeg om sy drang te bevredig. Die omliggende eiendomme sal sagte teikens wees as gevolg van die huidige atmosfeer in Sunny Seas.

Die tweede risiko kan ontstaan as gevolg van dwelmhandelaars wat die sentrum as gevestigde mark beskou en hulle aktiwiteite na Sunny Seas uitbrei.

Ons het na hierdie omgewing verhuis om weg te kom van stedelike bedrywighede en besighede. Die feit dat ek ten minste 3km moet ry om 'n brood te koop spruit uit die feit dat ek die stil omgewing wil he en daarom hier bly.

Die besoekers aan die sentrum kom van orals oor die land. Dit is nie nodig dat die sentrum hier aan die westelike punt bedryf moet word nie.

Beste wense:

A J en E M C van Niekerk

5 April 2017

ANNEXURE F 66/184

From: "L.E. Swanepoel" <leswanepoel@gmail.com>  
To: <oretta@overstrand.gov.za>  
Date: 05/04/2017 08:38 PM  
Subject: Erf 3054 Seaview dr. Sunny Seas

TP- A Theart  
(Huld Stoep)

Die Munisipale Bestuurder

Hiernaas maak ek ten sterkste beswaar teen ontwikkeling van bogenoemde erf.  
Dit is verbrekking van voorwaardes van die relevante Titel Akte en gevolglik onwettig.  
Met agting  
L.E. Swanepoel  
Clarence rylaan 2897  
Bettysbaai

Mag ek vra vir erkenning v ontvangs asb.  
Baie dankie  
Sent from my iPad



FILE NO:	EL 3054
	Bettysbaai
SCAN NO:	56
COLLABORATOR NO:	1011235

1011235

Loretta Gillion - Objeksie t o v Erf 3054 Betty'sBaai



**From:** "Jenny le Roux" <jenny@mailbox.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 06/04/2017 11:17 AM  
**Subject:** Objeksie t o v Erf 3054 Betty'sBaai

TR A Theart  
 C H v/d Staap

Munisipale Bestuurder  
 Hermanus

Geagte Meneer

Insaake: Opheffing van beperkende voorwaardes en vergunningsgebruik: Erf 3054 Betty'sBaai

Hiermee maak ek, Janine Le Roux, eienaar van erf 5122 Betty'sBaai, beswaar teen die opheffing van titevoorwaardes t.o.v. erf 3054 Betty'sBaai.

Gemelde erf is, soos alle erwe in SunnySea's, gesoneer vir residensiele gebruik alleenlik. Ek objektieer ten sterkste tot goedkeuring van enige sakebedrywighede.

Ek het my in 2013 hier kom vestig – my oorwegende rede was die ongerepte natuur en rustigheid van die omgewing.

Enige sakebedrywighede, insluitend 'n "Opheffingsentrum", keur ek ten sterkste af. 'n Bedryf van gemelde aard, dus ook my redes vir objeksie teen die opheffing, gaan meebring:

1. Mure en omheining wat die natuurlike beweging van diere-lewe gaan versteur. Hierdie is Bewaringsgebied!
2. Sterk beligting: Gaan diere- en insekte se natuurlike lewe versteur... Asook steurend vir ander inwoners. Hierdie is Bewaringsgebied!
3. Meer voertuie as wat tans die geval is – in Seaview- sowel as ClarenceRybaan. Seaviewrybaan is 'n pragtige nou straatjie, wat slegs "1 voertuig" breed is. Betrokkes by 'n "Opheffingsentrum", hetsy personeel of "wie ookal opgehef moet word", sal per bus of talle voertuie aangery moet word. Gemelde staat is nie voldoende vir die doel nie.

Ek wil ook u aandag daarop vestig, dat soos bepaal in die aktebesorgensertifikaat, ek as titelhouer nie 'n skrywe van die betrokke advertensie ontvang het nie. Besonderhede omtrent die aangeleentheid het ek verneem van ander inwoners.

Ek vertrou dat my objeksie die nodige aandag sal geniet.

Groetend

J Le Roux

FILE NO:	E2-3054
	Betty's Bay
SCAN NO:	55
COLLABORATOR NO:	1011230

TP

6 APR 17

Die Munisipale Bestuurder  
Overstrand Munisipaliteit  
Hermanus  
7200



TP-ATheat  
(Huld Stoep)

Geagte Me H van der Stoep

**Kommentaar / Beswaar: aansoek om opheffing van titelbeperking en vergunningsgebruik van Erf 3054, Bettiesbaai**

1. Beswaar ten aansien van die motivering wat verskaf is in die aansoek om opheffing van titelbeperking en vergunningsgebruik van Erf 3054, Bettiesbaai

Die aansoekers dui aan dat hy/sy van voorneme is om Erf 3054 as 'n opheffingsentrum / upliftment centre te gebruik. Daar word voorts aangedui dat "guests visiting the upliftment centre do not require any medical interventions and do not have medical conditions that require medical attention". Die applikant noem dan verder aktiwiteite wat by die opheffingsentrum gaan plaasvind soos fisiese oefening, lesings, sauna en etes. Die punte van beswaar is daarom die volgende:

- Die applikant versuim om behoorlik te verduidelik wat 'n opheffingsentrum is.
- Die applikant beskryf bloot wat 'n opheffingsentrum NIE is nie, naamlik dat dit nie 'n plek van mediese versorging is nie.
- Die applikant versuim om te vermeld of die opheffingsentrum 'n reabilitasiesentrum vir verslaafdes is, welke aktiwiteite dan wel binne die grense van "medical interventions" of "medical attention" val.
- Indien die sentrum bedoel is om verslaafdes te huisves / te rehabiliteer, versuim die applikant se aansoek om te vermeld of en hoe daar aan die *Prevention of and Treatment for Substance Abuse Act 70 of 2008* en die regulasies ingevolge hierdie wet voldoen word en/of die beoogde sentrum (en sy personeel) as 'n *early intervention centre*, en die dienste wat gelewer word as *community-based services* ingevolge die bogenoemde wet geregistreer is.

Op grond van die bogenoemde word daar dus verdere besonderhede ten aansien van die volgende versoek:

- Wat die aard van die opheffingsentrum is;
- of en hoe aan bogenoemde wetgewing voldoen word.

Groete,

Philip Stoep  
Eienaar: Bettiesbaai Erf 3082

FILE NO:	EL 3054
	Bettiesbaai ✓
SCAN NO:	
COLLABORATOR NO:	1010937

5 APR 2017

Loretta Gillion - Objection to development of 3054 Seaview Drive Betty's Bay

From: "William" <William@photo.co.za>  
To: <loretta@overstrand.gov.za>  
Date: 04/04/2017 10:10 AM  
Subject: Objection to development of 3054 Seaview Drive Betty's Bay

TPA Theart  
(Hvd Steep)



**I object to the commercial development of 3054 Seaview Drive Betty's Bay based on the breach of the conditions of the relevant title deeds**

PLEASE ACKNOWLEDGE RECEIPT OF MY OBJECTION

William McIntosh  
4821 Oxalis Road Betty's Bay

FILE NO:	EL 3054
	Betty's Bay ✓
SCAN NO:	
COLLABORATOR NO:	1010894

TP 3002 07

ANNEXURE F 70/184

TR A Theart  
C H vd Stoep



From: ulliniemann <ulliniemann14@gmail.com>  
To: <lorretta@overstrand.gov.za>  
Date: 04/04/2017 09:37 AM  
Subject: Sunny seas development

Good day

I hereby strongly object to the further development of 3054 in Sunny Seas in Betty's Bay

Please acknowledge receipt of this E Mail

Regards  
EUC Niemann  
Ref 4211  
Betty's Bay

Sent from my iPhone

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1010889

TP- A Theart  
C H Veldstoep

Loretta Gillion - Objection to application for removal of title deed restrictions for Erf 3054 Betty's Bay



**From:** "Gerald Scholly" <gerald.scholly@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 05/04/2017 11:47 AM  
**Subject:** Objection to application for removal of title deed restrictions for Erf 3054 Betty's Bay

Attention: Ms. H. Van Der Stoep

Our response to the above application is as follows:

We refer to Chapter 4, Section 16(2)(f) and Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the removal of a restrictive Title Deed condition in order to and also give consent to utilise the existing dwelling situated on Erf 3054 Betty's Bay as an upliftment centre.

We object to the above for the following reason:

1. This removal of restrictive conditions in the Title Deed sets at precedent for future enterprises and businesses in this area. This is unfair to existing land owners who have purchased residential land here because of the peaceful and quiet environment that this area represents. (A present example is a proposed bed & breakfast in Seaview Drive opening in Sept this year. The owner intends to use AirBnB to rent the property out to clients).
2. There are no guarantees that the proposal that has been put forward by the client for the dwelling to remain as is, will not change in the future.
3. There are more than 10 'guests' on this premises as seen by all who live in Seaview Drive when they go for a jog down the road.
4. There have been incidences of 'guests' running away from this dwelling, one of which picked up a rock from our garden in order to 'protect' himself as he explained to the SA Police who were called out to assist. In each case, there was a mad scramble of people running everywhere to find the run-aways, asking residents if they had seen these persons?
5. There have also been incidents of a 'guest' appearing in a neighbour's garage and another at the front door of an elderly lady's home. There are times when chanting is heard from erf 3054. This is not conducive to a peaceful existence as the client is trying to assure in the proposal.

Please also note that the access to erf 3054 Betty's Bay is not from Penquin Terrace but from Seaview Drive. A lot of the traffic to and from erf 3054 comes down the tarred section of Seaview Drive past our property.

3147 Seaview Drive, Betty's Bay  
083 222 1109 (Gerald)  
083 222 5598 (Brenda)

TP

307.67

FILE NO:	EL 3054
SCAN NO:	Betty's Bay ✓
COLLABORATOR NO:	1010582



Postbus 546  
Bettysbaai  
7141

4 April 2017

Die Munisipale Bestuurder  
Overstrand Munisipaliteit  
Postbus 20  
Hermanus  
7200

TRATheart  
(H. vd Stoep)

Gaagte mnr. Groenewald

**ERF 3054 BETTYSBAAI: AANSOEK OM OPHEFFING VAN TITELBEPERKINGE  
EN VERGUNNINGSGEBRUIK**

Ek is die wettige eienaar van Erf 3074 geleë in Seaview Drive, Bettysbaai en het 'n geregistreerde brief van Plan Active in bogenoemde verband, ontvang. Hiermee teken ek beswaar aan teen die aansoek van hul klient, Alpac Investment CC, vir die opheffing van Titelbeperkings en Vergunningsgebruik t.o.v. Erf 3054, Bettysbaai. Die motivering vir my beswaar is soos volg:

1. Die Titelbeperkings vir eiendomme in Seaview Drive maak slegs voorsiening vir een woonhuis, d.w.s. 'n enkelgesinwoning op 'n erf en verbied, onder andere, die bedryf van 'n besigheid op die erf. Die getal inwoners wat kragtens die aansoek te enige tyd (en waarskynlik deurentyd) in die huis geakkommodeer gaan word en die feit dat die voorgestelde opheffingsentrum as 'n besigheid geklassifiseer kan word, strook nie met hierdie voorwaardes nie en skep myns insiens die wesenlike moontlikheid van versteuring van die rustige residensiele atmosfeer wat kenmerkend is van die buurten en wat een van die redes is waarom ek hier gebou het.
2. Die aansoeker verskaf geen toeligting oor die beweerde behoefte aan 'n sentrum van hierdie aard in Bettysbaai en ook geen besonderhede oor die aard van die opheffingswerk wat hulle wil aanbied nie. Daar word slegs gesê dat die besoekers aan die sentrum geen mediese versorging nodig sal hê nie. Die vraag kan egter gevra word of die rehabilitasie en versorging van o.a. persone wat aan die een of ander vorm van verslawing ly met moontlik gepaardgaande aanpassingsprobleme, deel van die taak van die sentrum sal wees. Blootstelling aan persone wat met sodanige krisisse in hul lewens ondersteun word, hou na my mening 'n potensiele risiko in vir ander inwoners van die buurt. Kortom, 'n fasiliteit van so 'n aard hoort nie in 'n uitsluitlik residensiele buurt nie.

Ek moet laastens meld dat ek bewus daarvan is dat 'n sentrum van hierdie aard reeds die afgelope twee jaar of wat op die erf bedryf word en dat daar tot nog toe, ten spyte van vorige besware van inwoners van die buurt, nog nie effektief teen die eienaars opgetree is nie. Dit is myns insiens van dringende belang dat die aansoek van Alpac nou afgekeur word.

Met agting

Johan Fourie  
fouriejoel@icon.co.za  
076 062 2734

FILE NO:	EL 3054
SCAN NO:	Bettysbaai Bay ✓
COLLABORATOR NO:	1010830

5 APR 2017

ANNEXURE F 73/184



TR-A Theart  
(Huld Steep)

PO Box 626, Bettys Bay 7141

3336 Clarence Drive, Bettys Bay

4<sup>th</sup> April 2017

Dear Sir/Madam,

**APPLICATION FOR REMOVAL OF TITLE DEED RESTRICTIONS AND CONSENT USE OF ERF 3054 BETTYS BAY**

Your correspondence reference number PA 15034 dated 28 February has reference.

I am opposed to the removal of the title deed restrictions for the following reasons:

1. The application from Alpac investments is vague and not transparent. They have not mentioned where their "guests" come from, have they been referred by other institutions or do they come on a voluntary basis.
2. We have seen the "guests" running in the streets of Sunny Seas, Bettys Bay so the "upliftment" centre is already operational. We thereby assume that they are operating illegally.
3. This appears to be a commercial undertaking and no mention is made of the selection criteria to be used to determine who requires the services of the "upliftment" centre. We are of the opinion that the "upliftment" centre is nothing but a rehabilitation centre for people who have a substance abuse problem. This is a security risk to our town.
4. We have seen that the "upliftment" centre currently only has male guests, in their 20's or 30's. This is in violation of the country's constitution as it is not open to all races and creeds.
5. If this application is approved it will create a precedent that will make it difficult to stop other similar applications.
6. If this application is approved who will audit this institution, this surely must be provided by some government department.
7. If the wording used in the application was for a rehabilitation centre this would jeopardise their application, therefore they have been vague and disguising the true intent. This type of centre would best be located on a farm or remote location, not in Bettys Bay.

Yours Sincerely

W.G.Steyn,

FILE NO:	EL 3054
	Bettys Bay
SCAN NO:	
COLLABORATOR NO:	1010878

TP

3072 07

TR A Theart  
CH volstoept



Seloon 072 905 4702  
amj@overstrand.gov.za

5 April 2017

DIE MUNISIPALE BESTUURDER  
OVERSTRAND MUNISIPALITEIT  
PATERSONSTRAAT 16  
HERMANUS  
7200  
(Loretta@overstrand.gov.za)

FILE NO:	EL 3054 Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1010853

Geagte Mensur

**BESWAAR TEEN AANSOEK OM OPHEFFING VAN BEPERKENDE TITELVOORWAARDES EN VERGUNNINGSGEBRUIK VAN TITELAKTE TS4244/2014 OP ERF 3054, BETTYSBAAI TEN EINDE DIE BESTAANDE WOONHUIS OP DIE EIENDOM AS OPHEFFINGSENTRUM AAN TE WEND**

**BELANGE:** A & M J BURGER is eienaars van drie erwe in Betty'sbaai in die nabye omgewing van die onderwerp erf naamlik:

1. Erf 3021, Clarenterylaan,
2. Erf 3110, Ses Viewlaan, en
3. Erf 3367, Dolphynrylaan.

Beswaar as volg:

#### 1. OPHEFFINGSENTRUM REEDS IN BEDRYF

Die dokumentasie wat die aansoek vergees, verskaf ongelukkig geen inligting oor die tipe opheffing nie. By navraag, blyk dit egter dat die huis alreeds 'n geruime tyd gebruik word om persone wat klaar rehabiliteer is, daar op te hef. Geen melding word in die aansoek gemaak dat die Opheffingsentrum alreeds funksioneer sonder die nodige toestemming. Laasgenoemde skep die indruk dat die sentrum se eienaars/bestuur nie verantwoordelik gehou kan word nie, nie omgee om te oortree nie en nie die gemeenskap van Betty'sbaai in ag neem nie. Dit is ons eerste beswaar.

#### 2. GESOGTE WOONBUURT SE PRYSE DAAL

In die aansoekdokument, bladsy 11 onder die hoof 14, Recommendation, staan die volgende: "The proposed consent use and removal of the restrictive Title Deed conditions will not have a negative effect on the current character and land values of the surrounding erven." Tuimelende eiendomspryse toon egter dat die teenwoordigheid van die bestaande sentrum alreeds 'n negatiewe invloed op die gesogte

Fluiter 1 van 1

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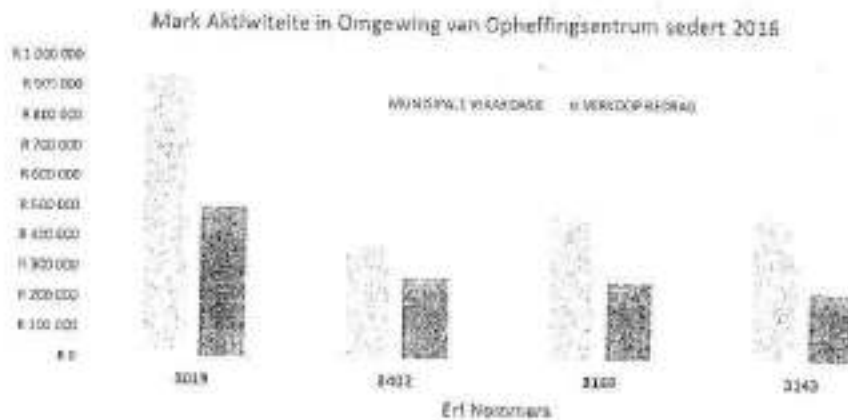
woonbuurt het. In Naby geleë onbeboude erf 3019 Clarencerylaan (sien figuur 1) met 'n Municipale Waardasie van R950 000 is gedurende Maart 2017 teen siegs R500 000 verkoop.



Figuur 1: Area kaart naby opheffingsentrum in Bettysbaai

Twee ander nabygeleë onbeboude erwe 3169 en 3402 (sien figuur 1) is as volg verkoop:

Erf nommer	Verkoop datum	Verkoop prys	Munisipale Waardasie
Erfno 3169	2016-05	R290 000	R480 000
Erfno 3402	2016-02	R270 000	R380 000



Figuur 2: Verkope Opsomming

'n Verdere onbebaude erf 3022 naby die Ophettingsentrum, word tans onder die munisipale waardasie te koop aangebied (sien figuur 1).

Erf nommer	Bemerkings Bedrag	Munisipale Waardasie
Erfno 3022	R850 000	R950 000

Ons is van mening dat die Ophettingsentrum wat daar bedryf word 'n negatiewe effek op eiendomspryse het.

### 3. VERANDERING IN GESOgte WOONBUURT

Die Sunny Seas woonbuurt het gewoonlik beleggers gelok om in hierdie rustige kusdorpie te belê sodoende aan goeie beleggingsbeginsels te voldoen. Afgetredenes het om dieselfde rede, hulle ook hier kom vestig. Mensse leef langer en afgetredenes is genoodsaak om 'n ekstra inkomste te verdien om voorsiening te maak vir die langer leeftyd, inflasie, en stygende mediese- en voedselpryse. Hulle is nie 'n las op die gemeenskap nie. Trouens, hulle doen gratis werk in hul gemeenskap tot voordeel van almal. Hulle het byvoorbeeld 'n uitkappgroep wat indringers uitroei sodoende ons natuurlike fynbos te beskerm. Hulle streef daarna om op 'n omgewingvriendelike manier te leef wat die internasional beginsels van 'n Biosfeerreservaat onderskryf. Hulle werk hard om toerisme te bevorder, dien op verskeie komitees en betaal gereeld hul belasting. Dis vir hulle belangrik dat hul eiendom se waarde styg omrede die opbrengs daarvan in latere jare aangewend moet word om vir duur versorging in versorgingsoorde te betaal. Hulle wil nie 'n las op die staat plaas om hulle te onderhou nie. Die dalende eiendomspryse is 'n groot bekommernis vir afgetredenes. Wanneer eiendomspryse daal moet munisipale belasting afwaarts aangepas word. Dit veroorsaak weer minder inkomste vir die Munisipaliteit wat tot gevolg het dat daar minder geld beskikbaar is om dienste te lewer. Dit benadeel alle inwoners.

### 4. TOERISME

Toeriste van oral oor die wêreld, kom kyk na ons ryke planteverskeidenheid in Bettysbaai. Hulle hou van die mooi bewaarde natuurlike omgewing en die stiltes. Toeriste bly in gastehuse of huur vakansiehuse vir 2 tot 3 maande per jaar. Die sogenaamde Swaeltjies (toeriste uit Frankryk, Engeland en Duitsland) kom gedurende buite seisoen na ons kusdorpies en spandeer baie geld hier. Dis 'n belangrike voedingsaar tydens stil seisoen tye vir ons gemeenskappe en die waarde daarvan moet nie onderskat word nie. Ons is dus van mening dat 'n ophettingsentrum van watter aard ook al, nie inpas in sulke omgewings nie.

#### 5. WERKSGELEENTHEDE IN GEDRANG

Indien ons nie aandag gee aan die dinge waaroor toeriste hierheen kom nie, gaan hulle eenvoudig na ander plekke. Gevolg sal talle werksgeleenthede hier verlore gaan. Ons is bekommerd dat broodwinners van hier nie kos op die tafel kan sit vir hul kinders nie. Dit gaan arin gesinne swaar tref.

#### 6. DAGPROGRAM

Omdat min inligting in die aansoek oor die sentrum bekend gemaak word, is 'n Dagprogram aangevra sodoende te bepaal wat die opheffing van die sentrum behels. Op 30 Maart is die dagprogram nog nie ontvang nie en is me. Van der Stoep daarvan in kennis gestel. Sy het onderneem om weer vir die Opheffingsentrum te vra om 'n dagprogram beskikbaar te stel.

#### 7. TOEREKENBAAR

Ten tye van hierdie skrywe is die dagprogram van die Opheffingsentrum nog nie ontvang nie. Omdat ons min besonderhede tot beskikking het, is ons nie verseker dat die Opheffingsentrum bedags en snags toerekenbaar is vir toesig oor ligamlike en emosionele gedrag, veiligheid, uitputting, noodhulp, en brandbeheer nie.

#### 8. OPSOMMING

Dns het respek vir die opheffing van mense maar het 'n beswaar teen die Opheffingsentrum op Bettysbaai. 'n Opheffingsentrum kan in enige dorp, stad, of land opgerig word. Daarenteen beskik Bettysbaai oor die meeste soorte natuurlike plantegroei ter wêreld. Dit 'n belangrike bate wat vandag en in die toekoms groot voordele vir alle inwoners inhou. Veral vir die groeiende aantal kinders wat hier grootword. Hulle behoort ook 'n kans op 'n blink toekoms gegun te word. Dns versoek dus dat die aansoek afgekeur word.

G E T E K E N, as gesamentlike eienaars van Erf 3021 Clarencerylaan; Erf 3110 Sea Viewlaan; en Erf 3367 Dolphinrylaan:



Mev MJ BURGER



Mnr A BURGER

ANNEXURE F 78/184

2017/04/04 JL

4<sup>th</sup> April 2017TR A Theart  
(C H Jd Stoep)

Jean Lubbe

ERF 3181

P O Box 877

Betty's Bay

7141

For the attention: MS H Van Der Stoep

The Municipal Manager

Overstrand Municipality

Hermanus Administrative

PO Box 20

Hermanus 7200

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1010817

Dear Madam

RE: OBJECTION TO APPLICATION FOR THE REMOVAL OF TITLE DEED  
RESTRICTIONS AND CONSENT USE OF ERF 3054 BETTY'S BAY.

My interest in the application and reasons for comments are that my residence is within 150 m from ERF 3054 and that I hereby lodge my objection, with reasons below, to the "application for the removal of title deed restrictions and consent use of Erf 3054 Betty's Bay".

I would like to point out that the area is populated by a very small percentage of permanent residents (10% permanent occupation) in a 10km strip between the mountain and the sea, i.e. Betty's Bay and these residents are mainly single, widowed and/or retirees. Against this background I challenge your rationale re your comment that there is a "demand for an upliftment centre". This is not factual. Plus in this same 10km strip of Betty's Bay there are already upliftment/wellness/ sports centres. The demand and need for one may be worldwide but is inappropriate in Betty's Bay and needs to be better justified.

Page 1 of 5

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2017/04/04 JL

I challenge the fact that an upliftment centre should be in a tranquil location, with great views- as there are many more cost effective farms/land/ available with the same prerequisite BUT without the view over the whole of the Walker Bay & Betty's Bay. With this access and view over the sea, and given the known perlemoen poacher operation in this area, it could possibly be perceived that "a view of the sea" to be the real rationale for purchasing this specific site.

By your own submission the area is "characterised as a medium to higher income area, quiet and tranquil". I can confirm this as on any given day I can hear the voices of neighbours 3 to 4 houses away. This is in an area with very large stands and no fences.

**Your impact will be and already is enormous.**

For the past few months, I have observed between 12 to 14 young men from Erf 3054 being trained. So we are already subjected to the chanting, jogging, invasion into our tranquil and quiet area. My first reaction on observing them was fear and caution for my safety.

Your IMPACT has a second effect. This quiet environment has many empty holiday houses and the few that are occupied, specifically in Sunny Seas; have among them single widowed ladies and gentleman. Your current group of upliftees are comprised of only young MEN, perhaps rehabilitated drug addicts or, heaven forbid, with possible criminal records. The impact on a largely defenceless community (no barbed wire, high walls i.e.no gates and no fences) will have a very negative reaction – which will immediately eradicate the well-being and security and necessitate an increase in security measures.

For the past few months the community started a neighbourhood watch as crime increased in the area.

Whether perceived or real, the reaction to a possible threat to our security will bring a huge change. It will no longer be the safe secure area so sought after.

Recently I was on main beach Betty's Bay , tanning, reading and swimming, all alone. Took photo's to illustrate the fact when the same beach was invaded by a group of 20 young men. PHOTOS INCLUDED.

2017/04/04 JL



2017/04/04 JL

Under the circumstances I found it prudent to leave the beach. IMPACT: immediate and invasive, once again not a zero impact.

IMPACT on my life and retirement is enormous as we selected this property in 1999 after 7 years of research for the most tranquil, safe, retirement position with an awesome view. As illustrated, this invasion has challenged the safe secure tranquillity that used to be Sunny Seas.

IMPACT on my financial investment (house) is enormous as such a centre will reduce the value of my property. (taking away the tranquillity and introducing a possible security threat. Both aspects always have an impact on house prices)

IMPACT on my long term retirement plan is enormous as I may not be financially able to improve my security should the need arise and therefore it may not physically be safe to live in Sunny Seas.

One of the aspects that was not addressed in the application was under which organisation the upliftment will be run. No indication of oversight by a SETA, religious, welfare, health, sports, lifesaving, university, SANBI or even military organisation is given. The goals and outcomes are not defined. IMPACT and indications of no accountability basically gives carte blanche to possible exploitation.

Your rationale that this centre will have the same impact as a guest house may be valid, BUT I challenge this as very seldom would 20 young males of similar background book into a guest house for a month or two.

The same goes for the rationale of large families and two families as a family will seldom be comprised of MALE only of similar background, given to chanting early in the morning and late at night as is currently happening.

The impact of an upliftment centre for young males, moving in amongst our houses, chanting in the quiet of the early morning and late evenings, having blazing lights on in a "lights out after 10 area" is very real.

2017/04/04 JL

The impact on the financial, security and tranquillity of the Sunny Seas area is upsetting, and the general invasiveness of a group with no clear outcomes known to the community is very disconcerting.

In conclusion I propose that the current restrictions remain and are upheld.

Yours sincerely  
Jean Lubbe

From: "Eugene" <eugenefountain@sonicmail.co.za>  
 To: <loretta@overstrand.gov.za>  
 CC: <eugenefountain@sonicmail.co.za>, <planactive@hemmenus.co.za>  
 Date: 04/04/2017 11:15 AM  
 Subject: FW: Objection Re erf 3054 Bettys Bay

TR A T Heart  
 C Hubstoepe



Attention... Ms H. Van Der Stoep

ERF 3054 Bettys Bay  
 Sunny Seas  
 Bettys Bay  
 7141

4th April 2017

To Whom it may concern,

Regarding Municipal Notice No. 36/2017, regarding application for removal of restrictive title conditions applicable to erf 3054, Betty's Bay, with respect to the running of an "upliftment centre".

My Details  
 Eugene Stolk  
 3195 Pearl Road  
 Sunny Seas  
 Bettys Bay  
 7141

Cell number 0820653163

I hereby register my interest in this matter as I am a resident of the Sunny Seas, nearby to the above plot. My comments and some concerns are detailed below.

1. The title deeds of the plot prohibit business activities on the plot. This I agree with as no businesses/commercial enterprises, means that the look and feel of Sunny Seas, Betty's Bay will be upheld.
2. There are insufficient details about what the "upliftment center" will do, and how they will do it for me to be able to accept this. There is no detail provided whatsoever, so we do not understand what they are wanting to achieve.
3. Intimidation - while the current residents appear friendly, there is an intimidation factor by the sheer number of people they have running and walking on the streets. It is a large group of men, which alters the feel for the area. Also of concern is of criminals taking advantage of the situation, leading to increased crime.
4. As the owners/operators are currently operating illegally, despite having been ordered to stop, I do not believe they propose to adhere to any rules or regulations over them.

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1010842

TP  
 20-4-17

ANNEXURE F 84/186

I therefore object to their application and oppose the application for altering title deeds, and I object to any consent for using the erf as a commercial enterprise and/or for an upliftment centre.

Kind regards

Eugene Stolk



TP-A Theart  
CH (old Steep)

To Whom it may concern,

Regarding Municipal Notice No. 36/2017, regarding application for removal of restrictive title conditions applicable to erf 3054, Betty's Bay, regarding running of an "upliftment centre".

My Details  
David & Tricia Home  
3193 Pearl Drive / PO Box 536  
Betty's Bay  
david@home.za.net  
083 556 9117

FILE NO:	EL 3054
SCAN NO:	Betty's Bay ✓
COLLABORATOR NO:	1010827

I hereby register my interest in this matter as I am a resident of the immediate area in which the institution wishes to function. My comments and concerns are listed below, in no particular order.

1. As per the document sent by Plan Active, on behalf of their client, there is absolutely no description of what this "upliftment centre" actually entails. To this end, without a full description of purposes, modes of operation, planned activities etc. I have no option but to object and oppose their application. My concern is that without a full description, the "upliftment centre" could become a great intrusion into the neighbourhood. For example if the "upliftment centre" becomes a work skills upliftment centre, teaching metal working, carpentry and panel beating, with associated noise and intrusive activities. If permission was granted under the proposed application, there would be no reason why they could not do this.

2. Based on historical activities, including the existing court case against them, it is clear that the owners and/or operators have wilfully engaged in operations contrary to existing title conditions, and continue to wilfully operate disregarding municipal conditions. I believe that the owners and/or operators will likely continue to operate without due regard to the laws applicable. Precedence has been set where there is wilful defiance and contempt of the law, and this attitude is unlikely to change.

3. Current operations have resulted in a change to the local feel of the immediate area, where residents at said institute engage in regular walking exercise in the surrounding streets, in large groups. While no known problems have arisen from this, it has resulted in family and neighbours feeling less secure, and unwilling to walk in the streets unaccompanied. Clearly there is a level of inadvertent intimidation due to the size of the groups of men walking around. This therefore has a direct impact on our lifestyle in Betty's Bay. This is further exacerbated due to the fact that the residents of said institute are strangers to the area, unlike the permanent residents, who are known and recognised.

4. It is commonly mentioned in Betty's Bay, that the premises is currently operating as a drug rehabilitation centre. It is indisputable that drugs are closely linked to crime. This raises the very real and legitimate concern that there may be currently, or in the future, criminal activities due to the presence of the institution and its residents. In order to explain this point, I give an example below.

**EXAMPLE SCENARIO.**

Drug dealers become aware of the institution and decide to target the residents. As there are no fences, restrictions, or guards, they have easy access to the residents. Furthermore, as the residents engage in outside activity, open access to them is possible. As the residents are recovering addicts, they are exceedingly vulnerable to being tempted to engage in further drug use. In order to get money for selling drugs, the dealers target them, offering, initially, free drugs. Once the target is

TP

3 APR 2017

ANNEXURE F 86/184

"hooked" again, the offer of free drugs is withdrawn and payment is now required. As they do not have cash with them, the residents are encouraged to turn to crime, and are thus tempted to engage in petty, serious, and even dangerous crimes, in the immediate neighbourhood. This in order to obtain cash, sell-able items, or trade-able items in order to pay the drug dealers.

END

I sincerely believe this above scenario is a very real, legitimate and possible scenario. This would have a devastating effect on the Betty's Bay area.

While an institution for recovering addicts is admirable, and such institutions are necessary, I believe that the willingness to ignore the laws, and operate illegally show that the the owners and/or operators are not interested in running a legitimate operation.

5. Number of "Guests". The application document says hat they would have a maximum of 10 "guests". However already we see daily on the road more than 10, in fact closer to 20 people exercising. How would numbers be enforced? What penalties would be levied against them for failure to adhere to stipulated numbers.

The above forms a summary of my submission and expression of interest. I would like to receive receipt of my submission, and to be informed of any progress, changes, open and/or closed meetings regarding this situation.

In conclusion, I object to the application for removal of title deed restrictions and oppose consent to use the Erf 3054 for stated purposes.

Kind regards



David Horne

**BBRA / BBBV**

Betty's Bay Ratepayers' Association  
 Bettysbaaise Belastingbetalersvereniging



Municipal Notice no. 36/2017

The Municipal Manager  
 Overstrand Municipality  
 16 Paterson Street  
 PO Box 20,  
 Hermanus

7200

Email: [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

FILE NO:	EL 3054
SCAN NO:	Betty's Bay 5 April 2017
COLLABORATOR NO:	1010810

TR A Theart  
 (Huld Steep)

Dear Sir,

**ERF 3054 - PENGUIN TERRACE, 11 SEAVIEW DRIVE, BETTY'S BAY:  
 PROPOSED REMOVAL OF TITLE DEED RESTRICTIONS AND CONSENT  
 USE: PLAN ACTIVE (obo) ALPAC INVESTMENT CC**

I wish to object to the removal of the title deed restrictions and consent use of the above mentioned property, in response to a registered letter received from Plan Active in this regard. As Chairperson of the Betty's Bay Ratepayers' Association (BBRA), I represent - some 400 +property owners.

I have received several complaints from our members that the conditions as prescribed in the said title deeds, were not enforced timeously by the municipality, as the owner utilized the property for other purposes as 'single residential special', since 2014. This is the second time that Plan Active obo the owner, applied for the removal of restrictive conditions on this property.

It is with grave concern that we have taken note of the current state of affairs, as the application was processed while a new court case is still in process regarding the same matter.

I wish to comment on the notice given in terms of Section 51 and 52 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016.

It must be noted that the erven in some areas of the Sunny Seas township, Betty's Bay, is zoned as 'single residential special'. In view of this zoning, property owners, are restricted in accordance with their registered title deeds to the conditions prescribed. Therefor the comment made in the application with regards to the usage in par.2.1, is incorrect.

The application for the removal of the Restrictive Title Deed Conditions and Consent Use in order to utilize the existing dwelling as an Upliftment centre, also called Institution in the application, claims that the current zoning is that of

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3407.67



## **BBRA / BBBV**

Betty's Bay Ratepayers' Association  
Bettysbaaise Belastingbetalersvereniging

residential zone 1. According to my knowledge, some of the Sunny Seas erven and this specific stand, is zoned as 'single residential special'. This has the implication that all the residents of the Sunny Seas area should be consulted on the matter.

**The BBRA opposes and objects to the Removal of the Restrictive Title Deeds Conditions and Consent Use as applied for by Plan Active obo the owner of Erf 3054.**

The reasons are as follows:

1. This application is not supported by a needs assessment conducted within the area amongst residents, to confirm that the community has a need for such a facility. Betty's Bay is an area within the pristine Kogelberg Biosphere, with holiday homes, permanent residents who are mostly retired and a small number of families, where the man and or woman is still employed outside the town.
2. Betty's Bay is a lifestyle seaside village with a rural/country atmosphere. Thus there is only a small number of Business Properties. With the establishment of Betty's Bay, the business premises were limited to just a few areas, in line with the character of the village and the wish of the initial developer. No additional land has been earmarked by the town planners for Business and or Industrial Development, as there is no need for such additional stands in a World Class Heritage Environment.

The proposed institution/upliftment centre on erf 3054 is in an area zoned as **single residential special** and will therefore negatively impact on the character of the village and the Sunny Seas area. The current zoning and Title Deeds restrictions as imposed by the Hangklip Beach Estates Limited, serve the purpose to endorse the character of the village. The current Title Deeds restrictions prevents owners from conducting any type of business. The removal of such conditions would have a negative effect on the surrounding erven and land values. The intention with the current restrictions applicable, was to retain the original purpose and character of the erven for residential purposes. When people bought their properties in the area, it was with the explicit understanding that their neighbourhood would remain a quiet peaceful haven.

3. It is not only the 400 + ratepayers in Bettys Bay that will be affected, should this application before Council be approved, but the entire village/ community. It is also a concern that the approval of the said application will create a precedent. It is foreseen that in future more applications would then certainly follow in terms of relaxation and/ or waving of Restrictive Title Deed restrictions.

**BBRA / BBBV**

Betty's Bay Ratepayers' Association  
Bettysbaaise Belastingbetalersvereniging

In closure I remain concerned as it seems that the process followed was incorrect. Several enquiries/complaints and numerous telephone calls were received from property owners, claiming that they were not informed in writing. Thus it would appear that not all the affected parties were consulted and received registered letters on the matter, despite the fact that Overstrand Municipality informed me that the property owner data base was provided to Plan Active.

Yours faithfully,

(W.R.B. PEROLD)  
CHAIRPERSON BETTY'S BAY RATEPAYERS ASSOCIATION

TP - A Theart  
C H vol Stoep



From: Janet Meyer <janetmeyer@gmail.com>  
To: <loretta@overstrand.gov.za>  
Date: 03/04/2017 06:41 PM  
Subject: Erf 3054, Seesview Drive, Bettys Bay

Good Day,

It has come to my attention that the correct procedure for title deed restriction removal for erf. 3045 has not been followed.

This is illegal, and unacceptable.

The noncompliance of correct procedures is ILLEGAL and must be addressed.

I object to the total disregard of correct procedure and advertisement of the intention of "Alpaca Investment cc" with regard to this property.

The properties of Sunny Seas have title deeds of 1934 which are DIFFERENT from the original BB plots. A drug rehabilitation centre- or a "wellness" centre -are not included in the title deeds of this property.

I wish to lodge my complaint and objection to any removal/change etc of the title deed restrictions of erf 3054, Sea View Drive, Bettys Bay.

Please acknowledge receipt of this email as well as acknowledgement of my objection.

Regards,  
(Mrs) Janet Meyer,  
erf 2591, Bettys Bay.

Janet Meyer  
janetmeyer@gmail.com  
0027845801298

FILE NO:	E.L. 3054
	Betty's Bay
SCAN NO:	46
COLLABORATOR NO:	1010150

5  
3 APR 2017

TP - A Theart  
C H v d Stoep

Loretta Gillion - Erf 3054 Seaview Drive



**From:** Walter Crawford <wafi.crawford@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 05/04/2017 07:44 AM  
**Subject:** Erf 3054 Seaview Drive

Dear Loretta,

Without sounding insensitive, I would like to object to development of 3054 into a clinic/facility.

It would change Betty's bay to better or worse, and I think it would be for the worse.

Thanking you

Walter Crawford  
Owner 3978 Betty's bay.

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1010802

TP

3054 erf

ANNEXURE F 92/184

TR A Theart  
(H. vd Stoep)Loretta Gillion - KENNISGEWING t.o.v AANSOEK OM OPHEFFING VAN  
TITELBEPERKINGE - Erf 3054

From: "Hartley Kennel" <hartley.kennel@sonicmail.co.za>  
 To: "Die Munisipale Bestuurder" <loretta@overstrand.gov.za>  
 Date: 04/04/2017 11:21 AM  
 Subject: KENNISGEWING t.o.v AANSOEK OM OPHEFFING VAN  
 TITELBEPERKINGE - Erf 3054

Die Munisipale Bestuurder  
 Overstrand Munisipaliteit  
 Hermanus

ERF 3054, BETTIESBAAI - Munisipale Kennisgewing Nr 36/ 2017

Geagte Mens/Dames

Ek is die eienaar van Erf 3253 in Bettiesbaai.

1) My primêre beswaar teen die aansoek vervat in bogemelde kennisgewing, is die feit dat ek nie kan vasstel wat beoog word met 'n "upliftment centre" nie.

2) Wat my wel verontrus is die mans wat van die gemelde eiendom kom en gereeld in militêre gelid by my huis verby draf.

3) Ek bemerk ook dat die gaste van die eiendom "lectures" sal bywoon; weereens kan ek nêrens vasstel wat die grondslag van die sentrum sal wees nie. Gepaardgaande met die oefeninge in militêre gelid, is dit ietwat kommerwekkend en onder die omstandighede opponeer ek die aansoek en weier om my toestemming te gee.

Die uwe,  
 H.P. KENNEL

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FILE NO:	EL3054
	Betty's Bay ✓
SCAN NO:	
COLLABORATOR NO:	1010800

P

2017.07

Loretta Gillion - Objections to Erf 3054

TP - A Theart  
(Child stoep)



**From:** Karin Borowski <kbbettysbay@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 04/04/2017 01:52 PM  
**Subject:** Objections to Erf 3054

To whom it may concern,  
Please be advised that we Egon Sommerger and Karin Borowski, owner of Erf 4495 in Betty's Bay are very much concerned of further development of ERF 3054 Seaview Drive in Sunnyside and object any commercial enterprise.

Kindly acknowledge receipt of this e mail. Thank you.

Kind regards  
Egon Sommerger + Karin Borowski

4495 Ixia Road  
7141 Betty's Bay

E-mail [kbbettysbay@gmail.com](mailto:kbbettysbay@gmail.com)

Sent from Samsung Tablet

FILE NO:	EL 3054
	KBB ✓
SCAN NO:	
COLLABORATOR NO:	1010798

TP 3007 07

ANNEXURE F 94/184

**Loretta Gillion - Aansoek om opheffing van titelbeperkings en vergunningsgebruik van Erf 3054, Bettiesbaai**

**From:** "Cloete Du Bois" <exdbouz@sonicmail.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 04/04/2017 01:54 PM  
**Subject:** Aansoek om opheffing van titelbeperkings en vergunningsgebruik van Erf 3054, Bettiesbaai

TR A Theart  
(H. van der Stoep)

Die Munisipale Bestuurder,  
 Overstrand Munisipaliteit,  
 Hermanus.  
 Aandag: Me. H. Van der Stoep



U skrywe insake bogenoemde gedateer 28 Februarie 2017 het betrekking.

In antwoord op by skrywe die volgende:

- 1 Wat word spesifiek met 'n Opheffingsentrum bedoel soos in paragraaf 1 van die Aansoek genoem?
- 2 Erf 3054 is geleë in 'n woongebied en kan volgens alle regulasies en voorskrifte geensins as 'n besigheid aangewend word nie. Na verneem word is dit ook geleë in 'n Erfenisgebied.
- 3 In paragraaf 5 van die aansoek word verwys na 'n behoefte(demand) vir 'n "wellness centre, upliftment centre" in hierdie gebied. Is die omiggende gemeenskap daarin geken – hoe, wanneer en deur wie en ook vir watter spesifieke doeleindes word dit juis in die area beplan?
- 4 Wat is die doelwitte van die sentrum op kort, medium en langtermyn?
- 5 Dit sal totaal onmoontlik wees om te kan voorsien dat geen mediese dienste ooit nodig sal wees as daar dan fisiese opleiding aangebied en ook 'n gimnasium bedryf gaan word – beserings kan tydens opleiding van onfikse persone plaasvind.
- 6 'n Verdere bekommernis is die opleidingstandaard van die instruksieus sodat hulle pro-aktief kan optree om beserings te voorkom of te behandel.
- 7 Daar word van 7 parkeerareas melding gemaak vir die beoogde sentrum; dws 5 vir die slaapkamers en 2 vir die bestuur. Die 2 plekke vir die bestuur is die dubbele motorhuis wat ook as gimnasium beoog word. Ook 'n bekommernis is die parkering vir die personeel en besoekers. Al hierdie beweging gaan in 'n doodloopstraat geskied – iets wat zekerlik verkeersvloei kan beïnvloed.
- 8 Bettysbaai het reeds genoegsame beskikbare sake- en industriële erwe – geen verdere toevoegings is nodig nie.
- 9 In die lig van aksies wat 'n geruime tyd reeds sonder toestemming op die erf plaasvind en toegelaat word, is dit vreemd dat daar nou toestemming op 'n post facto basis gevra word – blykbaar om gedane sake te wettig. Dit is totaal onaanvaarbaar. 'n Onwettige aksie word aan ons opgedwing.
- 10 Verder is daar by my 'n verwarring of die plaaslike owerheid of hoër gesag (provinsiaal of staat) die hersoenering kan teweegbring. Dit is amper of daar 'n "terminale" (nie terminologiese) teenstrydigheid bestaan oor wie wat behoort te doen.

FC du Bois  
 Posbus 408  
 Bettysbaai.

ERF. 3096, Bettysbaai

FILE NO:	Erf 3054
	Bettys Bay ✓
SCAN NO:	
COLLABORATOR NO:	1010795

FP

3 APR 17

ANNEXURE F 95/184



P O Box 325

Hermanus

7200

3 April 2017

The Municipal Manager  
Overstrand Municipality  
P O Box 20

Hermanus 7200

Sir

ERF 3054, 11 SEAVIEW DRIVE, BETTY'S BAY:

## REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE

Your municipal notice No 36/2017 regarding the above application refers.

As registered owner of erf 3418, Betty's Bay I hereby object to both applications as submitted by Plan Active on behalf of Alpac Investment CC. My objection is based on various criteria and is detailed below.

**1. Removal of Restrictive Title Conditions**

As regards the removal of the restrictive title conditions the applicant referred to an "enclosed certificate" of the conveyancing attorneys. No such certificate was enclosed.

When a township is proclaimed restrictive title conditions are imposed for specific purposes and to ensure future outcomes. Buyers of properties take cognisance of such restrictions as they know that their rights are protected and that the beneficial use of their properties will not be infringed by other property owners in that township. In the present instance only one dwelling per erf accommodating a single family was envisaged. The title deed condition C(ii)(m) was clearly intended to prohibit the mentioned uses including the use proposed by the applicant whereas condition C(i)(b) limits the use of the erf to "one dwelling". Such use is restricted to one family/household.

The rational reason for such restrictions is that other erven in Betty's Bay were clearly earmarked for the mentioned uses. There are many such vacant erven that could be used for the envisaged purpose and, as a result, there is no real need to remove the restrictive title condition. The argument put forward by the applicant that there is a "demand for wellness centres, upliftment centres and related land uses in the area" is not only an unproven statement but, it is submitted, also devoid of the truth. Had there been such a demand "in the area" then surely one or more of the vacant erven with existing rights would have been snapped up by developers.

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	16
COLLABORATOR NO:	1010497

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## 2. Upliftment Centre

Not only is there no definition of what an upliftment centre entails ( eg "uplift" from what to what and how and why) but there is also no provision for such a consent use. As the proposed use is not defined it will, in future, be impossible to determine whether the parameters of the use are exceeded or not.

The main problem is that the applicant is not truthful about the application. Why not state honestly who the "guests" are, how many will there be, why they are there, what is the purpose of their stay and what is the duration of the stay? It is presumed these are paying guests as in par 9 it is stated "that it qualifies as running a business".

The mere fact that the applicant has been operating illegally for quite some time is an indication of bad faith and a disrespect for prevailing legislation and binding rules.

## 3. Number of guests

The application is for 5 rooms plus a room for the owner manager. This equates to 10 guests ( 5 rooms x 2 guests) to a maximum of 12 people including the manager/owner. It is common cause that the actual figure is approximately 20 people. Actual counts on various days and photographic evidence to this effect exist. If the applicant at this stage, without any existing rights, already exceeds the limit, what is there to prevent the applicant to do so in future? Once the rights have been granted and vested the onus will then fall on the residents to prove that the applicant is non-compliant. This is a costly and time consuming exercise with no guarantee that there will be a positive outcome.

It is submitted that the Applicant is acting in bad faith and has no intention to abide by the very limitations proposed by the Applicant self.

## 4. Area of use

The applicant creates the impression that this is a tranquil activity restricted to the property itself.

This is **not** the case and the occupants regularly move as a large group in the whole eastern ("Sunny Seas") part of Betty's Bay. This is not only noisy but also an invasion of privacy of especially the permanent residents who are mainly elderly people and whose tranquillity is impaired by this activity.

Most of the properties are not enclosed so as to allow the fauna, of which there are many species, to freely move through properties. As a result one feels exposed to strangers who regularly infringe upon the visual privacy of one's house.

#### 5. Comparison to a Guest house

There is a vast difference between a guest house and the proposed use. Firstly a guest house has fewer guests namely a maximum of 30 and in many instances less than that due to the single occupancy of a room. Secondly guest house occupancy is seasonal with low occupancy levels outside the peak holiday periods and weekends. In the present instance the occupancy is continuously high.

As a result this comparison is irrelevant and invalid to the point of being odious.

#### 6. Availability of services

It is common cause that the Overstrand municipality is experiencing serious problems with sewage disposal in the whole of the Kleinmond/Hangklip area due to the vacuum tanker fleet often being out of action and in any event under-capacitated. This has led to property owners being denied the opportunity to subdivide their properties in terms of the Municipality's Growth Management Strategy. Should the current application, with its continuous and excessively high occupancy levels, be granted there would be no justification whatsoever for the Municipality to deny any current or future subdivision applications.

This current state of affairs regarding sewage disposal should therefore result in a rejection of the current application in order to prevent a further burden being placed on this service.

#### 7. Environmental Impact (par 11.2)

There is a negative environmental impact in that the extremely bright and glaring lights on the property disturb the ambient low lighting culture prevalent in Betty's Bay e.g. no streetlights – not even on Clarence Drive.

Erf 3054 is also fully walled, which is not a problem in itself, but it is contrary to the spirit of allowing freedom of movement for the rich fauna endemic to that part of Betty's Bay. (Refer again to par 4 above).

#### 8. Spatial Justice (par 13)

Again, as elsewhere in the application, reference is made to a "much needed social service to people within the peaceful area of Betty's Bay".

It begs the questions: What need? How was this need determined/proven? For whom? Which social service? Is this a Betty's Bay need that is being satisfied? If not, why Betty's Bay? As a result of the perceived secrecy rumours abound and until the applicant honestly informs the community of its intentions a negative and even suspicious attitude will prevail.

In essence there is neither a proven need nor a desirability for the proposed use.

The "peaceful area of Betty's Bay" is in fact disturbed by the current (and proposed) activity. It does NOT promote or enhance peacefulness and tranquillity.

**Conclusion**

It is submitted that for the foregoing reasons the application should not be approved and that the current illegal use be terminated forthwith.

Yours sincerely,



W J Zylberndis

Registered owner of erf 3418 Betty's Bay.

[wemerzy@iafrica.com](mailto:wemerzy@iafrica.com)

083 631 0667

ANNEXURE F 99/184

Die Munisipale Bestuurder  
Overstrand



04/04/2017

TR A Theart  
(Huld Stoep)

Aansoek om opheffing van Titelbeperkings en Vergunningsgebruik ERF 3054, Seaview Drive, Bettysbaai:

Geagte Mnr

Bostaande woning is binne 4 straatblokke van my woning af.

- 1) Die aansoek konstateer dat daar vir nie meer as 10 "gaste" voorsiening gemaak word nie. Ek sien gereeld 'n groep van ten minste 18 – 20 jong manne in die straat verbykom besig met oefeninge?! Hoe rym dit?
- 2) Wat betels die term "Upliftment Centre"? Niemand weet, en dit word geensins verder toegelig of gedefinieer nie! Dit is onaanvaarbaar.
- 3) Ek kan ongelukkig nie my toestemming vir bostaande aansoek verleen as daar NIE oopkaarte gespeel word met die aansoek nie.
- 4) As hierdie aansoek toegestaan/gekondoneer word, kan dit uiteraard die deur ooplaai vir ENIGE ander sulke **ONGEDEFINEERDE** en vae aansoeke!

Dus kan ek geensins hierdie aansoek ondersteun of goedkeur nie.

Dankie.

Hoogagterd

*J. M. Kruger*  
J.M. Kruger

Erf 3417,

Albertynrylaan

Bettysbaai.

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	15
COLLABORATOR NO:	1010492

TO .....



Johannes de Koker  
 Dolphin Rylaan 3336  
 Bettiesbaai  
 03/04/2017

TR- A T heart  
 C H Jd Stoep)

**BESWAAR TEEN:**

**Aansoek om opheffing van titelbeperkings en vergunningsgebruik van erf 3054, Bettiesbaai.**

Met die skrywe maak ek ten sterkste beswaar teen die opheffing van beperkende titelvoorwaardes en vergunningsgebruik van toepassing op erf 3054, Betty's Baai, aansoek om die woonhuis op die betrokke eiendom as "opheffingsentrum" aan te wend.

1. Die titelaktes vir die erwe bokant Clarence Rylaan, reg teen die berg en die natuureservaat is met goeie redes so saamgestel. ( wat Seaview Rylaan insluit) Sien punt 8.
2. Die omgewing, Sunny Seas, is 'n rustige vakansie dorp en het geen behoefte aan 'n "opheffingsentrum" nie.
3. Daar word geen melding gemaak van navorsing/impakstudie om die behoefte vir 'n "opheffing sentrum" in die omgewing te staaf nie.
4. U beskrywing van 'n "opheffing sentrum" is baie vaag. Wat is die agtergrond en mediese/leuens geskiedenis van die persone wat die "opheffingsentrum" gaan besoek.
5. Vir 'n geruime tyd bedryf u reeds die "opheffingsentrum" onwettig, en die "gaste" is **slegs mans**. Wat is die rede hiervoor? Daar is al op 'n stadium 23 getel.
6. Wetgewing, Bestuur, Logistiek en Munisipale dienste is enkele faktore wat in plek moet kom vir die wettige bedryf van die voorgenome "opheffingsentrum".
7. Wat is die plaaslike Gesondheids Inspekteur se reaksie/betrokkenheid by die goedkeuring van so 'n "opheffingsentrum"? Munisipale owerhede het reeds in die verlede 'n audit gedoen en dit het ver te kort geskied? Die "soak away" is bv totaal onvoldoende!!
8. Die **impak** van goedkeuring om Titelakte voorwaardes te omsel, kan met nadelig wees vir ons omgewing wat daarna streef om die natuurlike habitat te beskerm. Die verslag beskryf juis die mooi uitsig (lower lying areas of Betty's Bay and the ocean) vanaf die area bokant Clarence Rylaan. Goedkeuring van die aansoek gaan lei tot nog verdere aansoeke omrede die pragtige ligging van die Seaview Rylaan erwe, en kan lei tot 'n **groot impak** op munisipale dienste in die omgewing... dienste wat reeds onder druk verkeer!

Dolphin Rylaan 3336

Posbus 278, Bettiesbaai, 7141

Johannes de Koker

083 282 5326

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	50
COLLABORATOR NO:	1010184

- 3 APR .07

ANNEXURE F 101/184



TR A Theart  
C H vd Stoep)

Stads en Streeksbeplanners29 Maart 2017Hermanus

Aansoek om opheffing van Titelbeperkings en Vergunningsgebruik van erf 3053<sup>4</sup> Bettiesbaai.

L & A Nel ERF 3049 Sunny Seas Bettiesbaai

Met verwysing na bogenoemde aangeleentheid wens ek hiermee my ernstigste beswaar teen die opheffing van titelbeperkings op erf 3053<sup>4</sup> Bettiesbaai aan te teken. En wel om die volgende redes.

1) Riool:

Dit is onverantwoordelik om te verwag dat 12 + volgroeide mans met slegs n plaastoilet ("soak away") moet klaarkom.

2) Opheffings Sentrum (omskrywing te vaag)

Wie word opgehef en waarvan word hulle opgehef

Wie doen die opheffing, is dit profesionele opvoedkundiges of is dit geloofs opheffing.

Wie hou oorhoofs toesig m.a.w. is daar n instansie, staats of munisipaal, wat die opheffingsentrum tot verantwoordelikheid kan roep indien nodig.

Met so vae omskrywing kan hierdie sentrum in enigeiets ontaard.

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	49
COLLABORATOR NO:	1010181

P 2 APR. 07

**3) Lisensie:**

Hierdie opheffingsentrum word as n besigheid bedryf en moet dus n lisensie bekom - wie is by magte om so lisensie uit te reik.

**4) Veiligheid:**

Die opheffingsentrum is in die middel van huise wat grootliks deur afgetrede ouer mense bewoon word. Die peleton vormaat gedraf van n groep jong mans daaglik deur die strate intimideer van die ouer mense en hulle voel bedreig.

**5) Geraas:**

Die oefening in die motorhuis en oprit met swaar gewigte en n boks slaansak gaan gepaard met geraas soos in n gymnasium en is hinderlik en ontsuur die rustige atmosfeer van die buurt.

**6) Geloofs gebonde**

Alhoewel Alpac Investments CC onken dat die sentrum geloofs spesefiek is, wys die werklikheid die teendeel. Die feit dat hulle dit ontken laat menige vrae ontstaan.

7) Daar is absoluut geen behoefte aan n opheffings sentrum in hierdie area nie en indien die vergunning toegestaan word laat die streeksbeplanners hulle oop vir regsaksie deur die inwoners wat die vergunning teenstaan.

Dankie

L&A Nel

Erf 3049 Sunny Seas Bettiesbaai

ANNEXURE F 103/184



TR A heart  
C H uids toup

From: Peter Lister <lstma465@gmail.com>  
To: <loratta@overstrand.gov.za>  
Date: 04/04/2017 07:57 AM  
Subject: Objection to removal of Restrictions to erf 3054, Seaview Drive, Bettys Bay

Municipal Manager, Overstrand Municipality, Hermanus.

Dear Sir,

I Wish to record my objection to the lifting of restrictions to erf 3054 as envisaged by Plan Active in their reg. mail dated 28-2-2017 for the following reasons: 1. When I purchased my property at erf 3073, Seaview Drive it was pointed out to me what restrictions applied to the property in the title deed i.e. only one family to occupy the premises, no business, boarding house, etc to be permitted! 2. The owner of erf 3054 has apparently been operating a Drug rehabilitation center for the past year even after having been warned to stop by the Municipality. 3. The applicant is attempting to hide the fact that it is a drug rehab. center by calling it an Upliftment facility. 4. Persons with drug problems regularly "escape" from this type of facility And commit crimes in order to obtain money for drugs! 5. This type of facility will impact on the value of property in our suburb! 6. If the application for rezoning is granted it will create a precedent for future applications of this sort!

Thank you

Please acknowledge receipt!

PSH Lister

Owner of 3073 Seaview Drive, Bettys Bay tel : 0218552215

Cell 0712993304

Email : lstma4657@gmail.com

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	48
COLLABORATOR NO:	1010178

TP - 4 APR .07

ANNEXURE F 104/184

TRATheart  
(Huld Stoep)

Loretta Gillon - Application for removal of title deed restrictions and consent use of ERF  
3054 Betty's Bay.



**From:** "Ere and Raoul van den Berg" <vandenbergs@sonicmail.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 03/04/2017 09:38 AM  
**Subject:** Application for removal of title deed restrictions and consent use of ERF 3054 Betty's Bay.

Ms. H van der Stoep,

Thank you for including us in the circulation of this application.

As your document clearly states: "This 'erf' 3054 is situated within a single residential area with land uses that can be accommodated within a zoning of Residential Zone 1 and includes single residential dwellings, holiday homes and guesthouses."

Betty's Bay character can be defined as a holiday town that creates a peaceful and tranquil setting for retired residence, residents, holiday makers and tourists. It is extremely important that this is maintained and is one of the reasons that so many holiday makers and tourists frequent our shores. By allowing another 'Upliftment Centre' (OBUC already exist, see [www.obuc.co.za](http://www.obuc.co.za)) is not in line with the character of this town for the following reasons:

1. Patients treated in these facilities suffer from physical and mental disorders often brought about by drug & substance abuse.
2. These patients often gets into the 'Upliftment' system due to criminal acts and have criminal records.
3. Although their treatment includes psychotherapy it also includes a militaristic regime of discipline and physical exercise. They can often be heard 'chanting' and running down the road in a military training squad.
4. This military regime feels threatening to the residents and tourists of the area and has already been given the nickname 'is Training Camp!!'.

Please consider this application carefully before approving it. It is our view that such an establishment is better suited in the cities where the infrastructure, environment and resident's perceptions are already established to deal with this better.

Best regards,

PS: Please acknowledge receipt of this email.



Van Den Berg's Guesthouse,

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	47
COLLABORATOR NO:	1010172

3 APR 07

*B&B and Self Catering Suites*



**Era & Raoul van den Berg**

E-mail: [vandenbergs@sonicmail.co.za](mailto:vandenbergs@sonicmail.co.za)

Web Address: [www.vandenbergs.co.za](http://www.vandenbergs.co.za)

Home: +27 28 272 9039

Mobile: +27 83 302 9336 or +27 82 883 2807

ANNEXURE F 106/184

TR A Theart  
(H Jol Stoop)Loretta Gillion - OBJECTION TO FURTHER DEVELOPMENT OF 3054 SEAVIEW  
DRIVE, BETTYS BAY

**From:** Sharon Crawford <sharoncrawford7@gmail.com>  
**To:** "loretta@overstrand.gov.za" <loretta@overstrand.gov.za>  
**Date:** 03/04/2017 05:31 PM  
**Subject:** OBJECTION TO FURTHER DEVELOPMENT OF 3054 SEAVIEW  
 DRIVE, BETTYS BAY



ATTENTION : LORETTA  
 MR GROENEWALD, MUNICIPAL MANAGER

Please note that I would like to lodge my STRONG objection to the Erf 3054, SEAVIEW Drive, Betty's Bay being developed further into any type of business i.e. Wellness / Upliftment Centre as well as the current operation of a Drug Rehab Centre. This area, Betty's Bay as a whole is a quiet village where people make a conscious decision to live because of the quietness, lack of commercialism, and unwelcome, unlawful elements.

Please, in keeping with the establishment of Sunny Seas Township in 1934 keep this area and our entire village as Special single residential even.

Sincerely

SHARON CRAWFORD  
 3978 Betty's Bay.

FILE NO:	EL 3054
	Betty's bay
SCAN NO:	45
COLLABORATOR NO:	1010149

- 3 APR 2017

ANNEXURE F 107/184

Loretta Gillion - OBJECTION ERF 3054 SUNNYSEAS, Betty's Bay

**From:** Hans van Dyk <hansvdyk@gmail.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 03/04/2017 04:31 PM  
**Subject:** OBJECTION ERF 3054 SUNNYSEAS



TRA Theop  
CH vld stoep)

The Municipal Manager  
Overstrand Municipality

Dear Sir/Madam,

OBJECTION ERF 3054 SUNNYSEAS

I herewith wish to register an objection against allowing a development on any erf in Sunnyseas or Betty's Bay and specifically on erf 3054 in defiance of the restrictions imposed by the deeds of the relevant erven.

Any such development will of itself and by means of the precedent created negatively affect all other landowners in the vicinity. Not allowing the development will affect nobody negatively as the owners of the relevant RESIDENTIAL plot were aware of the restrictions from the time of purchase. To apply for a change in zoning is a way of avoiding the higher prices of commercial or correctly zoned land, and is detrimental to the social structure of a residential area. This is also done to take advantage of lower prices in areas such as ours although the clients are drawn from other areas.

Please note my strongest objection, and kindly acknowledge receipt of this mail.

Yours,

H J van Dyk  
Owner erf 2943  
Betty's Bay

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	H2
COLLABORATOR NO:	1010142

3 APR 2017

ANNEXURE F 108/184

Loretta Gillion - OBJECTION TO Removal of title deed restrictions and consent use of ERF 3054 Betty's Bay



From: \*Mark\* <clausm@telkomsa.net>  
To: <loretta@overstrand.gov.za>  
Date: 03/04/2017 12:07 PM  
Subject: OBJECTION TO Removal of title deed restrictions and consent use of ERF 3054 Betty's Bay

TR A Thant  
(H. vd. Stoop)

The Municipal Manager  
Pos box -20  
Hermanus

OBJECTION TO Removal of title deed restrictions and consent use of ERF 3054 Betty's Bay  
To whom it may concern

We are the title holders of 3200 Pearl Drive Sunny Seas.

The Erf above Clarence drive is zoned "Special Residential" for good reason and such a proposed removal of Title deed restrictions will dramatically affect the Sunny Seas community and nature of this area also affecting property valuations and would create a precedent for further expansion and similar developments.

The current "UPLIFTMENT CENTER" has been illegally operating for some time as we regularly witness groups, larger than the proposed limit of 10 walking through the streets of Sunny Seas. This is not only intimidating but out of character for this area.

If the current situation already shows non-compliance in operating illegally and exceeding the proposed number of "OCCUPANTS" how will future control be kept in this regard.

No mention is made of what this "UPLIFTMENT CENTER" is, are they rehabilitating drug users, criminals, psychiatry patients and could they harm or pose a threat to surrounding properties and residents, many of which live alone and are retired. It must also be noted that these groups of men make no effort in keeping with the quietness of the area and are quite raucous at the best of times when congregating and jogging.

Furthermore sound amplification from properties above Clarence will be significantly higher given the number of proposed residents on an erf bordering the mountain.

We therefore strongly oppose this application.

Please acknowledge receipt of my objection.

**M & L. Clausen**  
**0837032810**

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	41
COLLABORATOR NO:	101014

3 APR 2017

ANNEXURE F 109/184

Die Munisipale Bestuurder  
 Owerstrand Munisipaliteit  
 HERMANUS  
 U verwysing: H van der Stoep

1 April 2017

FILE NO: 62 3054
Betty's Bay
SCAN NO: 18
COLLABORATOR NO: 1009993
H van der Stoep



TR A Theart  
 (H van der Stoep)

ERF 3054 BETTIESBAAI  
 MUNISIPALE KENNISGEWING NR 36/2017

Ek, die ondergetekende, is die eienaar van Erf 3237 Bettiesbaai en my kontakbesonderhede is:

[nielenw@nmilaw.co.za](mailto:nielenw@nmilaw.co.za), telefoonnommer: (021) 939 3007, selnommer: 0828152690.

1. Bogenelde kennisgewing verwys deurgaans na "upliftment centre" maar paragraaf 3b van die kennisgewing "zoning" maak geen vermelding van 'n "upliftment centre" nie.
2. Ek vind nrens enige verduideliking van die term "upliftment centre" in die kennisgewing nie; die terminologie is vaag en niksseggend.
3. In paragraaf 5 word melding gemaak van "Due to the demand"; watter "demand" is daar as ek nie eens kan vasstel en my eie ondersoek en navrae doen as daar nie 'n verduideliking is van wat bedoel word met 'n "upliftment centre" nie.
4. In paragraaf 5 "Proposal" word daar gemeld dat die gaste nie mediese behandeling benodig nie en ook "do not have medical conditions". Wat is 'n "medical condition"?
5. In die gemelde paragraaf 5 word daar ook verwys na fisiese fisheidopleiding en "lecture sessions"; ek weet nie wat die "lecture sessions" behels nie en dit laat my weer met die vraag wat bedoel word met "upliftment centre":
  - 5.1 Die gaste is nie onderhewig aan mediese behandeling nie.
  - 5.2 word hulle moontlik onderwerp aan een of ander vorm van indoktrinasie wat strydig is met die landswette?
  - 5.3 die inligting wat in die kennisgewing verskyn is so vaag dat ek as belanghebbende geen afleiding kan maak oor die bedrywighede van die "upliftment centre" nie.

MWL

-2-

6. Is die "upliftment centre" geregistreer by enige staatsdepartement wat toesighouding vereis?
7. In Aspek van die huidige bedrywighede op Erf 3054 wat ietwat ontstellend is, is die feit dat tussen 10 en 20 mans, afkomstig vanaf Erf 3054, in die oggend in militêre gelid deur Sunny Seas draf. Is dit deel van die "upliftment centre" se program?

Aangesien u kennisgewing nie voldoende inligting bevat oor die beoogde aktiwiteite van die instelling nie, opponeer ek beide aspekte van die aansoek en spreek ek my kommer uit oor my waarnemings soos vervat in paragraaf 7 hierbo.



N W MARAIS

.....  
Ontvangserkenning

.....  
Datum

ANNEXURE F 111/184

P S Simpson

From: P S Simpson <alliete@talkamsia.net>  
 Sent: 30 March 2017 05:52 PM  
 To: 'loretta@overstrand.gov.za'  
 Cc: 'sdkrige@gmail.com'  
 Subject: BESWAAR TEEN DIE AANSOEK OM OPHEFFING VAN TITELBEPERKINGE EN VERGUNNINGSGEBRUIK VAN ERF 3054, BETTYSBAAI

FILE NO: <u>EL 3054</u> <u>Betty's Bay</u>
SCAN NO: <u>17</u>
COLLABORATOR NO: <u>1009979</u>

Die Munisipale Bestuurder  
 Overstrand Munisipaliteit  
 HERMANUS

Vir Aandag: Me H Van Der Stoep

in: 28 Maart 2017



Geagte Mr Die Munisipale Bestuurder,

Ek, Philippus Strydom Simpson, eienaar en voltydse bewoner van Erf 3373, Albertynlaan, Sunny Seas, Bettysbaai: MAAK TEN STERKSTE BESWAAR teen die aansoek van Alpac Investment CC om opheffing van titelbeperking en vergunningsgebruik van erf 3054, Bettysbaai ten einde 'n "Upliftment Centre" te vestig en te bestuur.

REDES VIR BESWAAR: Srywer het die brief van Plan Active, gedateer 17 Maart 2017, en gerig aan Loretta Gillian met afskrif van Guy Roberts onder de gehad. Gegewe Ad Paragraaf 1 van bogenoemde brief is dit onduidelik wat die beoogde "Upliftment (Wellness) Centre" behels. Omdat dit onduidelik is wat die bedrywighede als behels en geen besonderhede verskaf word nie, is dit onmoontlik om 'n ingeligte besluit te maak. So is dit onmoontlik om te bepaal of beoogde bedrywighede moontlik 'n gevaar vir inwoners van Sunny Seas, Bettysbaai, inhou en kan sake nie maar aan toeval oorgelaat word nie.

Ook word vermeld in die srywe van Plan Active, gedateer 28.02.2017, namens Alpac Investments CC dat 'n maksimum van 10 "gaste" toegelaat sal word. Geen aanduiding word gegee van 'n instansie, van owerheidswee, wat sal toesien dat hierdie onderneming gestand gedoen word nie. Tans is srywer se waarneming dat tussen 15 en 22 "gaste" by Sea Viewweg, Erf 3054, gehuisves word. Huidige bedrywighede by vermalde Sea Viewweg (Erf 3054) is reeds vir plus minus 2 jaar of meer aan die gang, sonder die nodige toestemming vir sodanige bedrywighede. Dit dui op 'n duidelike disrespek vir bestaande regulasies (verordeninge) van die Munisipaliteit en Regering, Provinciaal en Nasionaal. Sodanige mentaliteit van die geregistreerde eienaar wek agterdog en kommer en die definitiewe moontlikheid bestaan dat sou toestemming deur die Overstrand Munisipaliteit verleen word, goedgekeurde stipulasie weer onskrei/oor tree sal word.

Volgens "5. Proposal" van Plan Active se brief van 28 Februarie 2017 is daar 'n "demand for wellness centres, upliftment centres and related land uses in the area". Geen besonderhede hoegenaamd van sodanige "demand for wellness centres, upliftment centres and related land uses in the area" word verskaf nie en geen ingeligte besluit kan dus geneem word nie. Dit is inderwaarheid srywer (wie sedert 1983 op Erf 3373, Albertynlaan, Bettysbaai, woonagtig is) se waarneming en opinie dat daar geen sodanige "demand" bestaan nie en is gemelde bewering 'n onwaarheid.

Met verwysing na p.11, paragraaf 14 "Recommendation" van Active Plan se srywe van 28.02.2017 word aangevoer dat Alpac Investment CC se voorstel groot ekonomiese potensiaal skep. Ekonomiese potensiaal is iets waarby die

## ANNEXURE F 112/184

oter gemeenskap in geheel of gedeeltelik moet baat vind. Weereens word geen besonderhede verskaf oor hoe danige potensiaal geskep sal word tot voordeel van almal nie, en kan geen ingeligte besluit geneem word nie.

Afskrif van hierdie brief gaan aan Raadslid F Krige in wie se wyk hierdie perseel in die aansoek resorteer.

IF LWA:



I. SIMPSON

T: 028 2729133

ANNEXURE F 113/184

Die Munisipale Bestuurder (Aandag: Me H v d Stoep)

Overstrand Munisipaliteit

Hermanus Administrasie

Posbus 20

HERMANUS 7200

1 April 2017

**AANSOEK OM OPHEFFING VAN TITELBEPERKINGE EN VERGUNNINGSGEBRUIK ERF 3054 BETTYSBAAI**

Geagte Mnr

As eienaar van Erf 3370 te Bettysbaai maak ek ten sterkste beswaar teen bogenoemde aansoek.

1. Dit verbaas my dat die Munisipaliteit kommentaar en/of beswaar van eienaars in die omgewing van bogenoemde erf, verwag met die gebrekkige inligting wat die aansoek vergesel.
2. Die opheffingsentrum. Wat behels dit? Selfs nadat Mnr. H.Roberts die punt aangehaal het in sy skrywe, is die antwoord daarop om die minste te se, niksseggend.
3. Hierdie sentrum bestaan al vir ongeveer 2 jaar sonder enige vergunningsgebruik van die Munisipaliteit waar 'n groep van 15-20 persone wekeliks in hierdie omgewing fisieke aktiwiteite verrig.
4. As gevolg van die gebrekkige inligting en geheimsinnigheid van die aansoek en navrae wat nie volledig beantwoord word nie, doen gerugte die rondte dat dit 'n militaristiese/geloofs opleidingsentrum is. By enige Opheffingsentrum verwag 'n mens dat daar gekwalifiseerde personeel betrokke sal wees en seker vaardighede aangeleer sal word. Wat behels die opheffing en vaardighede?
5. Dit is vir my duidelik dat inligting rakende bogenoemde saak weerhou word van die inwoners van Sunny Seas en omgewing.

n Afskrif van hierdie skrywe gaan aan Raadslid F Krige in wie se wyk hierdie perseel ressorteer.

Die uwe

P. Botes  
0833005008

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	16
COLLABORATOR NO:	1009971

ANNEXURE F 114/184

POSBUS 407,  
 BETTYSBAAI,  
 7141,  
 TEL: 083 744 1499.  
 3 April 2017.



TR. A Theart  
 (H. v. d. Stoop)

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	15
COLLABORATOR NO:	1009970

DIE MUNISIPALE BESTUURDER  
 POSBUS 20  
 HERMANUS.

Geagte Meneer,

Aansoek om opheffing van titelbeperkinge en vergunningsgebruik van Erf 3054 BETTYSBAAI.

1. Ek is die eienaar en titelhouer van Erf 3058, Sunny Seas, Bettysbaai.
2. Die geregistreerde dokument wat ek in hierdie verband van Plan Active ontvang het, versoek dat die titelvoorwaardes vir erf 3054 gewysig word om voorsiening te maak vir 'n "upliftment centre." Hierdie konsep is geweldig wyd in sy moontlike bedoeling. Wie is die kategorie van persone wat dusdanig opgehef moet word? Wie gaan die opheffing fasiliteer? Het die fasiliteerders die bewese nodige kwalifikasies en die toepaslike ondervinding vir hierdie funksie? Het hulle die nodige wetlike sertifikasie vir die spesifieke opheffing?
3. Indien die opheffing in enige sin na persone met dwelmafhanklikheid verwys, het ek 'n ernstige probleem daarmee. Uiteraard het ek geen beswaar teen die behandeling en opheffing van dwelm-afhanklike persone nie, maar dan moet die nodige formele en veiligheidsstrukture ten volle in plek wees. 'n Sodanige behandelingsentrum in 'n dorpsgebied moet onder baie streng gereguleerde omstandighede toegelaat word om te opereer en die

gemeenskap se absolute veiligheid moet die hoogste prioriteit geniet. 'n Dwelm-afhanklike persoon wat in onttrekking in 'n psigotiese toestand verval, kan sekerlik lewensgevaar vir die omgewing inhou. Indien die titelvoorwaardes deur die Munisipaliteit verander sou word, sal die Munisipaliteit as plaaslike regering en bewaker van die gemeenskap se beveiliging sekerlik vir die risikos wat hieruit mag ontstaan, moet instaan ?

4. Sprake word in die aansoek gedoen van 10 persone wat as "gaste" in die akkommodasie-gedeelte van die eiendom gehuisves sal word. 'n Groep van tot 20 persone uit hierdie eiendom word gereeld op straat opgemerk. Watter verband is daar tussen die getalle ?
5. Die feit dat die genoemde 20 of wat persone tans, terwyl die aansoek om opheffing nog in onderhandeling is, reeds by die eiendom gehuisves en "opgehef" word, laat by my baie ernstige vrae oor die integriteit van die aansoek ontstaan. Het die Munisipale Wetstoepassers al ondersoek gaan doen oor die huidige situasie op die perseel en of dit aan die nodige voorwaardes voldoen ? So nee, waarom nie ? Hier is op Erf 3054 tog ostensief iets anders as gewone behuising aan die gang – juis ook in die lig van die aansoek om titelwysiging. Indien die Munisipale wetstoepassers wel ondersoek gaan instel het, behoort die Sunny Seas gemeenskap, wat gevra word om die wysigings toe te staan, tog op hoogte gehou te word van inligting wat die aansoek spesifiek mag beïnvloed ?

Die Uwe,



A.C. GOOSEN

ANNEXURE F 116/184

24 Maart 2017

Posbus 399  
7141 BETTYSBAAI

Die Munisipale Bestuurder  
Overstrand Munisipaliteit  
Hermanus Administrasie  
Posbus 20  
7200 HERMANUS

TR A Theart  
(H. v.d. Stoep)

Meneer/Dame -

**AANSOEK OM OPHEFFING VAN TITELBEPERKINGE EN  
VERGUNNINGSGEBRUIK VAN ERF 3054, BETTYSBAAI**

Met verwysing na bogemelde aangeleentheid, wil ek begin deur my diepe misnoë uit te spreek ten opsigte van die feit dat my persoonlike besonderhede aan 'n buite-instansie, nl *Plan Active*, verstrekk is.

Volgens my *Groot Woordeboek* (Kritzinger, Schoonees, Cronje, Eksteen), word "upliftment" vertaal as "verheffing/opheffing". Is "upliftment centre" dalk net 'n plaasvervanger vir "rehabilitation centre"? Nérens in die tywige dokument wat ons ontvang het, word egter melding gemaak presies waarvoor/waarvan die "besoekers" aan die eiendom opgehef gaan word nie. Is dit misdadigers wat dalk op parool is; dwelm-/drankverslaafdes wat gerehabiliteer moet word of is dit dalk opleiding wat aan voornemende terroriste verskaf gaan word?

Verder is daar, volgens my kennis strek, geen gastehuse, boetiekhotelle of bed-en-ontbyt-ondernemings aan die bokant van Clarencerylaan nie. Indien daar is, is dit waarskynlik onwettig.

Ek gaan stap gereed in die buurt, en het al tussen 17-20 "besoekers" aan daardie eiendom in die pad teëgekóm. Watter waarborg het ons en wie gaan dit monitor dat die getal "besoekers" aan die eiendom nie 10 gaan oorskry nie?

Hiermee wil ek dus my beswaar boekstaaf teen die aansoek om opheffing van die titelbeperkings en vergunningsgebruik van erf 3054, Bettysbaai.

Die uwe

(Me) A.A.L LOUBSER (E.F. 3208)

FILE NO:	EL3054
	Betty's Bay
SCAN NO:	14
COLLABORATOR NO:	1009968

- 3 APR 07

FROM : H VAN WYK

PHONE NO. : 021 8833691

ANNEXURE F 117/184  
Apr. 03 2017 03:02PM PT

Aandag: Me H. Van der Stoep

Tel. 021-2729925



TP-A Theart  
(H. van der Stoep)

Postbus 448  
Bettysbaai  
7141  
1 April 2017

Munisipale Bestuurder  
Postbus 20  
Hermannus  
7200  
Meneer

Erf 3054, Seaviewweglaan, Bettysbaai, Overstrand Munisipale  
Area: Ophoëffing van Beperkende Voorwaardes en Vergoedings-  
gebruik: Plan Active (NMS Alpaca Investment CC)

Hiermee wil ek as eienaar van erwe 3243 en 3215  
te Sunny Sea, Bettysbaai bewys maak teen  
die aansoek om ophoëffing van titelbeperkinge en  
vergoedingsgebruik van Erf 3054 vir die gebruik  
van 'n "upliftment Centre".

Die uit  
C. M. van Wyk

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	13
COLLABORATOR NO:	1009967



ANNEXURE F 118/186

Tel 028 2729506

Posbus 192  
BETTYSBAAI  
7141  
23 Maart 2017



Munisipale Bestuurder  
Posbus 20  
HERMANUS

Meneer

ERF 3054, SEAVIEWRYLAAN, BETTYSBAAI, OVERSTRAND MUNISIPALE  
AREA: OPHEFFING VAN BEPERKENDE VOORWAARDES EN  
VERGUNNINGSGEBRUIK: PLAN ACTIVE (NMS ALPAC INVESTMENT CC)

- 1 Ek is die titelhouer van erf 3242 Sunny Seas.
- 2 U advertensie is geplaas kragtens Artikel 47 van die Overstrand Munisipaliteit Verordening vir Munisipale Grondgebruikbeplanning, 2016. Artikel 47 lees onder andere:
  - (1) "The municipality must cause notice to be given in the media, in accordance with this By-law, of the following applications.
    - (g) an application in respect of a restrictive condition,".
- 3 Artikel 17(w)(5)(a) van die Wet op Nasionale Bouregulasies en Boustandaarde No. 103 van 1977 lees as volg:
 

"Ondanks andersluidende wetsbepalings kan die Minister, indien hy van oordeel is dat dit vir die behoorlike nakoming of werking van enige van of al die nasionale bouregulasies of voorskrifte nodig of dienstig is dat 'n serwitut of beperkende voorwaarde of ander bepaling wat by of kragtens enige wet ten opsigte van grond van toepassing gemaak is of ingevolge die Registrasie van Aktes Wet, (Wet No. 47 van 1937), ten opsigte van grond geregistreer is of andersins ten opsigte van grond van toepassing is, ophef of gewysig word, na oorleg met die Administrateur van die provinsie waarin daardie grond geleë is en nadat die prosedure nagekom is wat by regulasie voorgeskryf is, daardie serwitut, voorwaarde of bepaling by kennisgewing in die Staatskoerant ophef of, in die mate wat hy aandui, wysig."
- 4 Dit wil voorkom asof die Munisipaliteit van voorneme is om die aansoek ten volle kragtens die verordening af te handel. Indien die voorskrifte van die Wet en Munisipale verordening met mekaar vergelyk word is dit

FILE NO:	EL 3054
SCAN NO:	Betty's Bay
	12
COLLABORATOR NO:	1009965

duidelik dat daar 'n botsing is tussen die Wet en die Munisipale Verordening omdat die een die bevoegdheid om 'n titelvoorwaarde op te hef aan die Minister toeken, terwyl die ander dieselfde bevoegdheid aan die Munisipaliteit toeken. Artikel 2 (c) van die betrokke Munisipale verordening lees as volg:

"When considering an apparent conflict between this By-law and national and provincial legislation the applicable national and provincial legislation will prevail."

- 5 Die Munisipaliteit het derhalwe nie die bevoegdheid om die betrokke titelvoorwaardes op te hef nie, dit moet deur die Minister kragtens die betrokke Wet gedoen word. Die betrokke advertensie en die hele proses wat tans daarop volg is derhalwe *ultra vires* en dus nietig.
- 6 Sedert bogenoemde advertensie verskyn het, het ek 'n geregistreerde dokument daaromtrent van Plan Active ontvang waarop my voorletters en van, adres en erfnummer verskyn. Ek kan net die afleiding maak dat die Munisipaliteit hierdie inligting aan die firma verskaf het. Bo en behalwe die advertensie is 'n uitgebreide memorandum aangeheg wat motiveer waarom die aansoek toegestaan moet word. Hoekom tree die Munisipaliteit sodanig op dat die moontlikheid geskep word vir die verspreiding van inligting bo en behalwe die advertensie. Nie een van die betrokke Wet of Verordening maak daarvoor voorsiening dat die aansoeker 'n motivering aan titelhouers per aangetekende pos moet voorsien nie. Indien sodanige memorandum toegelaat word moet die titelhouers ook toegelaat word om 'n motivering van hulle keuse in so 'n skrywe in te sluit. U sal onthou dat in die geval van erf 3371 dieselfde prosedure deur die Munisipaliteit gebruik is en dat die persoon wat die dokumente uitgestuur het die adresse van titelhouers later misbruik het ter bevordering van sy eie besigheid. Hierdie optredes is onaanvaarbaar en moet gestaak word.
- 7 Hierdie besondere erf, tesame met al die ander erwe in Sunny Seas aan die berg se kant van Clarencerylaan, is deur die Administrateur as "Special Residential" geproklameer waar die bedryf van "any place of business or entertainment whatsoever" wat klaarblyklik 'n "Upliftment Centre" insluit, verbied word. Omliggende grondeienaars, trouens alle grondeienaars in Sunny Seas, het 'n regstreekse belang omdat indien so 'n bedryf wel op 'n perseel toegelaat word dit die markwaarde van omliggende eiendomme negatief sal beïnvloed. Dis betekenisvol dat die bedryf van enige "place of business or entertainment whatsoever" ongekwalifiseerd verbied word sover dit "special residential erven" betref, terwyl wat betref "general residential erven" daar wel 'n uitsondering gemaak word vir "boarding houses". Geen "boarding house" mag gevolglik met betrekking tot "special residential erven" toegelaat word nie.

- 8 Deur die kennisgewing alleen, is grondelenaars in Sunny Seas bowendien geensins behoorlik ingelig oor wat 'n "upliftment centre" behels nie. Dis 'n amorge en vae begrip wat feitlik enigiets kan beteken. Oenskynlik sal dit gesondheids- finansiële, sowel as welsyns implikasies hê, wat sou meebring dat verdere owerheidsorgane ook betrokke moet wees. Die blote bewering dat kliente van die "upliftment centre" of "wellness centre" nie mediese sorg sal verlang nie, is aanvegbaar. Is dit 'n rehabilitasiesentrum? Waarvandaan en waarheen moet kliente ge-uplift word? "Upliftment" beteken dat hulle van 'n onaanvaarbare laer vlak opgehef moet word. Dit is insiggewend dat hierdie persone van elders ingevoer word en nie in hul eie omgewing opgehef word nie. Hierdeur word 'n rustige dorp wat hoofsaaklik uit afgetrede persone bestaan versteur.
- 9 Dit is ook opmerklik dat ten spyte daarvan dat die aansoeker reeds vir jare weet dat hulle die perseel onwettig benut hulle tot op datum nog geen poging aangewend het om die onwettige optrede te staak nie. Met betrekking tot hul verklaring dat die gebou gebruik word om 10 persone in te huisves het ek al by verskeie geleenthede tot 20 persone getel in die peloton wat ons strate betrap. Van my versoek op 18 Junie 2016 dat die onwettige benutting van die perseel binne 30 dae gestaak word het niks gekom nie. Met al hierdie negatiewe optrede wat hulle aan ons opdring, hoe kan dit verwag word dat hulle in die toekoms binne die wettike voorskrifte sal optree.
- 10 Daar is 'n hofsaak hangende met betrekking tot die bedryf van 'n "upliftment centre" op hierdie betrokke perseel. Ek is van mening dat dit voortydige optrede deur die Munisipaliteit sal wees om 'n finale beslissing oor hierdie aangeleentheid te neem voordat die finale hofbeslissing beskikbaar is.
- 11 Aangehag is 'n regsmeining van professor Andre Rabie.

Die uwe  
  
 F. J. v.d. Westhuizen

ANNEXURE F 121/184

6261 Erinvale  
SOOMERSET WES  
7130  
23 Maart 2017

Die Munisipale Bestuurder  
Overstrand Munisipaliteit  
Postbus 20  
HERMANUS

Meneer

INSAKE AANSOEK OM OPHEFFING VAN TITELBEPERKINGS EN  
VERGUNNINGSGEBRUIK VAN ERF 3054 BETTYSBAAI

Ek het kennis geneem van die aangehegte skrywe van mnr. F J J v d  
Westhuizen. As 'n juris onderskryf ek sy uiteensetting van die regsposisie.

Baie dankie vir u aandag.

Die Uwe



Professor Andre Rabie  
Emeritus Professor  
Departement Publiekreg  
Fakulteit Regsgeleerdheid  
Universiteit van Stellenbosch

ANNEXURE F 122/184

F&amp;B'S HELM

PO Box 676

Betty's Bay - 7141

ERF 3515

R 073-22-73-175

15<sup>th</sup> March 2017RE ERF 3056 & REMOVAL OF  
DEED RESTRICTIONSTRA Theart  
(Hulal Stoop)

TO MUNICIPAL MANAGER OVERSTRAND MUNICIPALITY

Sir,

We object in the strongest possible terms to any variation to the title deeds.

Reasons.

Any change will open the door to further expansion of the facilities, we believe that the proposed centre will be expanded beyond the present limits requiring further deviations to be required!

The restrictions were placed to maintain a standard for the area and should be retained.

If the removal is granted other residents may apply for changes to their title deeds and be granted on the precedent established.

Yours F&amp;B's Helm

Frank Helm

FILE NO:	EL 3056
	Betty's Bay
SCAN NO:	11
COLLABORATOR NO:	1009964

P

APR 07

ANNEXURE F 123/184

STUART HORN

3276 Albertyn Street Bettys Bay  
stuartgeorgehorn@gmail.com

24 MARCH 2017

Municipal Manager  
Overstrand Municipality  
PO Box 20  
HERMANUS  
7200

ATT. Ms H van der Stoep

OBJECTION TO THE CONTENT OF MUNICIPAL NOTICE 36/2017  
re erf 3057 11 Seaview Drive Bettys Bay

I object to the proposed development as

1. "Upliftment Centre" is vague in description. What is being uplifted? If it is health, is the facility properly registered as a health facility? If it is a mental health facility or rehab clinic, please provide proof of the registration thereof with the Health Professions Council and other authorities.
2. It is apparent the business is already operating in defiance of current legislation re residential even in the Sunny Seas Township
3. The legislation is quite clear that the land uses Residential Zone 1 are for dwellings, holiday homes and guesthouses. Business use is clearly excluded.
4. Please ask the owner of erf 3054 Bettys Bay Alpac Investments to provide a letter stating he has no objection to anyone establishing an upliftment centre next door to his own private home in Durban/Johannesburg/wherever he resides.

Thank you,

Stuart Horn

FILE NO:	EL 2054
	Betty's Bay
SCAN NO:	10
COLLABORATOR NO:	1009962

ANNEXURE F 124/186

TR A Theart  
CHild Steep)

**OBJECTION TO THE CONTENT OF MUNICIPAL NOTICE 36/2017 AND THE RELATED REGISTERED MAIL re: ERF 3054, 11 SEAVIEW DRIVE BETTY'S BAY (NO - this is SUNNY SEAS - different rules)**



The Title Deeds related to the Special Residential erven are very clear about the restrictions of the kind of business. Clause 5.11 m of the related Title Deeds reads:

"... as being applicable to all plots in Sunny Seas Township ... NO hotel, boarding house ... or any place of business WHATSOEVER shall be opened or conducted upon the SPECIAL RESIDENTIAL erven."

These conditions were stipulated in Title Deed No T 1909/1967 under Ordinance 33 of 1934, as amended, upon approval of the establishment of Sunny Seas Township. All the erven on the Seaview side of Clarence are SPECIAL RESIDENTIAL erven. Below Clarence Drive are GENERAL Residential erven which also have certain restrictions eg these General Residential erven may NOT be subdivided.

I am lodging an objection to any proposed development of Erf 3054 on the following grounds:

- The fact that this business has been allowed to operate (see \*\*\*) on this SPECIAL RESIDENTIAL erf ALREADY contravenes the specifications in the Title Deeds.
- Ergo, with reference to the previous point, this request for relaxation of conditions flies in the face of the fact that this business is, nevertheless, still operating and that there is a current court case in process.
  - Is this a actually a registered operation?
- \*\*\* Furthermore, the fact that the matter related to the operation of a business from these premises is being handled sub judice by the Municipality (vs Alpac) speaks to an enormous blunder and unless this application is quashed, the danger of a precedent being set will affect every aspect of life in Sunny Seas.

In addition, the correct procedure re the establishment of the business was not followed viz:

- that ALL residents in Sunny Seas be notified by registered mail. This was NOT done so now there is a situation that has led to a protracted court case, which is an indictment on both the Estate Agent AND the Municipality for not checking Title Deed specifications as applicable to Sunny Seas Township and to the conditions imposed on the Special Residential erven above Clarence Drive.

The Municipality does not have a leg to stand on in this matter as by sending out registered mails this time round, they have acknowledged that their omission in the first instance is yet another detail where due diligence in granting permission for this business to operate was not observed.

And, as not all Sunny Seas residents have received the current mail speaks to the fact that the Municipal records are not up to date.

I also question that the official notices reflect that the property is in Betty's Bay whereas Sunny Seas Township operates under a separate set of legislation with further restrictions imposed on the Special Residential erven above Clarence Drive.

- It is very wrong that we, the ratepayers and citizens, should have to accept any relaxation of the specified conditions because the Municipality bungled the original application.



29 March 2017

GJ Irvine  
3179 Rockway  
Sunny Seas

Postal address: Box 66, Betty's Bay, 7141.  
Acknowledgement of this letter is requested [gjirvine@ietrica.com](mailto:gjirvine@ietrica.com)

FILE NO: EL 3054
Betty's Bay
SCAN NO: 08
COLLABORATOR NO: 1009959

ANNEXURE F 125/184

The Municipal Manager  
Overstrand Municipality  
Hermanus Administrative  
PO Box 20  
Hermanus  
7200



Erf 3371  
Sunny Saas  
Betty's Bay

TR A Theart  
CH vld Steep

31<sup>st</sup> March 2017

**Objections to the removal of title deed restrictions and consent for use of Erf 3054 as an Upliftment Centre. Municipal Notice No. 36/2017**

As the owner of Erf 3371, Betty's Bay I object to the aforementioned for the following reasons:

- 1) No information has been given as to the exact purpose of the said property.
- 2) "Upliftment Centre" is so vague as to convey no meaning whatsoever.
- 3) There is clearly no transparency regarding this whole matter.
- 4) Currently there is no adherence by the owner/owners to the bylaws of a residential area.
- 5) This is borne out by the fact that the residence has been functioning illegally for some time for purposes other than a primary dwelling.
- 6) The following attests to this fact:
  - A significant number of young men are always on the premises
  - Groups of 10 – 20 men jog in the streets of the suburb accompanied by 2 -3 men who are in charge
  - When approached they are extremely vague about what they are doing
  - We have witnessed a large gathering of men and women on the property
  - Traffic and parking in the street were a huge problem that day
  - There is no information as to the purpose of this gathering and how often it will occur.

FILE NO:	EL 3054
SCAN NO:	Betty's Bay
	07
COLLABORATOR NO:	lnaacz

TR

## ANNEXURE F 126/184

- 7) With any proposed change to the use of a residential property in any municipality, be it to a crèche, a guest house, a shop, a restaurant, etc, the residents of the suburb will be fully informed as to the following:
- The exact purpose for which the application is being made
  - From this they can deduct whether the proposed change will impact negatively on their own property and lifestyle
- 8) As no information has been forthcoming, residents are unable to make an informed decision.
- 9) If a change is made to one of those mentioned in 7) above, a regulatory body will ensure that the premises are used for the purpose of what is being applied for.
- 10) Not only is the name "upliftment centre" vague but no assurances have been given nor can it be deduced that the activities will be governed by a regulatory body.
- 11) Furthermore the number of "guests" on the property will be regulated. The application states that it will be 10 yet currently there are many more.
- 12) In summary the application falls far short of the transparency required when title deed restrictions are applied for.

Yours sincerely

Gert Kirsten

Signed: 

Date: 1 April 2017

Tel: 021 913 1362

Mobile: 082 923 0010

Email: [gfk@sun.ac.za](mailto:gfk@sun.ac.za)

Received by: \_\_\_\_\_

Date: \_\_\_\_\_

Name in full: \_\_\_\_\_

ANNEXURE F 127/184

Mr Coenle Groenewald  
Municipal Manager, Overstrand Municipality  
P O Box 20  
HERMANUS  
7200



P O Box 472  
KLEINMOND  
7195  
3 April 2017

TR A Theart  
CH vbl stap

Dear Mr Groenewald

**ERF 3054, SEAVIEW DRIVE, SUNNY SEAS, BETTY'S BAY:  
REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE AS ADVERTISED IN THE  
OVERSTRAND HERALD ON 2 MARCH 2017 AND ELABORATED ON PER REGISTERED MAIL**

I wish to strongly record my **objections** to the advertisement in the Herald for the following reasons:

- 1 During the first round of objections I was asked to reply to the Municipal Manager, Overstrand Municipality, P O Box 20, Hermanus. Much to my surprise I had **NO** direct reply from the Municipality, but correspondence came to me through Plan Active, who is appointed by the developer. I object to that.
- 2 The Municipality refers to this property in Sunny Seas in the same way as all the properties in Betty's Bay. This is absolutely incorrect as the Title Deeds of the Sunny Seas Township were in fact drawn up much later and differ from those of the village of Betty's Bay. In addition, the notice in the Herald is inaccurate as Seaview Drive is in the Sunny Seas Township and not, per se, in Betty's Bay. The truth of the matter is that all properties in Seaview Drive, Sunny Seas, which includes Erf 3054 have more restrictive Title Deeds than the area below Clarence Drive. In other words, provision is made in the related Title Deeds that this is a Special Residential area which allows only one family dwelling per property. These Title Deeds do not allow boarding houses, industrial development, sub-divisions, etc. etc. It is therefore quite clear that the Planning Department does not understand the urban layout of the properties in this specific area. Furthermore, by conceding this application a precedent will have been set. Any concession whatsoever is unacceptable.

My further objections are related with reference to the contents of the registered mail.

- 3 The subject matter is vague and rather misleading. There is no indication as to exactly what would take place on Erf 3054. It refers to an Upliftment Centre, a Wellness Centre, a Rehabilitation Centre – so which one of these is actually applicable? It should therefore have been imperative that an exact management plan and layout be made available for the change that is envisaged for the property. What does an Upliftment Centre entail? The words are embroidered in sentiment as they create the impression that this is a very innocent, worthwhile project and could therefore have been misleading to the residents of this area. This is beside the facts as laid out in (2).
- 4 In order for the Planning Department to apply their minds, they should not only look at the relevant Title Deed in taking a decision, but also include the National Building Regulation. If they understand these conditions and legal binding facets, they will see that it is virtually impossible to unilaterally, as a Municipality, take a decision on their own and advertise a removal of restrictive conditions and consent use as in the application by the developer.
- 5 As a tax payer I have certain rights which the Municipality is going to jeopardise by destroying the very reason why I purchased my property. It is not my duty as tax payer to explain the legal rights of this property to the Planning Department and Plan Active, who is acting on behalf of the developer.

FILE NO:	ER 3054
SCAN NO:	Betty's Bay
	06
COLLABORATOR NO:	1009950

- 5 APR 2017  
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-2-

6. The developer points out that this is a 5 bedroom house with bathroom facilities in which only 10 people will be accommodated after removal of restrictive conditions and consent use. That again is a fallacy, because this house has already been used as a Rehabilitation Centre for the last year and sometimes it was occupied by more than twenty individuals. How would the Municipality have control over number of occupants in this house at any given time? Again I refer to (2).
7. If this indeed is an Upliftment Centre/Drug Rehabilitation concern, it would surely fall under town planning conditions which are the same as for hospitals and recuperation centres. What did the Municipality have in mind to regulate this kind of institution? There are many other areas throughout the Overstrand where this kind of semi-industrial activity could be housed. I do believe it should be close to a hospital and depending on the inhabitants of this particular establishment, surely they would need some form of security and control over the so-called 'patients'. This is a moot point as the business has continued to operate despite being ordered to cease operations.
8. According to point 11.1 this property is not situated within the Heritage Overlay Zone as determined by the Overstrand Heritage Report (2009). May I, however, point out that it's back boundary borders directly on the Kogelberg Biosphere Reserve and that the towns within the Biosphere Reserve are part and parcel of the Biosphere's management planning. This is an international heritage site and should be honoured by the Municipality as they have signed the management document with UNESCO and other State departments.
9. It became quite apparent that the Municipality ignored the Title Deeds in Sunny Seas and applied their own interpretation of the conditions laid down. For instance, the Title Deed calls for a registered letter to be sent to every land owner of Sunny Seas Township in the event of any changes. The Municipality did not ever adhere to these criteria previously. It is now an amusing incident that during the second round application, all residents seemed to have been notified by registered letter. Does this indeed mean that the local authorities recognise the legal and binding conditions laid down in the Title Deeds? I object to the inconsistent decision-taking of the Planning Department in the Overstrand Municipality.
9. Approximately a year ago the Municipality instructed the owner (Alpac Investment CC) to stop all activities on site - these were blatantly ignored. An application, which is still ongoing, was then brought by the Municipality in the Caledon magisterial court against this company. If the owners ignored the conditions laid down by the Municipality to stop these activities and first legalise this business, will they therefore adhere to their promises in the new application as advertised by Plan Active?

In conclusion: This is not a racist issue. I would have the same opinion if the Dutch Reformed Church, the Women's Agricultural Union or whatever other organisation wanted to develop this property for similar reasons. I therefore implore you to simply apply and uphold the legal restrictive conditions that exist for the area under discussion.

Please acknowledge receipt of my letter, thank you.



P. J. VAN HEERDEN  
RIGHTFUL OWNER  
ERF 3221  
BETTY'S BAY

028 272 9105  
083 538 1500

lvhbb@mtweb.co.za

ANNEXURE F 129/184

TR A Theat  
C Huld stap)KOMMENTAAR TEN OPSIGTE VAN OPHEFFING VAN BEPERKENDE VOORWAARDES EN  
VERGUNNINGSGEBRUIK

ERF 3054, SEAVIEWRYLAAN 11, BETTIESBAAI



NAAM: Schalk Jacobus Engelbrecht  
 ID: 670531 5121 085  
 Adres: 3051 Seaviewrylaan (Seaviewrylaan 5) Bettiesbaai  
 Kontak Tel Nr: 082 927 6735  
 E-pos: schalkofs@gmail.com  
 Belang in Aansoek: Eienaar van Erf 3051, Bettiesbaai

Redes vir kommentaar

Ek versoek graag dat bostaande opheffing van beperkende voorwaardes en vergunningsgebruik nie toegestaan word nie en wel om die volgende redes:

1. Daar word geen melding gemaak van wat hierdie "upliftment centre" behels nie. Hierdie breë omskrywing is onbillik gesien in die lig dat omliggende inwoners sekerlik geregtig is om te weet aan watter toestand die kliente is wat hier toegelaat gaan word of wat die rede is waarom kliente hier ingeneem word. Dit is bv. algemene kennis dat dwelingebruikers geneig is om diefstal te pleeg - safs van hulle eie ouers. Net so is dit alombekend dat instansies wat pasiënte met sekere geestesgesondheidsprobleme inneem, daadwerklike prosesse in plek sit om seker te maak dat sommige van die kliente nie 'n gevaar vir hulself of die publiek inhou nie. Ek is verder van mening dat dit onmoontlik sal wees om te bepaal watter kategorie kliente / pasiënte hierdie "upliftment centre" sal of gaan besoek.
2. Onder die amptelike aansoek Paragraaf 5 "Proposal" word vermeld dat daar 'n groot vraag na sodanige sentrums in die area is. Daar is NIE 'n groot vraag na sodanige sentrums in die onmiddellike residensiële area / buurt nie. Ek betoog verder dat, indien daar met "area" bedoel word die Overstrand, sodanige besigheid 'n perseel anders as 'n residensiële eiendom moet bekom.
3. As bestaande inwoner het ek myself juis hier gevestig weens die rustigheid, stilte en veiligheid van die onmiddellike residensiële omgewing. Indien 'n besigheid hier toegelaat word, sal hierdie voorreg my ontnem word. Ek verwys verder spesifiek na 'n voorval waar een van die kliente / pasiënte (van hierdie "upliftment centre" wat reeds sonder toestemming in gebruik is) die perseel sonder toestemming verlaat het. Ek kan getuig dat verskeie mense (van die "upliftment centre") in die die buurt en berg rondgehardloop het op soek na hems / haar. Een van die lede het my persoonlik vervaard gevra "of ek nie die outjie gesien het nie".
4. Ek beroep my laastens op die bestaande titelvoorwaardes, welke voorwaardes met 'n rede aangebring is en ook waarvolgens bestaande inwoners, myself ingesluit, eiendom in die buurt bekom het.

Met dank

  
 S.J. Engelbrecht

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	27
COLLABORATOR NO:	1009625

TP

03 APR 2017

ANNEXURE F 130/184

Hans Strydomlaan 67

Lyttelton

Centurion

0157

26 Maart 2017



TR A-Thant  
(H vld stoep)

Overstrand Munisipaliteit

Re: Erf 3054, Seaviewweg, Bettiesbaai

Ek, Anna Johanna Hugo, is die wettige eienaar van erf 3055 geleë langs erf 3054 in Seaviewweg, Bettiesbaai maak hiermee ten sterkste beswaar teen die opheffing van beperkende voorwaardes en vergunningsgebruik: plan active (rms ALPAC INVESTMENT CC) vir erf 3054.

Ek het my geld belê in hierdie erf omdat dit in 'n rustige en stil kusdorp is en ook omdat dit in 'n biosfeer geleë is,

Vriendelike groete

A handwritten signature in cursive script that reads "Anna Hugo".

(Prof AJ Hugo)

FILE NO:	EL 2054
	Betty's Bay
SCAN NO:	26
COLLABORATOR NO:	1009622

03 APR 2017

Prof A J Hugo  
 Erf 3526  
 Bettysbaai  
 9 Januarie 2016

Raadslid L Krige, Bettysbaai  
 Overstrand Munisipaliteit

PETISIE: Teer van Disaweg Bettysbaai

Die persone wie die petisie onderteken het, versoek die munisipaliteit om dringend oorweging te stuur aan die teer van Disaweg om die volgende redes:

- Dit is uiters ongerieflik met die groot aantal voertuie wat in Disaweg ry se stof. Geen deur of venster kan aan die ooste of suidooste kant oopgelos word nie. Alles in die huis is altyd vol stof as die wind waai.

- Die voortdurende stof waai in die groot meer n en veroorsaak 'n sediment tussen die riete. Die stof en sediment beïnvloed nie net die padda-, voël- en vislewende nie, maar veroorsaak dat die riete die meer al hoe meer toegroei. Toe ons die huis vyf jaar gelede gekoop het, was die water nog sigbaar voor ons huis. Nou sien 'n mens net riete en die voëllewe en paddas is minder.

• Disaweg is 'n hooftoegang na die pillekomykolonie, asook vir die inwoners van Oxalis- en ander strate.

U ernstige en spoedige oorweging van die versoek word hoog op prys gestel. Geliewe my skriftelik in kennis te stel van u besluit by die volgende adres: Hans Strijdomlaan 67, Lyttelton, Centurion, 0157

Vriendelike groete.  
Anna Hugo

Voorletters en van	Handtekening	Erf nr	Set nr
A J Hugo		3526	0827355299
A. V. NAIDOO		3525	0829942449
P. Famaia		3524	078-587757
K. Kiewit		3522	084 886700
S FERGUSON		3527	0798145233
LJ Gosses		3543	0836272895
T. VAN HOFSE		3551	0722465604
E. Woodman		3544	060456871
L MEYER		3533	0842899999
E MOEN		3558	0828202311
J. BIER		3523	0822391574
R Manser		3545	0828776724



ANNEXURE F 134/184

**KEITH JENKINGS**  
ATTORNEY NOTARY CONVEYANCER



Your Ref:  
Our Ref: KEJ/sc/T9912

7 Sunninghill Road,  
7800 WYNBERG

P O Box 19003  
7824 WYNBERG

Tel: (021) 762 1516 / (021) 762 1519  
Fax: 089 816 5628  
Email: jenkslaw@yebo.co.za  
Docex: 26, Wynberg

TRATHART  
(Huldstrop)

2017-03-28

The Municipal Manager  
Overstrand Municipality  
16 Paterson Street  
HERMANUS  
7200  
TELEFAX: (028) 313 2083  
Email: [Loretta@overstrand.gov.za](mailto:Loretta@overstrand.gov.za)

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	24
COLLABORATOR NO:	1009618

Dear Sir // Madam

**Re: APPLICATION FOR REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE BY ALPAC INVESTMENT CC (REGISTRATION NO. 2009/165613/23) OVER ERF 3054 BETTY'S BAY**  
**COMMENTS IN TERMS OF SECTION 51 AND SECTION 52 OF THE OVERSTRAND MUNICIPALITY BY-LAW OF MUNICIPAL LAND USE PLANNING, 2016**

I represent Mrs Susan Turton-Botha who is the owner of Erf 3056 Sea View Drive, Betty's Bay.

My client hereby opposes and objects to the Application for the Removal of the Title Deed Restrictions and Consent Use as applied for by the owner of Erf 3054 Betty's Bay (hereinafter referred to as the "Applicant").

My client's reasons are as follows:-

1. My client will firstly comment on the application submitted by the applicant. In paragraph 2.1 of the application, the applicant states that the current land use can include single residential dwellings, holiday homes and guesthouses. At the moment, in the area surrounding the property, there are only single residential dwellings and holiday houses but no guesthouses. In fact, Betty's Bay is essentially an area which has holiday homes, residents who are retired persons and some families where the parents commute to towns outside of Betty's Bay to work. Betty's Bay has very few businesses and they are mainly situated

Keith Evan Jenkins (BA, LL B.)

5 1 APR 2017

- on Clarence Drive. The character of Betty's Bay is that of a small village of mainly holiday makers and retired persons.
2. In paragraph 2.2, the applicant states that it wishes to operate a "so-called" upliftment centre. The applicant provides very few details as to the nature of the upliftment centre. In fact, the Applicant has been very vague and nebulous with regards to the details of the upliftment centre. The owner refers to the people who will visit the upliftment centre as guests. However, it is my client's contention that the use of the words "guests" is a misnomer as it implies that the upliftment centre will be similar to a guesthouse. My client's property is in close proximity to the applicant's property as it is one plot away from the property and the plot between the two properties is a vacant plot. The applicant has been running the upliftment centre since it took ownership of the property in 2014 in contravention of the by-laws of the Overstrand Municipality and my client has been able to observe its modus operandi. Firstly, at times, there have been more than ten persons with up to twenty one adult males at any one time, staying in the property. There have been only men between approximately 20 to 40 years of age at the centre and no women and children. Consequently, the nature of the activities on the premises and the intent of the Applicant is to accommodate a specific group of men and not general accommodation for the general population or community of people. The activities appear to be more than recreational and consequently inconsistent with the domestic and social environment. The activities involve physical training such as jogging and gym type activities, lectures and loud noise. At night, the noise levels are excessive and the first floor is lit with fluorescent lighting which is very bright. There are no curtains or blinds on the windows and the light shines outside and is a form of light pollution. There do not seem to be any domestic workers on the property so the "guests" do all their own domestic chores such as cleaning, tidying etc. The persons staying at the property are more like persons being assisted in some form of a special recovery programme than guests. It has been speculated that it is a drug rehabilitation centre. My client is not convinced that the occupants of the upliftment centre are there voluntarily. Recently, one of the occupants of the upliftment centre ran away and was found hiding on a neighbouring property. He was collected by other occupants of the upliftment centre and forced to return. This incident caused fear amongst residents of the neighbouring properties and also raises security concerns. Also, no means of the occupants' own transport has been observed since 2014 other than the communally used vehicle to transport the occupants which is normally a bakke. With ten occupants and a manager and his family, it will mean that there will be at least fourteen people staying on the property at any one time which is an excessive amount of people for a single dwelling. The number has been consistently exceeded since 2014 being the year that the Applicant took occupation.
3. In paragraph 5, the applicant states that there is a demand for wellness centres and upliftment centres in the area. My client disagrees with this assumption and the Applicant has not provided any evidence of this demand. There is, in fact, no demand for an upliftment centre in Betty's Bay. The people visiting the upliftment centre are not from Betty's Bay but have been brought to Betty's Bay from other parts of

South Africa. If the applicant runs an upliftment centre with two persons per bedroom, it would be similar to a boarding house with the exception that the applicant's occupants would have to be part of the activities of the upliftment centre which is in contravention of the current land use of the property. It should be noted that the Applicant is already running the upliftment centre, and has been since 2014, prior to obtaining approval and is in contravention of the Title Deed Restrictions and the current zoning of the property. In addition, the Applicant has resisted and ignored municipal directives to conform to the Regulations resulting in a Municipal Court instituting legal proceedings which are still in process.

4. In paragraphs 2.2 and 9, the applicant requests the upliftment of Title Deed Restrictions so that it can operate the upliftment centre. My client is opposed to the upliftment of these Title Deed Conditions. The restrictive conditions in the Title Deeds are there to serve a particular purpose which is to retain the character of Betty's Bay as a place for families. The Title Deed restrictions specifically state that there should be no hotel, boarding house, canteen, restaurant, bioscope, shop, factory or any place of business or entertainment whatsoever on these Erven. Should the Title Deed restrictions be uplifted, then it will immediately change the character and ambience of the immediate surrounds as businesses will be able to operate from the area. It will also create a precedent. Once the upliftment centre is allowed to operate legally, then it would be difficult to prevent other upliftment centres, wellness centres and institutions from opening in the area thus changing the character of the area. The Applicant would be running a business in a residential area which can only have a negative effect on the area. The Applicant states that the use of the house as an upliftment centre is similar to a guesthouse. My client begs to differ. A guesthouse does not have people staying in all its rooms every day of the year. Guesthouses have busy periods such as holiday times and weekends, but are rarely full on a permanent basis. Those who frequent a guesthouse are holiday makers looking for peace and quiet. The owner of an upliftment centre is running a business. He will want to house the maximum amount of people in the centre all year round. The occupants of the upliftment centre follow a programme of jogging, use of a gym etc which means that the property will be busy all the time. The Applicant states that it does not have any intention to alter the existing buildings. However, it has applied for the removal of the Title Deed Restriction Nos. C(i)(5)(b) which reads as follows: "C(i)(5)(b) - It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith" and C(ii)(m) which reads as follows: - "C(ii)(m): No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven." Section C(i)(5)(b) is not relevant to the Applicant's stated intention. If this restriction is removed, then the Applicant can extend the existing building or erect additional buildings on the property. Should Council agree to these particular Title Deed restrictions being removed, then a precedent is created for all other owners of properties constructed on the Special Erven to similarly apply for the removal of the restrictive

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conditions, including my client. At the time of the establishment of the township, some erven including the one in question and those in the immediate surrounding area were designated as Special Erven, the consequence of which was to impose greater restrictions on these erven than on the other erven in Betty's Bay designated as General. My client requests that the Council, in its deliberations applies its mind to these special distinctions of erven. The intention was to retain the original purpose and character of the special erven for domestic residential purposes.

5. In paragraph 6, the Applicant characterises the area as a medium to higher income area and Betty's Bay as a tranquil and quiet holiday town. The upliftment centre hardly fits within this characterisation. The upliftment centre currently operated by the Applicant is a centre for young men. They do not appear to have any transport and they do not appear to have any help to assist them in domestic chores. An upliftment centre, by its very nature, is a centre that assists those for whom life has been difficult, to uplift and improve themselves. While the Applicant may be lauded for trying to uplift the less fortunate, it is my client's submission that a medium to higher income area is not the appropriate place to have an upliftment centre. It is my client's submission that by allowing the upliftment centre to operate from the property, it will be deleterious for the area.
6. In paragraph 14, the applicant states that the proposed consent use and removal of the restrictive Title Deed Conditions will not have a negative effect on the current character and land values of the surrounding erven. It is my client's contention that the opening of the upliftment centre will have a negative effect on the current character of the area. Since the applicant has been operating the upliftment centre, my client has come to Betty's Bay less frequently as it is no longer the quiet place that it used to be where my client could get away from the hustle and bustle of the city. Now, my client's previously peaceful and quiet home is situated next to a place where much activity takes place all day and late into the night. The quiet and stillness which my client previously experienced has been taken away by the activities of the upliftment centre. This will also have a negative effect on land values as it will no longer be sought after as a prime holiday area. My client notes that the owner of the plot next to the upliftment centre has put the plot up for sale and despite being many months on the market, it has not been sold as yet. Also, the greater portion of the Betty's Bay community as represented by the immediate neighbours and Betty's Bay Ratepayers' Association have viewed these activities and developments, and it is seen in a negative light by these groups. It is also felt that the upliftment centre would have a negative impact on property sales. The Application, in paragraph 14, states that the proposal creates great economic potential which by implication suggests a commercial activity which is contrary to what the Title Deed permits and which will change the character of the area.
7. It is also a concern for my client that should this application be successful that the applicant will not operate within the conditions of the approval. The upliftment centre has been operating since 2014 in direct contravention of the by-laws of the Overstrand Municipality and the Title Deed Conditions of the property. The Municipality has tried to

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- engage the applicant but to no avail. The applicant has evaded service of a summons on it and correspondence sent to it by the Municipality has been ignored.
8. There are presently court proceedings in the Courts instituted by the Municipality's legal department to enforce Applicant's conformity to the existing local regulations.
  9. My client also wishes to record that the previous Ward Councillor Lisel Krige and the Betty's Bay Ratepayers Association are opposed to the present illegal activities on the property as well as the Application for the Removal of Restrictive Title Deed Conditions and consent use.

For the reasons as set out above, my client hereby opposes the Application for the removal of the restrictive conditions and for the consent use.

Yours faithfully



KEITH JENKINGS

Your Ref: PA15034

Our Ref: Erf 3160 Bettys Bay

ANNEXURE F 139/184

Paul Rischbieter  
 3160 Seaview Drive  
 Bettys Bay  
 7141  
 P O Box 13033  
 Dalpark Ext 1  
 Brakpan  
 1540

FILE NO:	EL 3054
	Bettys Bay
SCAN NO:	23
COLLABORATOR NO:	1009597

TR A Theart  
 (H. Wol stoep)



02.04.2017

**The Municipal Manager**

Overstrand Municipality

16 Paterson Street

HERMANUS

7200

TELEFAX: (028) 3132093

Email: [Lucetta@overstrand.gov.za](mailto:Lucetta@overstrand.gov.za)

Dear Sir/Madam,

Re: APPLICATION FOR REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE BY APPLIC INVESTMENTS cc / Registration No. 2008/165614/23) OVER ERF 3054 BETTYS BAY

COMMENTS IN TERMS OF SECTION 51 AND SECTION 52 OF THE OVERSTRAND MUNICIPAL BY-LAW OF MUNICIPAL LAND USE PLANNING 2016

I am the property owner of erf, 3160 Seaview Drive, Bettys Bay. The property was purchased for our Retirement years and chosen for its village feel and safe environment to name a few.

I oppose and object to the Application for the Removal of the Title Deed Restrictions and Consent Use as applied for by the owner of erf, 3054 Bettys Bay (herein referred to as the Applicant) for the following reasons:

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1. The Applicant states in his application he wishes to operate an "upliftment centre/institution. Very few details are provided as to the nature of this upliftment centre/institution. Over the past 3 years, the Applicant has, in contravention of the By-law, been illegally operating the "upliftment centre/institution. The 'guests' are male adults aged from 18-40. At times between 12 and 14 men have been in occupancy at the residence. It is my considered view, based on what I have observed, that these guests are undergoing some sort of recovery programme.
2. The Title Deed Restrictions is very specific that there should be no Hotel, Boarding House, Cafeteria, Restaurant, Bioscope, Shop, Factory or any place of Business or entertainment whatsoever shall be opened or conducted on the Special Residentialerven. Should the Applicant be successful, and the Title Deed restrictions be uplifted, it would set a precedent, which would make it difficult to prevent businesses opening in the immediate area, which would negatively change the character of the area. The current Title Deeds restrictions are there to protect the character of Bettys Bay.
3. There is no evidence or reference to support the Applicant comment (paragraph 5) that there is a demand for Wellness Centres/Upliftment Centres needed in the area.
4. The Applicant purchased the property in 2014, and has been operating, in contravention of the by-laws and Title Deed Conditions of the property, an "upliftment centre". The Applicant would have been aware of the Title Deeds Conditions at the time of purchase, which he had chosen to ignore and started operating the centre soon after taking ownership 3 years ago.

For the reasons as set out above, I strongly request the proposed changes to the current restrictions pertaining to erf 3054 is rejected and the current Title Deed restrictions remain inforce.

The Area of Bettys Bay has maintained a uniqueness in its offering to its homeowners and many visitors to the area. It is internationally recognised and described as a picturesque seaside village largely unspoilt by commercial businesses.

Regards

Paul Richardson

Cell (062) 4927864

Office (012) 6740444

ANNEXURE F 141/184

FILE NO:	Erf 3054
SCAN NO:	Betty's Bay
	22
COLLABORATOR NO:	1009593

E. C. Knox-Davies on behalf of the  
Laetitia Knox-Davies Family Trust  
35 Unlelaan  
Stellenbosch  
7600  
eknoxdav@yahoo.com

TR A Theart  
(Huld Stoop)

Municipal Manager  
Overstrand Municipality  
PO Box 20  
Hermanus  
7200  
loretta@overstrand.gov.za  
(By e-mail)



Dear Sir/Madam

**Objections regarding Municipal Notice No. 36/2017: application for land use change on Erf 3054, Betty's Bay**

I write in my capacity as trustee of the Laetitia Knox-Davies family trust, which owns Erf 5416, Seaview Drive. As a property owner in the area, I was notified by registered mail of the proposal and requested to send any objection by the closing date.

I object to the removal of the title deed restrictions and to the operation of an "upliftment centre" for the following reasons:

- The use of 5 double rooms in a residential house for any kind of "upliftment centre", "wellness centre" or guesthouse will definitely have an impact on the character of the area, and cannot be compared to the impact of a large family as is stated in the application (p. 5).
  - This is emphasised by the fact that 7 parking bays will be provided instead of the usual 1 or 2 of a residential house, which demonstrates a significant increase in vehicular traffic.
  - An increase in the number of people at the house (up to 10 in addition to the operator) cannot but increase the disturbance to the neighbourhood, particularly the direct neighbours.
- The land use restrictions on the title deeds were a deliberate and far sighted method of ensuring the tranquility of the area in the long term, to prevent it from becoming commercial. These cannot simply be removed or overruled because a new owner chooses not to abide by them.

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03 APR 2017

## ANNEXURE F 142/184.

- The applicant has been particularly vague in his proposal:
  - The term "upliftment centre" has no objective definition and if approved as such, gives the owners carte blanche to do almost anything.
  - If this "upliftment centre" is actually a rehabilitation centre for drug addiction or young offenders, then there are serious potential consequences for the community.
  - The continued presence of groups of people who may have behavioural problems or links to inner city crime is of legitimate concern to the community.
  - Other manifestations of "upliftment centres" may also carry negative consequences for the existing community.
- The applicant has been less than frank in his motivation:
  - It is stated in the application (p.3) that "Due to the demand for wellness centres, upliftment centres and related land uses in the area, the owner decided to make use of the existing dwelling as an upliftment centre, ...".
  - This implies that the decision to go for this venture was made only after purchasing the property and suggests that it was one of a number of normal commercial ventures considered, similar to a normal guesthouse, health spa or related.
  - It has come to my attention that the title deeds for the property contain an endorsement to the value of R1.3 million with the institution listed as IQRAA Trust South Africa. This suggests that more than 80% of the R1.6 million purchase price was loaned by IQRAA (a Section 18A PBO which provides funding for projects in line with its aims).
  - It thus appears that this property was actually purchased with the *prior intent* of setting up an "upliftment centre" and that this was done *despite* the title deed conditions.

In conclusion, I argue that neither the original conditions on the title deeds should be altered nor should operation of an "upliftment centre" be allowed, since doing so is likely to have negative consequences for the area and community. Furthermore, it should be investigated whether the property is currently being operated as an "upliftment centre" without permission.

Yours faithfully,

*E.C. Knox-Davies*

E. C. Knox-Davies

FILE NO:	Erf 3054 Betty's Bay
SCAN NO:	21
Loretta Gillion - Erf 3054, Sea View Drive, Betty's Bay, Overstrand Municipal Area:	
Removal of Restrictive Conditions and Consent Use: PlanActive (obo Alpac Investments)	
COLLABORATION NO:	CC1009589

TR ANNEXURE F 143/184  
CH vid Stoop



**From:** "Alfred Bester" <alfieb@iafrica.com>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 02/04/2017 07:43 PM  
**Subject:** Erf 3054, Sea View Drive, Betty's Bay, Overstrand Municipal Area: Removal of Restrictive Conditions and Consent Use: PlanActive (obo Alpac Investments CC)  
**Attachments:** Lester v Ndlambe Municipality.pdf

Dear Sir/Madam,

Erf 3054, Sea View Drive, Betty's Bay, Overstrand Municipal Area: Removal of Restrictive Conditions and Consent Use: PlanActive (obo Alpac Investments CC)

Dear Sir,

I refer to the above application and advise that I am the administrative trustee of The Wavecrest Trust which is the owner of Erf 3218, Sunny Seas, Betty's Bay. The trust is an interested and affected party in relation to the above application.

I previously submitted an objection and commentary in respect of the subject application which remains in place.

Kindly note the following additional comments/objections to the application:

1. You are not the competent authority to remove the title conditions per the subject application. (Compare sect. 17(w)(5)(a) of the National Building Regulations and Building Standards Act 103 of 1977 with the purported "authority" in terms of which you advertised the notice. The advertisement is thus irregular and not lawful.
2. It is submitted that all property owners in Betty's Bay who have similar restrictive conditions are interested and affected parties who must be served with due notice of any application of this nature.
3. It is furthermore my understanding that the applicant has been using the property illegally for many years. In this regard I draw the Council's attention to the attached Supreme Court of Appeal case (*Lester vs Ndlambe Municipality (514/12)(2013)ZASCA95*). Although this case revolved around a demolition order, the circumstances regarding illegal structures and illegal use overlaps. To this end I draw your attention to paragraph 27 of the decided case which is quoted below:

"[27] I conclude by reverting to what Harris J said in *United Technical Equipment, supra*, with regard to the City Council's obligations to enforce the law in the face of an ongoing illegality being perpetrated by the appellant company in that case: „The respondent has not only a statutory duty but also a moral duty to uphold the law and to see to due compliance with its town planning scheme. It would in general be wrong to whittle away the obligation of the respondent as a public authority to uphold the law. A lenient approach could be an open invitation to members of the public to follow the course adopted by the appellant, namely to use land illegally with a hope that the use will be legalise in due course and that pending finalisation the illegal use will be protected indirectly by the suspension of an interdict." 25 Ndlambe is in exactly the same position as the respondent in the aforementioned case – it was statutorily and morally duty bound to approach the court below for a demolition order in order to uphold the law. The court a quo, in turn, had a concomitant duty to uphold the doctrine of legality...."

TP - 2 APR 2017

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## ANNEXURE F 144/184

Accordingly you are required to immediately do all things necessary to stop the illegal use of the property until such time as the restrictive conditions of title are removed and/consent use has been obtained.

Kindly acknowledge receipt and I await your further advice.

Yours sincerely,

Alfie Bester,  
45 Parker Street,  
Aurora,  
Durbanville, 7550  
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THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

JUDGMENT

Case No: 514/12

In the matter between

Reportable

**MATTHEW ROBERT MICHAEL LESTER**

**APPELLANT**

and

**NDLAMBE MUNICIPALITY**

**FIRST RESPONDENT**

**HIGH DUNE HOUSE (PTY) LTD**

**SECOND RESPONDENT**

**Neutral citation:** *Lester v Ndlambe Municipality* (514/12) [2013] ZASCA 95 (22 August 2013)

**Coram:** MTHIYANE DP, CACHALIA, THERON and MAJEDT JJA, ZONDI AJA

**Heard:** 15 MAY 2013

**Delivered:** 22 AUGUST 2013

**Summary:** Local Government – demolition of a building erected without approved building plans – court not vested with any discretion where demolition applied for in terms of s 21 of the National Building Regulations and Building Standards Act 103 of 1977 – doctrine of legality requires courts to enforce statutory prohibitions the contravention of which constitutes a criminal offence

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**ORDER**

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**On appeal from:** Eastern Cape High Court, Grahamstown(Aikema J, sitting as court of first instance):

The appeal is dismissed with costs, including the costs of two counsel, where so employed.

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**JUDGMENT**

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**MAJIEDT JA (MTHIYANE DP, CACHALIA and THERON JJA and ZONDI AJA concurring):**

**Introduction:**

[1] This appeal concerns the demolition of a luxury home in Kenton-on-Sea (Kenton) on the Eastern Cape coast. The home belongs to the appellant, Professor Matthew Robert Michael Lester. The first respondent, the Ndlambe Municipality, under whose jurisdiction Kenton falls, applied for and was granted a demolition order in respect of the appellant's home by Aikema J in the Eastern Cape High Court, Grahamstown. The learned judge also dismissed the appellant's counter-application to allow him to alter the house and made costs orders in accordance with these outcomes. This appeal is with his leave.

[2] The second respondent, High Dune House (Pty) Ltd, is a private company, whose shareholders and directors are Mr and Mrs Haslam. Their holiday home is registered in the company's name and is adjacent to the appellant's residence. Mr Haslam has deposed to all the affidavits on the

company's behalf. For the sake of convenience I shall refer to the various parties as 'Ndlambe', 'Lester' and 'Haslam'. Ndlambe's seat as local authority is in the nearby town of Port Alfred.

**The factual matrix:**

[3] This case has a long, sorry history, which includes seven high court applications, including the one presently on appeal, extending over a period of more than a decade. All these applications culminated in orders against Lester, either by consent or by the court finding against him. As these applications form an integral part of the factual backdrop to this matter, I consider it necessary to recount them in some detail. The facts are largely undisputed. Most importantly, it is common cause that Lester's dwelling, which is the subject of this dispute, has been erected unlawfully, without any approved building plans as required by s 4(1) of the National Building Regulations and Building Standards Act 103 of 1977. I shall revert to this and other relevant provisions of the Act presently.

[4] Kenton is a quaint seaside village, on the coastal road between Port Elizabeth and East London, the R72. It is flanked by this road, two rivers and the Indian Ocean. Its inhabitants consist mostly of retirees, holidaymakers and a few permanent residents. Lester, a professor in tax law at Rhodes University in Grahamstown, (some 60 kilometres from Kenton by road), falls into the lastmentioned category. It is undisputed that the property is his primary residence. As stated, the Haslams' neighbouring property is their holiday home. It is located (as the company's name suggests) on the flat top of a dune, with Lester's property to the south, lower down the sloping dune. Lester acquired his property in 1997 from his mother and aunt, to whom it had been bequeathed by Lester's grandfather. The property initially provided basic holiday accommodation but, upon joining Rhodes University in 1998, Lester decided in 2001 to make Kenton his permanent home. This necessitated the construction of a bigger house higher up the slope of the dune. This is when the trouble started.

[5] Before the construction began, the Haslams had sweeping, panoramic views over the ocean from their dwelling, spanning from the west to the east. This changed when Lester began building. Lester first engaged the architectural services of Ms Pollos Purden to design a dwelling higher up from the existing rudimentary dwelling. She designed a single storey pitched roof house. Her building plans were approved by Ndlambe on 3 May 2002 (the Purden plans). The design envisaged a split level home. It has erroneously been described by some of the parties as a 'double-storeyed' home, though nothing turns on this issue. Lester commenced building operations on the Purden plans. Haslam obtained copies of the Purden plans from Ndlambe's officials, after he saw foundations being cast for the new dwelling. He made it plain to the officials at that early stage that he had an interest in the matter and that he required to be notified of Lester's building plans, prior to their approval. Haslam raised an objection to the construction of a second, separate dwelling higher up on the dune because it contravened Lester's title deed restriction which prohibited more than one dwelling on the same property. Lester was notified of this objection, but chose to continue building, pending a council decision.

[6] These events led to the first high court application in which Haslam applied for an interdict restraining Lester from continuing building operations, pending the outcome of review proceedings. The application was successful before Pickering J who interdicted Lester from building further pending approval of amended plans. Of significance is that Lester, in his answering affidavit, acknowledged that in the event of a successful review he would be obliged to demolish the existing structure for lack of approved plans. On Lester's instructions, Ms Purden amended the plans to convert the old building to a boathouse and outbuildings, thus overcoming the prohibition against the construction of more than one dwelling on the property. The amended Purden plans were approved on 8 November 2002. It is common cause that these plans remain unchallenged and valid. One would have

thought that Lester, in view of what had happened, would have contented himself with this situation and to have proceeded with the building on these plans. This was not to be. Due to a change in his personal circumstances, which entailed Lester having to create additional space for his frail mother in his new house, he discarded the Purden plans altogether, and appointed another architect, Mr Sam Pelissier, with a mandate to design a double-storey building, using the Purden plans' footprint.

[7] Pelissier fulfilled his mandate by designing a dome-shaped roof in place of the envisaged pitched roof of the Purden plans to cater for the wind, height and shade factors (the Pelissier plans). It is important to note that these plans varied significantly from the Purden plans in respect of the general architectural design. In particular it had a bigger roof which considerably increased the height of the building. The Pelissier plans were taken to the relevant Ndlambe officials in Port Alfred for approval by Lester himself on 17 July 2003. In Lester's own words, he "walked the officials of the various [Ndlambe] departments through the plans", resulting in them being approved on the same day. Neither Ndlambe nor Lester gave notice to Haslam of the new Pelissier plans despite being undeniably aware of Haslam's interest in the matter. So, when construction of the new dwelling commenced, Haslam, completely unaware of the changed circumstances, assumed that building was still proceeding under the unchallenged Purden plans of November 2002. When he realised that this was not so during October 2003 he launched the second application to have the Pelissier plans reviewed and set aside.

[8] Several grounds for review were advanced by Haslam in the second application amongst others the fact that Ndlambe had failed to appoint a building control officer whose tasks in terms of the Act included the furnishing of a report on Lester's building operation. Ndlambe conceded this omission and consented to an order before Jennett J on 25 June 2004, setting aside the approval of the Pelissier plans and referring them to Ndlambe for

reconsideration, following the appointment of a building control officer and upon notice to Haslam. Lester also consented to the order.

[9] Ndlambe approved the Pelissier plans again during November, subject to certain conditions, which included the change in the conditions in the title deed. This prompted Haslam to launch the third application on 24 February 2005, for the review and setting aside of the conditional approval of the plans. Several grounds were relied upon for the review, of which the principal ground was that Ndlambe had no authority to approve plans 'conditionally', and that its purported 'conditional approval' was *ultra vires* s 7 of the Act. Goliath AJ made an order by consent on 22 September 2005, setting aside the Pelissier plans yet again and referring them back to Ndlambe for fresh consideration.

[10] The Pelissier plans were approved by Ndlambe for the third time on 14 February 2006, after it had received submissions from all interested parties and after it held a hearing on 25 November 2005. And so the fourth application was made for a review of this latest approval on substantially the same grounds as in the previous application. Jones J made an order by consent between the parties on 29 June 2007, setting aside this approval. This time, Jones J did not remit the matter to Ndlambe, but issued a declarator to the effect that the Pelissier plans (of July 2003) 'be not approved'. Lester's counter-application was dismissed. In effect Jones J's order required the submission of new building plans, a fact which Ndlambe acknowledged by passing an important resolution on 31 March 2008. The relevant part reads:

'That it be noted that the building on Erf 20 [Lester's dwelling] exists without plans, no plans have subsequent to Jones J's by the owner of Erf 20 for approval.'

The fifth application, in which Haslam sought a mandamus to compel Ndlambe to make a decision following the judgment of Jones J, was withdrawn when Haslam became aware of the resolution. But he was not satisfied with the terms of the resolution and brought the sixth application for the reviewing and setting aside of the resolution and substituting it with an order directing Lester to submit, within one month, building plans that comply

with all the applicable statutory and zoning prescripts failing which Ndlambe would apply in terms of s 21 of the Act for the dwelling to be demolished.

[11] On 22 April 2010 Plasket J made an order by agreement between the parties. The order granted Haslam the relief set out in the preceding paragraph. The significance of this order was twofold:

- (a) Lester was placed on terms to submit plans within one month that complied with all statutory and zoning requirements; and that,
- (b) the spectre of a demolition order being sought in the event of non-compliance, loomed large.

It bears emphasis that Lester had consented to Plasket J's order. The whole sorry saga surrounding Lester's dwelling raised the ire of several members of the community, forcing Lester to decamp to Cape Town for a brief sojourn. It is not in issue however, that the dwelling in Kenton remained his primary residence.

[12] Lester sought to comply with the Plasket J order by submitting various sets of amended and revised plans to Ndlambe, none of which met with the latter's approval. The final revised plans envisaging the removal of the top floor and the domed roof to be replaced with a flat roof in order to achieve a reduction in overall height and size, were submitted on 15 September 2010. On 5 December 2010 Ndlambe adopted the recommendations of the building control officer and resolved in terms of s 7(1)(b) of the Act not to approve the final plans since they did not comply with the Plasket J order. Lester was notified of this outcome on 13 January 2011 and the demolition application followed on 21 January 2011. As I have mentioned, Lester instituted a counter-application to permit him to alter the dwelling so as to avoid the demolition order.

**The judgment of the court below**

[13] The central disputes between the parties in the court below concerned the questions:

- (a) whether the existence of the requisite jurisdictional facts *ipso facto* warrants a demolition order under the Act;
- (b) whether a court has any discretion at all in deciding whether or not to order demolition where there has been non-compliance with the relevant statutory provisions;
- (c) if such a discretion exists, whether it is a wide or narrow discretion; and
- (d) lastly, whether an alteration of the dwelling, as sought by Lester, should be ordered instead.

[14] Alkema J made the following principal findings:

- (a) Lester was no innocent victim of Ndlambe's incompetence;
- (b) Absent any internal appeals under s 9 of the Act or challenges by way of reviews under the Promotion of Administrative Justice Act 3 of 2000 (PAJA) these decisions remain valid and legally binding until set aside on appeal or review;
- (c) Lester's property is, both judicially and administratively, an unlawful structure in terms of the Act, thus entitling Ndlambe to seek an order authorising it to have the dwelling demolished in terms of s 21 of the Act;
- (d) Whereas Ndlambe's case against Lester turns on s 4(1) read with s 21 of the Act, Haslam relies on both the common law principles of neighbour law and the statutory contraventions;
- (e) In all cases where a demolition order is sought, the court retains a discretion which has to be exercised judicially, ie in accordance with the disproportionality of prejudice test, bearing in mind the dictates of legal and public policy;

- (f) In applying the disproportionality of prejudice test, Lester's own conduct and the absence of any evidence that he would not be able to afford other housing, does not constitute sufficient prejudice, nor can he avail himself of the rights enshrined in s 26(3) of the Constitution;
- (g) Legal and public policy required the court to enforce the principle of legality and to uphold the rule of law by granting the demolition order.

[15] I do not propose dealing with all these findings. For the reasons that follow, I agree that the demolition order was warranted, but I am of the view that Alkema J chose an incorrect path in reaching his conclusion. He found firstly that neighbour law principles are applicable in this case and secondly that a court has a discretion in all demolitions sought under the Act. In this court Lester, understandably so, supported the finding that a court has a discretion, but contended that such discretion should have been exercised in his favour, by granting the counter-application for alteration of the dwelling. Lester's counsel relied for these submissions on s 26(3) of the Constitution and the common law's neighbour law principles for the existence of such a discretion. This discretion, contended counsel, was either a wide discretion, particularly if s 26(3) of the Constitution applies, or what he termed a 'residual discretion' which he contended emanates from the Act itself. I shall deal with these submissions separately by first examining the constitutional basis and then by considering whether neighbour law applies at all. Closely associated with the latter aspect is the question whether the statutory provisions themselves permit such a discretion, bearing in mind the principle of legality.

**Does s 26(3) of the Constitution afford a court a discretion in demolition cases?**

[16] Section 26 of the Constitution reads as follows:

'Housing

26 (1) Everyone has the right to have access to adequate housing.

(2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.'

(3) No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.<sup>1</sup>

It was submitted on behalf of Lester that the magistrate's authority (or in this instance that of the high court) to order a demolition under s 21 of the Act had to be read with s 26(3) of the Constitution, which requires 'all relevant circumstances' to be taken into account before making the order. This confers, so it was contended, a wide discretion on a magistrate when faced with such an application to consider all the relevant circumstances in this case before ordering the demolition of Lester's dwelling. For the reasons that follow, I consider this submission to be misplaced.

[17] Section 26(3) must not only be read in its historical context, ie as a bulwark against the forced removals, summary evictions and arbitrary demolitions of the shameful past dispensation, but also together with s 26(1) and (2), since s 26 must be read as a whole. Mokgoro J, writing for a unanimous court in *Jaffa v Schoeman; Van Rooyen v Stoltz*<sup>2</sup> emphasized that:

'(s)ection 26 must be seen as making that decisive break from the past. It emphasises the importance of adequate housing and in particular security of tenure in our new constitutional democracy.'<sup>2</sup>

The protection afforded in s 26(3) must therefore always, without exception, be read against the backdrop of the right to have access to adequate housing, enshrined in s 26(1). Thus where a person, facing a demolition order, does not adduce any evidence that he or she would not, in the event of his or her dwelling being demolished by order of a court, be able to afford alternative housing, s 26(1) is of no avail to him or her. Lester, as the court below correctly found in my view, is in precisely this position. Apart from alluding to the 'calamitous financial implications' which demolition of his dwelling (which he estimates to be worth around R8 million) would entail, he does not state anywhere in his papers that he would be rendered homeless and destitute by

<sup>1</sup> *Jaffa v Schoeman; Van Rooyen v Stoltz* 2005 (2) SA 140 (CC) para 28.

<sup>2</sup> *Ibid*, para 29.

the demolition.<sup>3</sup> This court pointed out in *Standard Bank of South Africa Ltd v Saunderson*<sup>4</sup> that what constitutes 'adequate housing' is always a factual enquiry and that executing a writ of execution in respect of a luxury home, which Lester's dwelling undeniably is, has no bearing on the right of access to adequate housing. And the fact that the dwelling sought to be demolished is the person's primary residence, as is the case here, does not detract from this principle. The cardinal question is whether demolition of Lester's property would infringe upon his right to access to adequate housing. The answer, on the papers before us, must be an emphatic 'no'. Lester's counsel contended that such an interpretation of s 26(3) would render the words '... an order of court made after considering all the relevant circumstances' nugatory. I disagree. Even taking into account 'relevant circumstances' (which the court below in any event did), the primary consideration is whether the right of access to adequate housing would be compromised by the demolition. That is the import and effect of the judgment in *Jaffa* and the plain, unambiguous meaning of s 26. I turn to consider the second submission, namely that the source of the discretion not to order a demolition is to be found in the statute and in the common law principles of neighbour law, which are based on principles of fairness and equity.

#### **The statutory provisions and neighbour law as possible sources of a court's discretion**

[18] Alkema J relied heavily on the case of *Benson v S A Mutual Life Assurance Society*<sup>5</sup> as authority for his finding that he does have a discretion whether to order demolition or not. Lester's counsel has correctly conceded that *Benson* does not lend such support, since it concerned the discretionary remedy of specific performance in breach of contract instances. The passage relied upon (783C-E) in particular, is clearly about this aspect and not about a discretion concerning demolition orders. The judge below appears to have given recognition to this in his judgment granting leave to appeal to this court,

<sup>3</sup>Lester's counsel was driven to an oblique concession in this regard in the course of his argument.

<sup>4</sup>*Standard Bank of South Africa Ltd v Saunderson* 2006(2) SA 284 (SA) para 17.

<sup>5</sup>*Benson v S A Mutual Life Assurance Society* 1988 [1] SA 776 (A) at 783C-E.

acknowledging that '[Benson] dealt with a discretion in cases of specific performance and not in demolition orders' and later on, that he had exercised his discretion 'on an extremely narrow, and perhaps novel basis'.

[19] A useful starting point, to my mind, in ascertaining whether there are other sources for such a discretion in demolition cases, is the statute itself. The Act's objective is to provide uniformity in the law relating to the erection of buildings in the area of jurisdiction of local authorities and to prescribe building standards. Section 4(1) reads as follows:

'(1) No person shall without the prior approval in writing of the local authority in question, erect any building in respect of which plans and specifications are to be drawn and submitted in terms of this Act.'

Section 4(4) renders the contravention of s 4(1) a criminal offence with a penal sanction of a fine not exceeding R100 for each day on which the offender was engaged in erecting the (illegal) building. Section 9 makes provision for an appeal against decisions of local authorities. For present purposes the refusal to grant approval of building plans is appealable – such appeal is to a review board. Section 21 reads as follows:

'21. Order in respect of erection and demolition of buildings:

Notwithstanding anything to the contrary contained in any law relating to magistrates' courts, a magistrate shall have jurisdiction, on the application of any local authority or the Minister, to make an order prohibiting any person from commencing or proceeding with the erection of any building or authorizing such local authority to demolish such building if such magistrate is satisfied that such erection is contrary to or does not comply with the provisions of this Act or any approval or authorization granted thereunder.'

[20] It is plain that s 21 must be read with ss 4(1) and 4(4) of the Act. As stated, it was common cause before Alkema J that Lester's property is an illegal structure having been erected without approved building plans. It was therefore at risk of demolition by order of court at the instance of Ndlambe. Both Ndlambe and Haslam (in particular) adopted the stance in the court below and again before us that a court has no discretion in the circumstances and

must order demolition under s 21 once illegality is established. Lester's counsel valiantly sought to persuade us that such a discretion is to be found in the section itself and if not, that the neighbour law principles should be "imported" into the section. He contended that s 21 implicitly permits partial demolition in the present case, as sought by Lester in his counter-application. These submissions are devoid of merit. First and foremost a mere reading of the provision makes it plain that there is no warrant for reading such implicit discretion into it. What is more, s 4(4) read with s 4(1), creates a criminal offence with a penal sanction in the event of a building being erected without approved building plans, an aspect which militates strongly against such discretion. I shall revert to the provisions of s 4 under the next rubric in which I will discuss the applicability of neighbour law and the doctrine of legality. Counsel was unable to expound on the legal basis for and the modalities of the importation of neighbour law principles into the provisions contained in s 21. It comes as no surprise that there is a complete dearth of authority for this novel proposition. Counsel was unable to point us to such authority and I am not aware of any. The conclusion that the statutory provision itself does not lend itself to such a discretion is unassailable. The language of the provision gives a magistrate no latitude not to order the demolition once the jurisdictional fact, namely that the building was erected contrary to the Act, is established. During argument Lester's counsel contended that the provision must at a minimum be read to give a residual discretion to the magistrate. But he was unable to advance authority for this proposition and it too is devoid of merit. I turn to a consideration of neighbour law principles and the doctrine of legality.

#### **The relevance of neighbour law and the role of the doctrine of legality**

[21] Alkema J commenced his judgment by stating that this case 'involve issues of neighbour law, public law and administrative law'. Lester's counsel vigorously endorsed the view that neighbour law principles apply here, understandably so. But this is not a neighbour law case at all. The misconception in this regard stems from the Haslams' involvement in the case. To illustrate why this was misconceived, a brief history of how they

joined the fray is required. Haslam (and I am still referring to him here representing the second respondent company) was initially cited in Ndlambe's demolition application as one of several respondents with an interest in the matter. Haslam, however, successfully and without any opposition thereto, applied for joinder as second applicant with Ndlambe in the main application. He did so because he supported fully the relief sought by Ndlambe. More importantly, in so doing, Haslam did not rely on any neighbour law principles, nor did he seek any additional remedies based on neighbour law. Haslam made common cause with Ndlambe in seeking public law remedies, ie demolition in terms of s 21 of the Act and ancillary relief. In the supporting affidavit in the joinder application, Haslam pertinently states that 'High Dune (ie second respondent) has a legal interest in ensuring that Ndlambe takes all appropriate steps to remedy any failure by Lester to comply with all statutory zoning and other requirements'. Alkema J wrongly found that 'the issues raised by the joinder (of Haslam), on the other hand, are essentially matters of neighbour law, which is a branch of the law of obligations, and which call into play certain legal principles which do not arise as between Ndlambe and Lester, but became relevant between Haslam and Ndlambe.' As a consequence of this misconception, a significant part of the judgment of the court below deals with neighbour law principles and cases. I intend restricting myself to a few of them only, to illustrate why this is not a neighbour law case and to contrast it with the doctrine of legality.

[22] It is plain that Ndlambe approached the court below for a public law remedy, namely a s 21 demolition. It simply sought enforcement of a statutory right flowing from a statutory contravention, which also amounts to a criminal offence. And Haslam supported the relief sought by the council. Lester's counsel's submission appears to be that there is no reason not to apply the common law principles of neighbour law, which give courts a wide and equitable discretion to avoid granting a demolition order in respect of encroaching structures in the context of a public law remedy. Neighbour law has long recognized that in matters such as encroachment, courts have a discretion to award damages instead of ordering the removal of the offending

building or structure, the deciding factor being the disproportionality between removal of the encroachment measured against the damage or inconvenience suffered by a plaintiff. There is an interesting academic discourse on whether the English law influence of equity finds application in this discretionary power, but it need not be discussed at all in this instance<sup>6</sup>. In *Rand Wateraad v Bothma*<sup>7</sup>, Hattingh J undertook a detailed analysis of this discretion in encroachment cases. Numerous cases and the Roman and Roman Dutch authorities are collated in the judgment. *Brevitatis causa*, it will suffice to summarize the conclusions reached by Hattingh J at the end of his detailed discussion<sup>8</sup> (loosely translated and condensed):

- (a) the *sui generis* nature of neighbourly relationships resulted in the development of legal rules based on equity in our common law;
- (b) the emphasis in neighbour law is always on the protection of the neighbourly relationship as such, rather than the individual interests of every neighbour separately;
- (c) neighbour law principles and precepts are aimed at attaining a just and equitable result and the correct application thereof ought always to lead to a result which satisfies one's sense of justice.

The law reports are replete with instances where the courts have held that such a discretion exists in neighbour law cases.<sup>9</sup> It is easy to understand why neighbour law, which is premised on considerations of fairness, equity and justice, would afford courts a discretion on whether to order removal of the offending structure or whether to award damages. But it seems to me that a public law remedy such as a demolition order in terms of s 21, is a different matter altogether. Here it is common cause that the dwelling is an illegal structure and not a mere encroachment on a neighbour's property. Moreover, as stated, it constitutes a criminal offence under s4(4) of the Act.

<sup>6</sup>See, *inter alia*, J B Cilliers and C G van der Merwe "The "year and a day rule" in South African Law: do our courts have a discretion to order damages instead of removal in the case of structural encroachments on neighbouring land?" (1994) *THRR* 587 at 592.

<sup>7</sup>*Rand Wateraad v Bothma* 1987(3) SA 120 (O) at 130F-138G.

<sup>8</sup>*Ibid.* at 138D-G.

<sup>9</sup>See *inter alia*: *Hombly v Municipality of Roodoorspoort - Maraisburg and Arthur* 1918 AD 276 at 286 - 298 (in this dictum Solomon JA recognizes the existence of a discretion on principles of equity in English law, but appears to leave open the question whether those principles apply in our law as well); *Johannesburg Consolidated Investment Co Ltd v Mitchiner Investments (Pty) Ltd* 1971 (2) SA 397 (W) at 405-407.

[23] Section 21 authorizes a magistrate, on the application of a local authority or the Minister, to order demolition of a building erected without any approval under the Act. This is undoubtedly a public law remedy. Alkema J questioned how a statutory breach which gives rise to the same claim under private law or public law can afford a court a discretion under private (neighbour) law, but not under public law. The answer is simply that the law cannot and does not countenance an ongoing illegality which is also a criminal offence. To do so, would be to subvert the doctrine of legality and to undermine the rule of law. In *United Technical Equipment Co (Pty) Ltd v Johannesburg City Council*<sup>10</sup> the Full Court was seized with an appeal against the granting of an interdict in the Local Division in terms whereof the appellant company (qua respondent a quo) was restrained from using property which was zoned residential in terms of the Town Planning Scheme, for business purposes (offices). It was common cause that by using the property as offices, the appellant was committing an offence. The appellant's case was that the court should have suspended the interdict pending the final dismissal of his application to the Administrator for rezoning of the property. Harms J, writing for the Full Court, considered whether a court has a general discretion to grant or refuse an interdict. The learned judge pointed out that in the leading case on interdicts, *Sefogelo v Sefogelo*<sup>11</sup>, this court granted a final interdict, having been satisfied that all the requisites for the granting of a final interdict had been met, without considering at all whether it should, in the exercise of a discretion, refuse the interdict. Harms J also referred to *Peri-Urban Areas Health Board v Sandhurst Gardens (Pty) Ltd*<sup>12</sup>, where the court refused to suspend an interdict under similar circumstances because, as Clayden J put it: 'where the breach of law interdicted is a breach of a statute a stricter approach is adopted.'<sup>13</sup> As Harms J correctly explains, what Clayden J meant to convey was not that there is a rule that a statutory right is stronger than a common law right, but simply that the statutory breach referred to is a breach

<sup>10</sup>*United Technical Equipment Co (Pty) Ltd v Johannesburg City Council* 1987(4) SA 343 (T).

<sup>11</sup>*Sefogelo v Sefogelo* 1914 AD 221.

<sup>12</sup>*Peri-Urban Areas Health Board v Sandhurst Gardens (Pty) Ltd* 1965 (1) SA 683 (T).

<sup>13</sup>*Ibid.*, at 685A.

which is visited by criminal sanctions (as is the case here). The following dictum of Harms J is apposite: 'It follows from an analysis of these cases that discretion can, if at all, only arise under exceptional circumstances. Furthermore, I am not aware of any authority which would entitle the court to suspend the operation of an interdict where the wrong complained of amounts to a crime'<sup>14</sup>.

[24] Courts have a duty to ensure that the doctrine of legality is upheld and to grant recourse at the instance of public bodies charged with the duty of upholding the law. In *Standard Bank of South Africa Ltd v Swartland Municipality*<sup>15</sup> Moosa J had to deal with an application that a demolition order, issued in the Malmesbury Magistrates' Court, be set aside and for Standard Bank, as mortgagee, to be joined. In stressing the courts' duty in enforcing demolition orders, the learned judge stated that:

'The unauthorised and illegal conduct of the third respondent (in unlawfully erecting a structure without approved plans) is contra boni mores and contrary to public policy, and cannot be condoned by the court. It militates against the doctrine of legality, which forms an important part of our legal system, and more especially since the Constitution became the supreme law of the country'<sup>16</sup>.

Moosa J referred to the oft quoted dictum of Chaskalson CJ in *Pharmaceutical Manufacturers of SA: In re Ex parte President of the Republic of South Africa and others*<sup>17</sup>, which bears repetition:

'The exercise of all public power must comply with the Constitution, which is the supreme law, and the doctrine of legality, which is part of that law'.

#### **The doctrine of legality as part of the rule of law**

<sup>14</sup>*United Technical Equipment Co (Pty) Ltd v Johannesburg City Council*, supra, at 347F-H.

<sup>15</sup>*Standard Bank of South Africa Ltd v Swartland Municipality* 2010(5) SA 479 (WCC); see also *Standard Bank of South Africa Limited v Swartland Municipality* 2011 (5) SA 257 (SCA).

<sup>16</sup>*Ibid*, para 22.

<sup>17</sup>*Pharmaceutical Manufacturers of SA: In re Ex parte President of the Republic of South Africa* 2000 (2) SA 674 (CC) para 20. See also: *Minister of Justice and Constitutional Development v Chanco* 2010 (4) SA 82 (CC) para 27 and cases cited there.

[25] Wade and Forsyth correctly point out that in administrative law, the rule of law encapsulates, *inter alia*, the notion that 'government should be conducted within a framework of recognized rules and principles which restrict discretionary power'<sup>18</sup> It is self-evident that this principle encompasses all three arms of government, ie the executive, the legislature and the judiciary. Equally obvious is that it applies to the three spheres of government, ie national, provincial and local government. Yvonne Burns explains that this doctrine ensures in the sphere of public law that '(a) the exercise of public power by the administration conforms to constitutional principles; (b) public authorities comply with specific duties and obligations in the exercise of their discretionary powers and (c) the state and its officials obey the law to ensure good and fair administration'.<sup>19</sup>

[26] Local government, like all other organs of state, has to exercise its powers within the bounds determined by the law and such powers are subject to constitutional scrutiny, including a review for legality. In *Fedura Life Assurance Ltd v Greater Johannesburg Transitional Metropolitan Council* 1999 (1) SA 374 (CC)<sup>20</sup> the court expounded on the doctrine of legality as an essential component of the rule of law as follows:

'These provisions [ie ss 174(3) and 175(4) of the Constitution] imply that a local government may only act within the powers lawfully conferred upon it. There is nothing startling in this proposition – it is a fundamental principle of the rule of law, recognized widely, that the exercise of public power is only legitimate where lawful. The rule of law – to the extent at least that it expresses this principle of legality – is generally understood to be a fundamental principle of constitutional law.'<sup>21</sup> (footnote omitted).

The power to approach a court for a demolition order in s 21 is unquestionably a public power bestowed upon local authorities. As such, its exercise must conform to the doctrine of legality. Put differently, a failure to exercise that

<sup>18</sup>Wade and Forsyth *Administrative Law* 7ed (1994) 24.

<sup>19</sup>Y Burns 'A rights-based philosophy of administrative law and a culture of justification' (2002) 17 *SAPL*: 279 at 285.

<sup>20</sup>*Fedura Life Assurance Ltd v Greater Johannesburg Transitional Metropolitan Council* 1999 (1) SA 374 (CC) para 40.

<sup>21</sup>*Ibid* para 56, see also para 58.

power where the exigencies of a particular case require it, would amount to undermining the legality principle which, as stated, is inextricably linked to the rule of law. See *AAA Investments (Pty) Ltd v Micro Finance Regulatory Council and another* where the court held as follows:

'(t)he doctrine of legality which requires that power should have a source in law, is applicable whenever public power is exercised . . . . Public power . . . can be validly exercised only if it is clearly sourced in law'<sup>22</sup>.

In *National Director of Public Prosecutions v Zuma*<sup>23</sup> Harms DP emphasized that the courts are similarly constrained by the doctrine of legality, ie to exercise only those powers bestowed upon them by the law.<sup>24</sup> The concomitant obligation to uphold the rule of law and, with it, the doctrine of legality, is self-evident. In this regard, the court below was constrained by that doctrine to enforce the law by issuing a demolition order once the jurisdictional facts for such an order were found to exist.

[27] I conclude by reverting to what Harms J said in *United Technical Equipment, supra*, with regard to the City Council's obligations to enforce the law in the face of an ongoing illegality being perpetrated by the appellant company in that case:

'The respondent has not only a statutory duty but also a moral duty to uphold the law and to see to due compliance with its town planning scheme. It would in general be wrong to whittle away the obligation of the respondent as a public authority to uphold the law. A lenient approach could be an open invitation to members of the public to follow the course adopted by the appellant, namely to use land illegally with a hope that the use will be legalise in due course and that pending finalisation the illegal use will be protected indirectly by the suspension of an interdict.'<sup>25</sup>

Ndlambe is in exactly the same position as the respondent in the aforementioned case – it was statutorily and morally duty bound to approach the court below for a demolition order in order to uphold the law. The court a quo, in turn, had a concomitant duty to uphold the doctrine of legality, by

<sup>22</sup> *AAA Investments (Pty) Ltd v Micro Finance Regulatory Council* 2007 (1) SA 343 (CC).

<sup>23</sup> *National Director of Public Prosecutions v Zuma* 2009 (2) SA 277 SCA 29.

<sup>24</sup> *Ibid* para 15.

<sup>25</sup> *United Technical Equipment Co (Pty) Ltd v Johannesburg City Council, supra*, at 348f-J.

refusing to countenance an ongoing statutory contravention and criminal offence.

**Conclusion:**

[28] As stated, Lester has erected an unlawful structure on his property – this fact is unchallenged and common cause. The jurisdictional basis for a demolition order in terms of s 21 has therefore been established. All administrative actions, such as the unanimous resolution of Ndlambe's full council on 5 December 2010 not to approve the final revised plans, remain valid and legally binding until set aside on review or appeal. Absent any challenge on appeal, internally in terms of s 9 of the Act to a review board, or on review in terms of PAJA to a competent court, that resolution had legal consequences. In *Camps Bay Ratepayers' Association and another v Harrison and the Municipality of Cape Town*, the Constitutional Court,<sup>26</sup> in referring with approval to *Oudekraal Estates (Pty) Ltd v City of Cape Town*<sup>27</sup> said that:

[A]dministrative decisions are often built on the supposition that previous decisions were validly taken and unless that previous decision is challenged and set aside by a competent court, its substantive validity is accepted as a fact. Whether or not it was indeed valid is of no consequence. Applied to the present facts it meant that the approval of the February 2005 plans must be accepted as a fact. If the footprint issue was part of that approval, that decision must likewise be accepted as a fact unless and until it is validly challenged and set aside.

See also: *Member of the Executive Council for Health, Eastern Cape v Kirland Investments*<sup>28</sup>. I have already found that the court below erred in finding that it had a discretion whether or not to issue a demolition order. Absent such discretion, the court below simply had to uphold the rule of law, refuse to countenance an ongoing statutory contravention and enforce the provisions of the Act.

<sup>26</sup>*Camps Bay Ratepayers and Residents' Association v Harrison* 2011 (4) SA 42 (CC) para 62.

<sup>27</sup>*Oudekraal Estates (Pty) Ltd v City of Cape Town* 2004 (8) SA 222 (SCA) para 31.

<sup>28</sup>*Member of the Executive Council for Health, Eastern Cape v Kirland Investments (Pty) Ltd v Eye & Laser Institute* (473/12) [2013] ZASCA 58 [16 May 2013] para 20.

[29] I turn to the counter-application. It was conceded on Lester's behalf that in the event of this court finding that the court below was correct in ordering demolition as sought by Ndlambe, supported by Haslam, the counter-application would inevitably be doomed to failure. In the counter-application Lester sought an order that the dwelling be demolished partly only to the extent that its design would then accord with the plans submitted by him to Ndlambe on 18 May 2010, alternatively 13 December 2010. But Ndlambe's council has already considered these final revised plans and the accompanying representations and has rejected them. As stated, that resolution remained extant and legally binding as a valid administrative act, unless and until set aside by a competent court. Moreover, it is undisputed that the final 2010 plans still offend the existing building regulations because of the height of the roof. As pointed out above, an order for partial demolition as sought by Lester, would amount to the sanctioning of an ongoing illegality and criminal offence, in the face an existing valid administrative decision. This can never be countenanced by a court. The counter-application was therefore correctly dismissed by the court a quo.

[30] Alkema J made certain adverse findings against Lester, inter alia; as stated above, that he was not the mere innocent victim of Ndlambe's incompetence, as contended by counsel, and further that the learned judge had a sense, nothing more, that Lester may have orchestrated the situation in which he now finds himself. In my view it is not necessary to come to any conclusion on these aspects. The common cause material facts suffice, namely that the structure was illegal and that Lester had, in the face of six preceding court orders against him, elected to continue building operations without approved plans. As stated (see para 5 above), Lester already acknowledged as early as 2002 during the first high court application before Pickering J, in his answering affidavit that, in the event of a successful review before the high court, he would be obliged to demolish the existing structure for lack of approved plans. And, as stated, the spectre of demolition loomed large in the order of Plasket J (see para 11 above).

[31] One is acutely aware of the financial calamity, inconvenience and disruption which the demolition of what is plainly and expensive, luxurious dwelling, and a primary residence to boot, would cause Lester. But the upholding of the doctrine of legality, a fundamental component of the rule of law, must inevitably trump such personal considerations. The appeal must therefore be dismissed with costs, including the costs of two counsel where so employed.

[32] In the result I make the following order:

The appeal is dismissed with costs, including the costs of two counsel, where so employed.

---

S A MAJIEDT  
JUDGE OF APPEAL

## APPEARANCES

- For Appellant: R G Buchanan SC  
Instructed by:  
DLA Cliffe Dekker Hofmeyer, Johannesburg  
Webbers, Bloemfontein
- For 1<sup>st</sup> Respondent: I J Smuts SC  
Instructed by:  
Wheeldon Rushmere & Cole, Grahamstown  
Symington & De Kok, Bloemfontein
- For 2<sup>nd</sup> Respondents: EAS Ford SC with TJM Paterson SC -  
Instructed by:  
Rushmere Noach Inc, Port Elizabeth  
McIntyre & Van Der Post, Bloemfontein

ANNEXURE F 168/184

**BETTY'S BAY  
NEIGHBOURHOOD WATCH**



**BEWARE - PASOP - INGOZI**



TR A Theart  
C H vd Stoep

Cell: 072 015 5729

Email/E-pos: bbaynhw16@gmail.com

28<sup>th</sup> March 2017

Dear Sir/Madam,

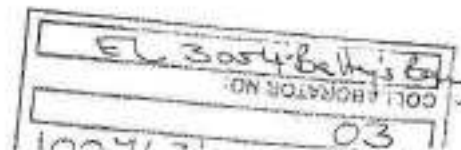
**APPLICATION FOR REMOVAL OF TITLE DEED RESTRICTIONS AND CONSENT USE OF ERF 3054  
BETTYS BAY**

Your correspondence reference number PA 15034 dated 28 February has reference.

The Bettys Bay Neighbourhood Watch has 509 members and operates throughout Bettys Bay. Our organisation is strongly opposed to this application for the following reasons:

1. The application from Alpac Investments is vague and not transparent. They have not mentioned where their "guests" come from, have they been referred by other institutions or do they come on a voluntary basis.
2. We have seen the "guests" running in the streets of Sunny Seas, Bettys Bay so the "upliftment" centre is already operational. We thereby assume that they are operating illegally.
3. This appears to be a commercial undertaking and no mention is made of the selection criteria to be used to determine who requires the services of the "upliftment" centre. We are of the opinion that the "upliftment" centre is nothing but a rehabilitation centre for people who have a substance abuse problem. This is a security risk to our town.
4. We have seen that the "upliftment" centre currently only has male guests, in their 20's or 30's. This is in violation of the country's constitution as it is not open to all races and creeds.
5. If this application is approved it will create a precedent that will make it difficult to stop other similar applications.
6. If this application is approved who will audit this institution, this surely must be provided by some government department.

10 19 MAR 2017



ANNEXURE F 169/184

7. If the wording used in the application was for a rehabilitation centre would it jeopardise their application therefore they have been vague and disguising the true intent. This type of centre would best be located on a farm or remote location, not in Bettys Bay.

Yours Sincerely



W.G. Steyn,

Co-ordinator, Bettys Bay Neighbourhood Watch

ANNEXURE F 170/184

H van der Stoep  
Munisipale Bestuurder  
Overstrand  
fax 028-3132093  
loretta@overstrand.gov.za

26.3.17

Geagte Me vd Stoep

FILE NO:	
SCAN NO:	
COLLABORATOR NO:	

TP-A T heart  
(H vd Stoep)**BESWAAR TEEN OPHEFFING VAN TITELBEPERKINGE OP ERF 3054 BETTIESBAAI**

Ek het onlangs erf 3159 aangekoop wat onmiddelik onder bogenoemde eiendom is en maak beswaar vir die volgende redes:

1. Die versoek is dat die eiendom hersoneer word ten einde 'n "upliftment centre" te word. Dit is direkte bedrog want dit word tans bedryf as 'n REHABILITASIE Sentrum vir drank en dwelmverslaafdes. Daar is 'n drastiese verskil tussen 'n opheffingsentrum en 'n rehabilitasiesentrum vir dwelm en drankverslaafdes!!! Nerens in die aansoek meld dit dat dit tans as 'n dwelm en drank rehabilitasiesentrum gebruik word nie, en na alle waarskynlikheid as sulks sal aanhou gebruik word nie.
2. Die area is vanselfsprekend 'n normale residensiele area. As ek geweet het daar is 'n rehabilitasie sentrum vir drank en dwelmverslaafdes sou ek nie hierdie woning gekoop het nie. Die aanbou van drank en dwelmverslaafdes moet asseblief ONMIDDELIK gestaak word.
3. Ek verneem van bure dat een van die aangehoudenes op 'n vorige geleentheid daar ontsnap het. Dit skep 'n gevaar vir ons hele buurt. Let Wel dat Indien een van die ingehoudenes ontsnap en enige van ons as inwoners aanval, sal 'n geregtelike eis teen die munisipaliteit ingestel word omrede hulle die sentrum toegelaat het en nie betyds gesluit het nie.
4. Dwelm en drankverslaafdes se verstand is aangetas en hulle is nie altyd by hulle volle positiese nie. Ek word bang as al die mans daar afkyk op my huis.
5. Daar is geen twyfel dat die teenwoordigheid van so 'n rehabilitasiesentrum 'n negatiewe effek het op die waarde van die omliggende eiendomme. Gaan vra maar vir die plaaslike eiendomsagente.
6. Die gimnasium toerusting maak tans 'n groot geraas. Elke keer as hulle met gewigte oefen dan laat hulle dit op die grond val en maak dit 'n onaantwoordbare geraas en steurnis.

Ek het medelye met verslaafdes en hulle behandeling. Ek glo egter hierdie is nie die regte plek daarvoor nie. As die eienaar so 'n rehabilitasie sentrum wil bedryf moet hy maar eerder hierdie woning verkoop en een aankoop op 'n meer gepaste plek.

Die uwe

DR A B D FICKER  
ficker@worldonline.co.za  
082-8814982

FILE NO:	ET 3054-Betty's Bay
SCAN NO:	10
COLLABORATOR NO:	1007311

**NB: Bevestig asb ontvangs van hierdie skrywe**

TP

Re: Erf 3054, Betty's Bay

TR- A Theart  
C Huldstap



T.C.  
Box 15  
Elgin  
7180  
27 March 2017

To Whom It May Concern:

RE: APPLICATION FOR REMOVAL OF THE TITLE DEED RESTRICTION AND CONSENT USE OF ERF 3054 BETTY'S BAY.

I, Tim Jones, the owner of ERF 3054 object to the application mentioned above. Due to the following points mentioned below:

- 1 The property Erf 3054 is in buildup area and residential.
- 2 There are other properties that can be used as the application has be requested and there is registered place in other cities or town that have the correct medical advisors and staff and doctors to assist.
- 3 I feel it is putting the residents at risk due to the fact that it is can become a security risk, there are a lot of elderly permagant residents in the area and I have heard of a few incidents to date re the people there already.
- 4 The value of the property in the area will in the end devalue due to the fact there will be unwanted people and people at risk.
- 5 I also feel strongly that the people are operating a business in a residential area and have been for the last few months and more than a year. This application should have been done in the first place NOT after there were complaints made.

I hereby STRONGLY object to this application.

Your Truly

Tim Jones

FILE NO:	Erf 3054
	Betty's Bay
SCAN NO:	09
COLLABORATOR NO:	1007309

P 27 MAR 07

ANNEXURE F 172/184

Re: Erf 3054, Betty's Bay

From: Mary Ann Miller <maryann\_miller64@icloud.com>  
To: <loretta@overstrand.gov.za>  
Date: 27/03/2017 05:00 PM  
Subject: Re: erf 3054

TR A Theart  
(C H vld Staep)

Please note my objection to the removal of title deed restrictions and consent use of erf 3054 Betty's Bay. I have a home at 3184 Clarence drive. Soon to be my retirement home. I would not like to have an influx of persons with problems living for short periods among us.  
Regards  
Mary Ann Miller



FILE NO:	5L 3054
	Betty's Bay
SCAN NO:	07
COLLABORATOR NO:	1007306

TP 27 MAR 07

ANNEXURE F 173/184



TR A Theart  
(H v d Stoep)

3377 Mermaid Road  
7141 Betty's Bay

16<sup>th</sup> March 2017

The Municipal Manager  
Overstrand Municipality  
Hermanus Administrative  
P O Box 20  
7200 HERMANUS  
ATT: MS H VAN DER STOEP

FILE NO:	EL 3054 Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1004015

Dear Ms Van der Stoep

**Re: APPLICATION FOR REMOVAL OF TITLE DEED  
RESTRICTIONS AND CONSENT USE OF ERF 3054 BETTY'S  
BAY**

I am in receipt of the application documents regarding the above, and have considered them carefully.

I hereby submit my **OBJECTION** to the proposed application on the following grounds:

1. The property is zoned for single residential dwelling and the terms of the Title Deed as stated on the Application make this clear.
2. It goes against the character of the existing residences in the area whose owners have abided by this restriction.
3. The property already appears to be used by more than the number of people (10) stated on the application.
4. The term "wellness/upliftment centre" is vague. Is this a health spa/ drug rehabilitation centre/place of instruction/worship or some other form of business as set out in 3 (b) of the zoning consent uses clauses?

Page 2/.....

✓  
KBP

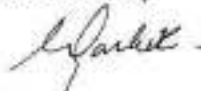
16 MAR 2017

- Page 2 -

5. I have owned my erf since 1987, been a regular weekender in Betty's Bay for 8 years, and a permanent resident for the past 2 years and have not heard of "the demand for wellness centres/upliftment centres".
6. When I purchased my erf in 1987 I did so because Betty's Bay was well known for being closely aligned with the Kogelberg Nature Reserve and a place of quiet beauty with residents who are passionate about preserving it as such.

I trust that you will take my objections, as a permanent resident, into consideration when this application is debated.

Kind regards  
Yours sincerely



MERYL GARLICK

*TP-A Theart  
CH Jolstoep*

TO : Overstrand Municipality, Town Planning Hermanus  
 ATTENTION : Ms. H. Van Der Stoep, Director : Infrastructure and Planning  
 NO. OF PAGES : 1 (including this page)  
 DATE : 15 March 2017

REF : Overstrand Registered Letter Dated 28 Feb 2017  
 File Reference - PA15034



Dear Sir/Madam

*Re : 3054 Betty's Bay*

Firstly - I hereby lodge an objection to the removal of restrictive conditions as related to ERF 3054.

**Reasons for Objection**

- (1) The Upliftment Centre will be used to rehabilitate Drug and Substance Abuse users. This will bring a corresponding criminal element into the Betty's Bay holiday area. This increase in crime will reduce the overall resale value of the properties and also result in the residence having to install and maintain extra security in order to utilise their holiday homes. Further more, the Betty's Bay area is primarily a holiday environment and therefore we would like to use it to relax and de-stress. How do you do this when you there are Drug and Substance abusers just across the road.
- (2) Our ERF 3158 is located opposite your proposed site. Please keep in mind that the occupants of the Upliftment Centre will be receiving visitors (Family and Friends) This resultant increase in traffic is not conducive to a holiday environment. This traffic will be throughout the year.

Kind Regards

**Postal Address**

Lyndek CC  
 PO Box 28525  
 Kensington  
 2101

Martin T. Fox  
 265 Braam Pretorius Street  
 Sinoville, Pretoria  
 0182

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1003921

✓  
KRF

7 15 MAR 2017

**Loretta Gillion - OBJECTION TO : Application for removal of title deed restrictions and consent use of ERF 3054 Bettys Bay**

**From:** "Garth Bradley (Group)" <Garth.Bradley@dimensiondata.com>  
**To:** "loretta@overstrand.gov.za" <loretta@overstrand.gov.za>  
**Date:** 09/03/2017 04:54 PM  
**Subject:** OBJECTION TO : Application for removal of title deed restrictions and consent use of ERF 3054 Bettys Bay  
**Cc:** Therese Bradley <tbradley@aspenpharma.com>, "Garth Bradley (Group)" <Gar...

TR A Therk  
CHuld Stoep

Hi Loretta,

This is to confirm our **objection** to the above mentioned application.

**Reason :** The intended purpose or target market for the upliftment centre is not clear. Our concern is that this facility will be or could be used as a rehabilitation centre of sorts for addictive disorders e.g. drugs, alcoholism etc. The area has a number of teenagers who enjoy freedom of movement (on bicycles, foot etc) in the area. This type of establishment, should it be used for rehabilitation centre of sorts, is not suited to the environment and places risk to the local community especially children and the elderly.

We would like a clearer explanation of what the facility will be used for prior to consideration of consent. We would also like written confirmation that this facility will under no circumstances be used as a rehabilitation centre for people with any form of addictive disorder / rehabilitation of other psychological or psychiatric problems.

Garth & Therese Bradley  
 ERF 5163 Bettys Bay  
 Garth : 083 647 4938  
 Therese : 083 301 3921  
 Postal Address: 35a Kenilworth Drive, Kloof, 3160

This email and all contents are subject to the following disclaimer:  
["http://www.dimensiondata.com/emaildisclaimer"](http://www.dimensiondata.com/emaildisclaimer)



FILE NO:	ER 3054 BB ✓
SCAN NO:	
COLLABORATOR NO:	1002725

13 MAR 2017

ANNEXURE F 177/184



TR A Theart  
C H vd Stoep

Mr J H Potgieter  
Wandelstraat 33  
MALMESBURY  
7300

10 Maart 2017

Die Munisipale Bestuurder  
Overstrand Munisipaliteit  
Hermanus Administrasie  
Postbus 20  
HERMANUS  
7200

VIR AANDAG: ME. H VAN DER STOEP  
PER E-POS: lorelts@overstrand.gov.za

Geagte Mevrou

**AANSOEK OM OPHEFFING VAN TITELBEPERKINGE EN VERGUNNINGSGEBRUIK  
VAN ERF 3054, BETTYSBAAI**

In bogenoemde verband het ek die skrywe van Plan Active Stads- en Streeksbeplanners gedateer 28 Februarie 2017 ontvang.

Ek is die eienaar van erf 3219, Bettysbaai. Ek wil graag hiermee my beswaar opper teen die opheffing van die titelbeperkings op erf 3054, Bettysbaai en die bestaan van 'n vergunninggebruik vir die bedryf van 'n ophettingsentrum.

Dit blyk nie uit die aansoek prasiëns welke ophettingswerk op die betrokke perseel gedoen sal word nie. Ek aanvaar egter dat die besoekers aldaar sosial-waarnaangepaste persone sal wees en moontlik persone met probleme aangaande dwinggebruik of drankiebruik.

Dit blyk voorts uit waarnemings wat ons gedoen het dat daar alreeds ophettingsaktiwiteite op die perseel plaasvind. Ons het al waargeneem dat groepe persone van die gemelde eiendom afbawaag tot op die rotsse voor ons woning in Dolphin Rylaar. Blykbaar word dit gedoen tydens stapogte of ander groepsaktiwiteite vir die inwoners.

My beswaar teen die opheffing van die titelbeperkings en bestaan van 'n vergunninggebruik berus hoofsaaklik op die volgende gronde:

1. Ek aanvaar dat die besoekers (pasiente) sosial-waarnaangepaste persone is wat ophettingswerk benodig. Dit skep op sigself reeds 'n risiko vir die nabye inwoners.
2. Ek is van mening dat die sekuriteitsmaatreëls by erf 3054, Bettysbaai onvoldoende is ten einde te verseker dat inwoners (pasiente) nie die perseel vryelik kan verlaat nie.
3. Klaarblyklik sal die inwoners ook van tyd tot tyd besoekers ontvang wat 'n sensierlike verkeersopeenhoping in die nabye omgewing van die erf sal veroorsaak.

FILE NO:	
	ER 3054 BB
SCAN NO:	
COLLABORATOR NO:	

✓  
K185

4. Groepsaktiviteite van die inwoners (pasiente) sal waarskynlik baie storend wees op nabygeleë inwoners. In die verband word gedink aan kerkbyeenkomste, sanggaleenthede, staptegte ensovoorts.

In die lig van bostaande maak ek formeel beswaar teen die opheffing van die titelbeperkings en die toestaan van 'n vergunningsgebruik op erf 3054, Betty'sbaai.

Geliewe veilige ontvangs hiervan te erken.

Die uwe

J H POTGIETER





Die Munisipale Bestuurder [Aandag: Me H v d Stoep]  
 Overstrand Munisipaliteit  
 Hermanus Administrasie  
 Posbus 20,  
HERMANUS 7200

TR A Theart  
 (H v d Stoep)

**AANSOEK OM OPHEFFING VAN TITELBEPERKINGE  
 EN VERGUNNINGSGEBRUIK ERF 3054 BETTY'SBAAI**

Geagte Meneer,

Met verwysing na bovermelde aansoek en die skrywe van PLANACTIV dd 28 Februarie 2017, namens ALPAC INVESTMENT CC, versoek ek u vriendelik om my per kerende pos te voorsien van die volgende inligting sodat 'n skriftelike beswaar, indien enige, voor die verstekdatum van 7 April 2017 aan u bedien kan word.

1. Kan u my verwittig wat die aard van ALPAC INVESTMENTS CC se betrokkenheid by sg "upliftment" behels? Is daar bv terapie en behandeling of berading by betrokke en is hierdie Beslote Korporasie geregistreer by die betrokke gesondheids-owerhede om hierdie soort dienste te mag lewer? Voorsien my ook asseblief van die registrasienommer van die aansoeker by die verwante gesondheids-owerhede?
2. Mag ek voorsien word van 'n verwysing na die navorsing, indien enige, wat gedoen is om die stelling onder 5. **PROPOSAL** van die aansoek nl.: **"Due to the demand for wellness centres, upliftment centres and related land uses in the area"** te regverdig?
3. Wat is die maksimum individue wat onder optimum besetting hier gehuisves gaan word?
4. Mag ek ook voorsien word van detail ivm die personeel wat betrokke sal wees om die getal persone teen maksimum okkupasie te bedien van die dienste waarna in 1 hierbo verneem is en wat inmiddeels voedselvoorsiening en sanitêre en riooldienste insluit.

FILE NO:	EL 3054
SCAN NO:	BB
COLLABORATOR NO:	1002720

✓  
KRSB

1. 18/11/17

ANNEXURE F 180/184

5. Is enige spesifieke religie, ras, geslag en/of ander eksplisiete oortuiging relevant tot hierdie aansoek en tot die individue wat hier beoog geakkomodeer te word?

Ek sal dit waardeur om bovermelde inligting so spoedig doenlik van u of van die aansoeker te ontvang.

'n Afskif hiervan gaan aan Raadslid F Krige in wie se wyk hierdie perseel in die aansoek resorteer.

Vriendelike groete

H Guy Roberts VDM  
EMERITUS

TP A Theart  
(Huld Stoop)

Loretta Gillion - ERF 3054 SEAVIEWRYLAAN 11 BETTYSBAAL / Section 51 and 52 /  
Complaint



**From:** "De Klerk van Niekerk" <deklerkv@sonicmail.co.za>  
**To:** <loretta@overstrand.gov.za>  
**Date:** 07/03/2017 09:13 AM  
**Subject:** ERF 3054 SEAVIEWRYLAAN 11 BETTYSBAAL / Section 51 and 52 / Complaint

TO WHOME IT MAU CONCERN

We are permeant residence in ERF 3063 SEAVIEWRYLAAN 29 BETTYSBAAL close to the applicants house.

1. My first complain is as follows. During February last year ons of the 15 plus residence in that house used a high speed motorcycle and drive up an done at high speed in Seaviewrylaan. At first it was not as disturbing at that stage but we dit confront them with this.
2. The most disturbing complaint is as follow. On Mei 2016 my nabour at 3147 an elderly woman knocked on my door and ask me for help. She said that she was in the garden busy housing the plants and one of the 15 plus residence walked pass her and pick up a brick looking at her. Immediately I jumped into my car and chase him. I ask him why he did that and his disturbing answer was my dad know people and is very rich , do not confront or talk to me. At that stage I did manage to calm myself not to hit the guy.
3. We did phone the Police and traffic department because on certain days there is different cars park there without any number plates.
4. My brother visited me this past Desember 2016 and as he stand on my deck he pick up a guy from that house that was busy looking at us with binoculars.
5. Some day when we pass the house you can here during the week sounds of Muslem coming from the house.
6. This house started with 6 people then 12 and now more than 17, Where will it end and we know that because they are jogging some mornings pass our residence.

Please take note we are still young 47 of age and we are not old people that complain of any small things around us but I will put this on record , that if something bad is to happen in the future we will held the Municipality responsible for granted the application in terms of Section 16(2)(o) of the aforementioned By Law in order to enable the owner to utilize the existing dwelling house on the property as an Upliftment Centre.

De Klerk van Niekerk , Thelma van Niekerk  
3063 Seaview rylaan 29  
Bettysbaai  
7141  
Cell numbers :0712894284 huis :028 2729848  
Residence in Seaviewrylaan  
Reason for comments : Very worried residence of what will happened in the future.

Kind regards  
D van Niekerk en T van Niekerk

FILE NO:	ERF 3054
	Bettysbaai
SCAN NO:	
COLLABORATOR NO:	

P 2017.03

ANNEXURE F 182/184

Loretta Gillion - Objection to the consent use and the restrictive conditions Erf 3054  
Betty's Bay

TP A Theart  
C Huldstomp

From: "Conrad Wegelin" <wegelin@mweb.co.za>  
To: <loretta@overstrand.gov.za>  
Date: 07/03/2017 08:32 PM  
Subject: Objection to the consent use and the restrictive conditions Erf 3054 Betty's Bay



The Municipal Manager  
Overstrand Municipality  
Hermanus

For attention: Ms. H. Van Der Staep

6 March 2017

Dear Overstrand Municipality

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1001663

Re: Application for removal of title Deed restrictions and consent use of ERF 3054 Betty's Bay

I, Conrad Johan Wegelin, owner and living full time at Erf 3058, Seaview Drive, Sunny Seas, Betty's Bay object in the strongest possible terms to the application of ALPAC Investments CC for a consent use and the removal of restrictive Title Deed conditions for consent to run an "Upliftment Centre" on erf 3054.

Reasons for objection:

I bought my property in Betty's Bay as it is zoned single residential which would give me a certain amount of quiet and peace. This has, over the past years, been a wonderful place to live for this very reason. This area also gives us a sense of solitude.

This "Upliftment Centre" has been operating illegally for a while now and we, the local residents, are subjected to constant running up and down the road I presume as fitness classes. One man even blew my wife a kiss while she was looking through the bathroom window as they ran past. This sort of familiarity does not give one the feeling of safety and security at home. I have grandchildren who come to visit regularly and I am uncomfortable with all these young men, who I know nothing about, living down the road from us.

At the "Upliftment Centre" lights are left on until late at night which is not part of the ethos of Betty's Bay where light pollution is taken seriously. This was also a reason for me buying in this area.

My privacy has also been compromised as there is a clear view from the rear of the "Centre" to our back yard where these young men spend a lot of time. I would have no objection if it was a private family but all these men, maybe 10 -15 at a time, does not make one feel very comfortable.

I believe rezoning to allow an "Upliftment Centre" in a single residential area would detrimentally affect the value of my property and of the entire area.

TP 0 MAR 2017

✓  
182

ANNEXURE F 183/184

I request that this application be refused.

Yours sincerely  
CJ Wegelin  
0083 532 5622  
[wegelin@mweb.co.za](mailto:wegelin@mweb.co.za)  
P.O. Box 394  
Betty's Bay  
7141

ANNEXURE F 184/184

Telephone: 028 2729996  
 Email: [dmbza@sericmail.co.za](mailto:dmbza@sericmail.co.za)



PO Box 402  
 Betty's Bay  
 7141  
 3 March 2017

TR A Theart  
 CH Uldstap

Town Planning  
 Overstrand Municipality  
 Hermanus

for attn: Leonora

Dear Sirs,

OBJECTION WRT PROPOSED DEVIATION FROM TITLE DEED RESTRICTION ERF3054, BETTY'S BAY

I, David M. Bossenger the owner and full time occupier of Erf 3162, Seaview Drive, Betty's Bay wish to bring to your attention my strongest possible objection to the application by ALPAC Investment CC for a deviation consent on the abovementioned property to enable them to run an upliftment centre.

Reasons:

As a long term resident of Betty's Bay I appreciate the quietness and to a degree the solitude that is found in the village. One of the reasons for moving to the Sunny Seas area from the Jack's Bay area was the restriction in the title deeds of the erven in the area which restrict the use consent to single residential. This implies a certain degree of solitude and quietness especially in the Sunny Seas area with its large erven. This will be lost if an institution aka a rehabilitation/rehabilitation centre/boarding house is permitted.

The present, illegal use of the erf as a rehabilitation centre has, over the past few years, brought this into perspective. Up to 15 persons are accommodated on the erf. There is a daily gym/ running activity both on the erf and in the local roads that causes undesirable activity of noise and bother to the local residents.

The extra noise pollution caused by the extra cars and occasional motor bike visitor accompanied by excessive speeding on roads not designed for more than 20kph.

The loud noises emanating from the property on Sunday evenings.

The light pollution every evening from the "dining room" in the enclosed stoep on the top floor of the property which burn till well after 2200hrs.

The fact that the said property was raided by police with many cars speeding on roads not designed for this purpose.

general alteration in the deviation from the quietness of the area as well as the fact that laundry water washes down the driveway carrying phosphate enriched water into the fynbos - something which it is not designed to accept.

I doubt very much that the septic tank at the house is designed to cope with the large number of persons residing on the property.

It is my considered opinion that the above factors invade my privacy, affect the relative quietness of the street and will affect the value of my house and I therefore request that the application be refused.

Yours faithfully,  
 DM Bossenger

FILE NO:	EL 3054
	Betty's Bay
SCAN NO:	
COLLABORATOR NO:	1001093

✓  
KSS

13 MAR 2017

ANNEXURE G 1/73

**PLAN** Town & Regional Planners  
Stads- en Streeksbeplanners  
**Active**

6 Mignotta St / Str  
PO Box / Posbus 296  
HERMANUS  
7200  
Tel: (028) 312 1351  
Fax / Faks: (028) 312 1355

email: [planactive@hermanus.co.za](mailto:planactive@hermanus.co.za)  
Website: [www.planactive.co.za](http://www.planactive.co.za)



24 July 2017

Our reference: PA15034  
Your reference: 3054 KBB (3205)

The Municipal Manager  
Overstrand Municipality  
PO Box 20  
HERMANUS  
7200

TP-A Theart  
(Huld Stoep)

FILE NO:	EL 3054-KBB ✓
SCAN NO:	
COLLABORATOR NO:	1055585

For attention: Mrs. Hanneen van der Stoep

Sir,

**COMMENTS ON OBJECTIONS: ERF 3054 BETTY'S BAY: PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE**

Your letters dated 26 April and 2 May 2017 with the objections attached thereto refer. The objections and our comments on the objections can be summarised as follow:

1. The subject property and surrounding erven of the Sunny Seas Township is Special Residential erven and may only be used to erect a dwelling on the subject erven and that no businesses may be established on these erven. These erven have no other rights, other than what is stipulated in the Title Deed.

*Erf 3054 Betty's Bay is indeed listed as one of the erven being referred to in the Title Deed and the township Establishment Conditions as being a Special Residential Erf. The land use of these erven is restricted to the following land use:*

*C(i)(b) "It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith."*

*C(i)(m) "No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven."*

Divine Inspiration Trading 220 (Pty) Ltd. trading as Plan Active  
Reg. No. 2006/030921/DP  
Vat. No. 4770210040

John PC Lachlan: MEd (Town Planning) Tech Witwatersrand; NSRF Nr. 10806; SACPLAN Tsh Ph 4/8250/2014  
Pauline Sorens: B (Soc Sc) LL, BA Hon (UNISA)  
Merré Kerr: B. Art et Scen Cum laude (Town Planning) UNW; SACPLAN Ph Ph A/158/2008

24 JUL 2017

*Handwritten initials*

## ANNEXURE G 2/73

*The erven in the Sunny Seas Township are governed by these land use restrictions. Cognisance however should also be taken of the Zoning Scheme that is also applicable to these erven. In the past, the section 8 Scheme Regulations of the Land Use Planning Ordinance, Ordinance 15 of 1985 was used to govern land uses and land use restrictions consisting of prescribed building lines, height restrictions and coverage.*

*The Section 8 Scheme Regulations was replaced by the Overstrand Municipal Zoning Scheme that came into effect on 1 January 2014 that makes provision for more land uses and consent uses and can be seen as a modern version of the land use restrictions applicable to Single Residential Erven. With the implementation of the Zoning Scheme the Title Deed Restrictions of the Sunny Seas Township cannot be ignored and has preference over the land use restrictions imposed by the Zoning Scheme Regulations and therefore necessitates an application for the removal of the more restrictive Title Deed conditions in order to make use of the land uses referred to in the Zoning Scheme.*

*With reference to our motivation report we mentioned that the Residential Zone 1 zoning will be retained. Our application does not constitute a change of zoning but the change of land use as being provided for in the Zoning Scheme as a consent use. We have made it clear in our motivation report that we are referring to the Zoning Scheme and not the Title Deed when we mentioned land use rights other than being residential. The relevant Zoning Scheme makes provision for the following land uses under a zoning of residential Zone 1 that reads as follow:*

- (a) **Primary uses** are: day care centre, dwelling house, guest rooms, home occupation, second dwelling unit;
- (b) **Consent uses** are: crèche, green house, guest house, house shop, institution, place of instruction, place of worship, residential building, tourist accommodation.

*In order to make use of the above mentioned land uses other than being residential it is required that the Title Deed restrictions be addressed and therefore the reason for our application for the removal of the restrictive Title Deed restriction. Cognisance should also be taken that one of the following land use restriction have been imposed to all residential erven in Betty's Bay that read as follows:*

*"This erf shall be used solely for the purpose of erecting thereon one dwelling or other buildings for such purpose as the Administrator may from time to time after reference to the townships board and the local authority, approve, provided that of the erf is included within the areas of a town planning scheme, the local authority may permit such other buildings as are permitted by the scheme, subject to the conditions and restrictions stipulated by the scheme."*

*"It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith,"*

*With reference to the above restrictions it is clear that all residential erven may only be used for erecting thereon one dwelling, therefore limiting the use of the erven to a single residential use. Subsequently the following restriction, "No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven." does not have to be in the Title Deed to prohibit any business use because all erven are limited to a single residential use only and therefore any other land use will be in conflict with each residential owner's Title Deed that resides in Betty's Bay.*

**2. The number of people accommodated and the impact of the proposed upliftment centre will be similar to a standard 5 bedroom guesthouse.**

*The reason for us comparing the proposed upliftment centre to a guesthouse can be summarized as follows:*

- *The maximum number of guests that can be accommodated within a guesthouse is 10;*
- *The maximum number of guestrooms is limited to 5, sleeping 2 guests per room;*
- *Even though no visitors are allowed, provision was made for 1 parking bay per room and 2 parking bays for owner / manager;*
- *As stated in our motivation, guests visiting the upliftment centre do not require any medical interventions and do not have medical conditions that require medical attention. It is also the reason why we referred to visitors as guests and not patients.*
- *Strict rules apply to guests visiting the upliftment centre in order not to be a nuisance to surrounding land owners.*

**3. Referral is made in the motivation to a Conveyancer Certificate, but no certificate was enclosed.**

*A Conveyancer Certificate accompanied our application submitted to the Overstrand Municipality. The municipality in return provided us with the notice and the information to distribute via*

## ANNEXURE G 4/73

registered post to owners of erven in the Sunny Seas Township. The Conveyancer Certificate was not included in the documents that we were instructed to distribute.

- 4. The primary right use of the subject property will remain residential. This contradicts and invalidates the proposal to change the restrictive Title Deed conditions.**

The current zoning of Erf 3054 Betty's Bay will remain Residential Zone 1. The application constitutes an application for a consent use to accommodate an upliftment centre. Even though the land use changes, the primary land use in terms of the zoning scheme will still be retained. Should the land be sold, the land use will revert back to being single residential and will the consent use lapse.

- 5. The statement that surrounding land uses consist of mainly single residential, holiday houses and guesthouses is not true.**

All residential erven in Betty's Bay are zone Residential Zone 1 and are either developed or vacant. Some of the developed residential erven are being used for other uses such as guesthouses, holiday houses and tourist accommodation. Making use of the following websites, [lekkerslaap.co.za](http://lekkerslaap.co.za), [frevago.co.za](http://frevago.co.za) and [airbnb.com](http://airbnb.com) we can list the following 13 advertised tourist accommodation establishments in the Sunny Seas area only:

- |  |  |  |   |
|--|--|--|---|
| • Helm's Deep –<br>Sea and<br>Mountain:<br>Seaview Drive | • Nature's Haven<br>In Betty's Bay:<br>Seaview Drive | • Betty Blue:<br>Seaview Drive                   | • Sunny Seas:<br>Albertyn Drive         |
| • 210 Degrees<br>South: Pearl<br>Drive                   | • Havens Door:<br>Albertyn Drive                     | • ZAR Beautiful:<br>Albertyn Drive               | • Paradise<br>Getaway:<br>Luckhof Road  |
| • Sanity<br>Getaway:<br>Anemone<br>Street                | • Leopards View:<br>Mermaid Road                     | • Van Den Bergs<br>Guesthouse:<br>Albertyn Drive | • Umoya<br>Guesthouse:<br>Dolphin Drive |
| • Kalliste B&B:<br>Dolphin Drive                         |  |  |   |

## ANNEXURE G 5/73

*Making use of the website airbnb.com we have noted ±141 tourist accommodation establishments in the Betty's Bay area.*

*We question that all these tourist accommodation establishments had their Title Deeds amended and that they applied for a consent use to utilise their dwellings for tourist accommodation purposes. The Title Deeds for residential erven of Betty's Bay make it clear that the residential erven may only be used to accommodate thereon one dwelling and associated structures. With reference to specifically the Sunny Seas Township there is a restriction that prohibits the use of residential erven for a canteen, hotel, any form of business etc. please refer to the restrictions below:*

*"No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven."*

- 6. The proposal is to run a business from Erf 3054 Betty's Bay that will have a negative impact on traffic and no parking bays are provided onsite for the proposed use.**

*The application is to accommodate a upliftment centre on the subject erf. 1 parking bay per guestroom is provided and 2 parking bays for owner / manager. Therefore 7 parking bays are provided onsite.*

*The upliftment centre does not allow day visitors and therefore the impact on the road infrastructure will be minimal. The parking bays will only be used when a guest to the wellness centre is dropped off or picked up after their upliftment sessions. Guests are not allowed to arrive with their own transport.*

- 7. The grey- and black water will have a negative impact on the environment.**

*With our application to utilise the existing dwelling as a upliftment centre it is proposed that the 5 existing bedrooms be used to accommodate 2 guests each. Being an existing dwelling with existing services and the fact that only 10 guests may occupy the 5 bedrooms will not have a negative impact on the services.*

**8. There will be no economic benefit to the area of Betty's Bay.**

*In order to run an upliftment centre it would be required that the guests be provided with food, beverages, laundry facilities etc. Local businesses are supported to provide food, beverages, reading material and other groceries. Furthermore the existing dwelling requires routine maintenance and this is also where local contractors are used. It is therefore clear that Betty's Bay does benefit economically from the upliftment centre.*

**9. Refuse and refuse removal poses problems such attracting animals such as rats and mice.**

*Refuse is managed similar to that of a dwelling, and because of the fact that guests reside at the upliftment centre it is required that the premises be kept clean at all times. The stench of garbage or any mice or rat infestation will not be tolerated by guests and it will be to the detriment of the facility.*

**10. The land uses that can be accommodated within a zoning of Residential Zone 1 includes single residential dwelling, holiday homes and guesthouses. The proposed upliftment centre does not fit into any of these categories.**

*The primary land uses under a zoning of Residential Zone 1 are as follow:*

- (a) **Primary uses** are: day care centre, dwelling house, guest rooms, home occupation, second dwelling unit;

*The Overstrand Municipality Zoning Scheme also makes provision for consent uses that are compatible with the Residential Zone 1 zoning that are as follow:*

- (b) **Consent uses** are: crèche, green house, guest house, house shop, institution, place of instruction, place of worship, residential building, tourist accommodation.

*Application is made for a consent use for a upliftment centre that can be categorised under and institution. Institution is defined as follows:*

**"institution"** means a property used as a social, health or welfare facility, or for the administration thereof and includes a hospital, special needs school, clinic, homes for the aged, indigent or handicapped, a reformatory or place of detention, whether of commercial or charitable nature, but does not include a jail;

## ANNEXURE G 7/73

*The Title Deed in respect of Erf 3054 Betty's Bay however has Title Deed restriction that prohibits the above mentioned primary and consent uses other than residential and that is why we have also applied simultaneously for the removal of the restrictive Title Deed conditions.*

**11. The upliftment centre will have a negative impact on the character of the area.**

*The zoning of erf 3054 Betty's Bay will remain unchanged. The primary land uses applicable to the subject property will therefore remain in place. The subject property can therefore easily revert back to single residential use only if deemed necessary in future.*

*The proposed land use is compatible with surrounding guest house land uses. Erf 3054 Betty's Bay can alternatively also be developed for guest house purposes (maximum five bedrooms), home occupation or second dwelling purposes. However, developing erf 3054 Betty's Bay for upliftment centre purposes will have the same impact than developing the subject property for guest house purposes. We are therefore of the opinion that the subject property has the potential to be developed for the proposed land use since it will not have a greater impact than:*

- *accommodating a large family in the existing dwelling, or;*
- *accommodating two families in the existing dwelling (main and second dwelling), or;*
- *accommodating 6-10 guests on the subject property (guest house).*

**12. Walls and fences will impact negatively on the movement of wild animals.**

*The subject property is not fenced and has no boundary walls.*

**13. The application mentions that the maximum number of guests to be accommodated is 10, but currently it is close to 20 guests being accommodated.**

*Our application is to accommodate a maximum number of 10 guests only in order to minimise the impact on the surrounding neighbourhood and this was also why the proposed upliftment centre was compared to a land use such as a guesthouse.*

**14. No impact study was conducted for the change of land use to accommodate an upliftment centre.**

*Erf 3054 Betty's Bay is within an already developed residential area and it is proposed that the existing house and its infrastructure be used to accommodate an upliftment centre. The change of*

*land use does not trigger any listed activities in terms of the National Environmental Management Act and therefore no impact study is necessary.*

**15. The Municipality does not have the authority to deal with applications to remove Title Deed restrictions, this can only be done by the Minister.**

*Legislation has changed and removal of restrictive Title Deed conditions are now being dealt with by the Overstrand Municipality. Application is made in terms of Chapter 4, Section 16(2)(f) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the removal of a restrictive Title Deed conditions. The correct procedure was followed in all aspects for the proposed removal of the restrictive Title Deed conditions and consent use.*

**16. The correct procedure was not followed to provide notices to all the residents of the Sunny Seas Township by Registered Mail.**

*We have been instructed by the Overstrand Municipality to send notices via registered post to all the land owners of the Sunny Seas Township and has also provided us with an address list. Notices were sent to a total of 431 owners per registered mail of which we have proof of all addresses where the notice have been sent to and corresponding tracking number of each notices.*

**17. The objections included a petition for the tarring of Disa Road due to dust problems those residents in the vicinity is experiencing.**

*This petition has no relevance to our application. Disa Road is ±5km from the subject erf.*

**18. Betty's Bay is a lifestyle seaside village with a rural / country atmosphere. Thus there are only a small number of Business properties. No land has also been earmarked for industrial development, as there is no need for such. The proposed upliftment centre is a special residential area, will therefore negatively impact on the character of the village.**

*Generally the people making use of the services of an upliftment centre comes from busy cities and suburbs for treatment. The tranquility and country atmosphere that Betty's Bay has to offer is beneficial to them. The proposal for an upliftment centre is also not suited to be located within an industrial area and is not related to an industrial land use.*

## ANNEXURE G 9/73

*The application is for a small upliftment centre that will only cater for a maximum of 10 guests that require no medical intervention or that has no medical condition as stated in our motivation report. Therefore the proposed upliftment centre is compatible with the surrounding land uses and residential character of the Sunny Seas area.*

Enclosed please also find the comments on the objections that were received from our client for your attention.

We trust that you would find our comments on the objections in order and we look forward to the finalisation of this application.

Yours faithfully



John Mc Lachlan

## REPLICATION TO OBJECTIONS

### GENERAL REPLICATION

#### INTRODUCTION

1. In order to have a systematic and coherent approach to the objections and not to be repetitive, the Applicant chose to have a general reply addressing all the issues raised in the objections before dealing individually with the respective objections.

#### UPLIFTMENT CENTRE

2. Oceanbreeze Upliftment Centre [hereinafter referred to as "Oceanbreeze"] provides a safe and tranquil environment for persons with stress, anxiety, depression, low self-esteem and/or low self-confidence ... or who is burnt out. In the premises, it needs to be in a tranquil area such as Betty's Bay.
3. An Upliftment Centre must be distinguished from a rehabilitation centre; the latter is defined in terms of the Mental Health Care Act, No 17 of 2002, and incorporates the use of various medical personnel. Like a wellness centre, an upliftment centre is self-regulatory.
4. Oceanbreeze is open to all races; it has accommodated, inter alia, Whites, Coloured, Black and Indian people.

5. Oceanbreeze is open to persons of all religions; it has accommodated, inter alia, Muslims, Christians and Hindus.
6. Oceanbreeze only accommodate males in order to cater for the religious approach of its largely Muslim guests. In terms of Islam, they cater separately for male and females, in order to eliminate the element of distraction based on sexuality. Section 31 of the Constitution of the Republic of South Africa, Act 108 of 1996 does facilitates the practice of religious freedom.
7. The modus operandi of Oceanbreeze roughly has the following breakdown:
 

Scripture reading	40%
Discussions on self-esteem and self-confidence, life-skills and team-building	40%
Meditation spiritual awareness	10%
Physical exercises	10%
8. Oceanbreeze has been operating since about February 2013 in Betty's Bay.
9. However, it was first run in a rented house at 4418 Ixia Street, on the corner of Ixia and Lobelia Streets, Betty's Bay.
10. Oceanbreeze relocated to the present address, 3054 Seaview Drive, Betty's Bay [hereinafter referred to as 'Erf 3054'], about January 2015.
11. Alpac Investments Close Corporation, registration number 2009/165613/23 [hereinafter referred to as 'Alpac'], bought

Erf 3054, permitting Oceanbreeze to operate the Upliftment Centre.

12. Due to the high demand for such an institution, Oceanbreeze has the potential to and does screen which guests it permits and does have an excellent administration which includes building and maintaining a profile and record of every guest. In principle, it does not accommodate any person with a criminal record.
13. Lastly, it is a non-profit organisation which sustains itself from private donations; and it does have to account to such donors. Hence, it is not a business [a commercial venture] and does not operate for profit [it is a charitable organisation].

#### **BETTY'S BAY**

14. Betty's Bay has no industrial area and a very limited number of commercially zoned erven. However, Betty's Bay is largely a commercial hub, albeit it in a tone-down manner. The commercial activity is the provision of accommodation. At least ±141 of erven in Betty's Bay are listed on AirB&B for accommodation. Considering the unknown number of erven listed with other agencies or those who operate such businesses privately and unlisted, it is quite clear that Betty's Bay is indeed a commercial hub. This includes, inter alia, guest houses, bed and breakfast [B & B's], holiday houses and guest rooms.

15. A large number of houses of Betty's Bay are holiday houses with their owners residing outside Betty's Bay.
16. There is a small portion who reside permanently in Betty's Bay ... they are especially retired people. However, even this demographic is changing ... with progressively younger people taking up residence in Betty's Bay.
17. The South African immovable property market took a serious dip since 2008 with the prices of immovable properties taking a plunge. The market became a 'buyer's market' in that potential purchasers could drive the selling price down dramatically. Potential sellers struggled to sell their immovable property.
18. The property market where holiday housing is a major component [such as Betty's Bay] gets hit harder than a CBD [central business district] or city area. In the premises, Betty's Bay has been hit very hard indeed.
19. Furthermore, one third of potentially employable South Africans are unemployed and two thirds of young employable South Africans are unemployable. Again, the rural area and small towns [including Betty's Bay] usually carry a larger portion thereof.
20. This gives rise to crime and criminality, again of which Betty's Bay has its substantive portion.
21. It also gives rise to wide-spread drug and alcohol abuse and related problems. Find accompanying an article [annexed hereto as Annexure "UC 1"] which is self-explanatory ... of ex-

Councillor Lisel Krige supporting a local organisation dealing with such issues.

### LEGALITY

22. Prior to May 2015 there had been no provision in the bylaws of Overberg Municipality [hereinafter referred to as "the Municipality"] dealing with an Upliftment Centre. In the premises, it was not unlawful for Oceanbreeze to operate as such.
23. Beginning May 2015, however, the Municipality made a ruling that henceforth an Upliftment Centre would be regarded as an "institution" in terms of the Overstrand Zoning Scheme and hence that Oceanbreeze would have to apply for consent use in order to remain lawful.
24. Simultaneous to the ruling being made, Oceanbreeze was given the ultimatum to either apply for consent use or terminate its operation as an Upliftment Centre. This can be confirmed from written correspondence and a written interoffice memorandum from the Municipality.
25. Oceanbreeze elected to apply for consent use and the very same day it was given such ultimatum it appointed PlanActive Town and Regional Planners [hereinafter referred to as "PlanActive"] as its agent to process such application.
26. Since then PlanActive has been interacting with the Municipality to process such application, more specifically with respect to

the specifications, terms and conditions for the Upliftment Centre.

27. As a result of the aforementioned, Oceanbreeze has spent at least R220 000.00 to upgrade the building and premises in accordance with this process in order to facilitate a successful application.
28. On or about the 1<sup>st</sup> February 2016, Oceanbreeze indeed submitted its application. And the application has been processing ever since by the Municipality and is presently still ongoing.
29. In the premises, Oceanbreeze has always been operating lawfully.
30. The legality of Oceanbreeze has also been subjected to the test of a court. In Caledon Court case number OSC 14/2017 the Honourable Court handed down judgment on or about 13<sup>th</sup> November 2016 finding Oceanbreeze not to be acting unlawfully.
31. In the premises, the case of *Lester v Ndlambe Municipality & Another* [2014] 1 All SA 402 (SCA) is not applicable as the latter deals with a matter where the unlawfulness had been known beforehand and despite thereof the building went ahead.

**RACISM / ISLAMAPHOBIA**

32. Kindly be reminded that there had been no complaint about the Upliftment Centre until an incident where two white male residents armed with firearms confronted occupants of the Upliftment Centre threatening them that '**they do not belong there as they were not white and were Muslim**'. Hence we have no doubt that the only substantial objection is based [albeit indirectly and in a clandestine manner] on racism and Islamaphobia.
33. The standard condition in the Title Deeds of the erven of Sunny Seas Township read as follows:
- "C (ii) (a) That this erf or any portion thereof shall not be transferred, leased or in any other manner assigned or disposed of to any Asiatic, African Native, Cape Malay or any person who is manifestly a "coloured person" ... "
34. This clause is now omitted from all the Title Deeds as it is unconstitutional. However, it appears that these two persons are hell-bent to maintain such status quo albeit it in a clandestine manner. It appears that in the new South Africa some whites hope to prolong the racist privilege that they enjoyed in the old apartheid South Africa.
35. We have noticed the radicalization of people if they are not allowed to live out reasonable norms and/or values. The France government prohibited the wearing of the burka ... now it has to deal with 'terrorists'. The

apartheid South Africa denied black people to live out their reasonable norm and/or values ... not surprisingly the country went up in flames.

36. In the apartheid South Africa, it is the support of whites against apartheid that curtailed hatred between whites and blacks and facilitated reconciliation. In the premises, we appeal to white residents not to be abused by those narrow-minded racists and Islamaphobics ... but to take a firm stand on a higher road.
37. Fortunately the Court [especially the Appeal Court and Constitutional Court] in the new South Africa has shown pertinently that it provides for and accommodates 'otherness'. In the premises, we have no doubt that we have the judiciary on our side.

**ERF 3054**

38. Find accompanying a copy of the Title Deed [annexed hereto as Annexure "UC-2"] of Erf 3054 upon which the Upliftment Centre is housed.
39. We quote verbatim from Annexure "UC-2":
- 'C. SUBJECT FURTHER to the following conditions contained in the Title Deed No. T1909 / 1957 namely:-
- (i) Imposed by the Administrator of the Province of the Cape of Good Hope under Ordinance

No. 33 of 1934, as amended, upon approval of the establishment of Sunny Seas Township:

5. This erf shall be subject to the following further conditions provided especially that where in the opinion of the Administrator after consultation with the Township Board and the Local Authority it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension of (sic) relaxation, subject to compliance with such conditions as he may impose:

- (c) It shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith.

- (ii) Imposed by Hangklip Beach Estates Limited as being applicable to all plots in Sunny Seas Township as being in favour of the registered

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owner of any property in the Township:

---

- (m) No hotel, boarding house, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted upon the Special Residential erven.

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40. When the application for consent use was initiated, the Municipality on or about the 13<sup>th</sup> May 2015 requested a Conveyancer's Certificate to ensure that there are no conditions on the Title Deed of Erf 3054 which would restrict the operation of an Upliftment Centre.
41. As a result, a Conveyancer's Certificate [annexed hereto as Annexure "UC 3" was obtained and submitted to the Municipality.
42. Kindly note that the said Conveyancer certified that there is absolute no restriction in the said Title Deed which prohibits the operation of an Upliftment Centre on the said erf.
43. There upon the Municipality advertised on or about the 5<sup>th</sup> May 2016 the application for Consent Use.

44. There upon the Municipality acquired another Conveyancer's Certificate, annexed hereto as Annexure "UC 4".
45. The said Conveyancer's Certificate states that Clauses C(ii)(m) and C(ii)(n) do not constitute a restriction for the operation of an Upliftment Centre on the said erf and hence there is no need for applying to set aside such conditions.
46. The said Conveyancer's Certificate states that Clauses C(i)(5)(b), however, does present such restriction and must be applied for to be set aside.
47. However, the Conveyancer is wrong in such conclusion.
48. First, the Conveyancer erred by stating that "It shall *not* be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith." [our emphasis]
49. In fact, the condition in the Title Deed states that "It shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith."
50. However, the Upliftment Centre does not intend to add any other building to the existing building and does not apply for such deviation.
51. In the premises, the application for the operation of the Upliftment Centre is not restricted by Clause C(i)(5)(b) and hence there is no need for an application to remove such

clause.

52. Thereafter a third Conveyancer's Certificate was obtained [annexed hereto as Annexure "UC 5"] ... from the same Conveyancer who sufficed the second Conveyancer's Certificate.
53. This time she stated that she erred by perceiving it from the perspective as a "single residential erf" as this perspective relates to zoning purposes and not to Title Deed conditions. The latter refers to "Special Residential Erven" and as such not only Clause C(i)(5)(b) but also Clause C(ii)(m) is applicable and restrictive ... hence there should be an application to remove both.
54. In the premises, there was a second advertisement, for the removal of both Clauses C(i)(5)(b) and C(ii)(m).
55. We do not agree that there should be an application for any condition, *id est*, neither for Clause C(ii)(m), on the Title Deed; but we submitted to such directive in order to continue with the application process.
56. A "business" is any activity or enterprise ***entered into for profit*** [*id est*, a commercial venture] an Upliftment Centre is a Non-profit Organisation [it is a charitable organisation]. It is not a "business"; it does not operate for profit. In the premises, it does not resort in Clause C(ii)(m).
57. In May 2015 the Municipality has ruled the Upliftment Centre as "an institution"; in the premises, it had to apply for consent use

in terms of the Zoning Scheme.

58. The definition of "business premises" is defined in "DEFINITIONS" of the Overstrand Municipality Zoning Scheme June 2014 as follows:

"**business premises**" means a property from which business or services is conducted and includes a shop, supermarket, restaurant, sale of alcohol beverages, plant nursery, offices, service, trade, financial institution and building for similar uses, sale of any small or big items; but **does not include** a place of assembly, place of entertainment, **institution**, ...."  
[our emphasis]

59. It is re-iterated, in the aforementioned, that the upliftment centre, being ruled as an institution, does not resort under "business".

**ERF 3273**

60. Erf 3273 BETTY'S BAY is also known as 3273 Albertyn Drive, Betty's Bay [hereinafter referred to as Erf 3273]. It is also located in the same Sunny Seas Township as in which the Upliftment Centre is located.
61. Find a copy of two photo's [annexed hereto as Annexures "UC 6" and "UC 7" of the building at 3273 Seaview Drive extracted from the internet.

62. Erf3273 is a Guesthouse and Bed-and-Breakfast, a **commercial** venture. It also has a bar and hence sells liquor to the public.
63. Find accompanying a copy of the title deed of Erf 3273, marked as Annexure "UC 8".
64. We quote verbatim from Annexure "UC 8":

"C. SUBJECT to the following conditions:-

- I Imposed by the Administrator of the Province of the Cape of Good Hope when approving of the establishment of SUNNY SEAS TOWNSHIP in terms of the provisions of Ordinance No. 33 of 1934 as amended and contained in Deed of Transfer T36498/1980, namely:

5. This erf shall be subject to the following further conditions, provided especially that where in the opinion of the Administrator after consultation with the Townships Board and the Local Authority it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation, subject to

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compliance with such conditions as he may impose:

...

- (c) not more than one building, excluding a hotel, maisonettes and semi-detached houses, shall be erected on this erf together with such outbuildings as are ordinarily required to be used therewith;

- II Imposed in Deed of Transfer T 36498/1980 by HANGKLIP BEACH ESTATES LIMITED as being applicable to all erven in SUNNY SEAS TOWNSHIP, as being in favour of the registered owner of any erf in the Township:

...

- (I) No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted upon the Special Residential erven.

...

- 65. The terms and condition of Erf 3273 were more onerous than that of Erf 3054 in the following respects:

- (a) the term and condition, that "it shall be used for residential purposes only" applied to Erf 3273 and not to Erf 3054, [which was successfully applied for its removal]
  - (b) the term and condition that only one building or dwelling shall be built on the erf specifically excluded a hotel, maisonette and semi-detached houses in the case of Erf 3273 ... which is not applicable to Erf 3054.
66. Except these differences, and a few other negligible language differences, the relevant aforementioned terms and conditions of the two erven are substantively similar or alike.
67. Section 33 of the Constitution of the Republic of South Africa, Act 108 Of 1996 [hereinafter referred to as "the Constitution"], states as follows:
- "33. Just administrative action. – (1) Everyone has the right to administrative action that is lawful, reasonable and procedurally fair."
68. In the premises, if the Municipality demands that the registered owner of Erf 3054 must apply to set aside the abovementioned two clauses in its title deed, then the same demands must have been done to the registered owner of Erf 3273.
69. However, it did not.
70. In the same premises, if the Municipality demanded from the registered owner of Erf 3054 that the relevant application had to

be sent by registered mail to all the residents of Sunny Seas Township, then the same should have been demanded of the registered owners of Erf3273.

71. However, it did not.
72. This constitutes transgression of Section 33 of the Constitution.

#### **ERF 3108**

73. Erf 3108 BETTY'S BAY is also known as 3108 Seaview Drive, Betty's Bay [hereinafter referred to as Erf 3108]. It is in the same street as that in which the Upliftment Centre is located.
74. Find a copy of two photo's [annexed hereto as Annexures "UC 9" and "UC 10" of the building at 3108 Seaview Drive extracted from the internet. [the encirclement on Annexure 9 is added in order to pinpoint the exact property]
75. Erf 3108 is a holiday house ... providing accommodation, it is a **commercial** venture.
76. Find accompanying a copy of the title deed of Erf 3108, marked as Annexure "UC 11".
77. We quote verbatim from Annexure "UC 11":

\*C. SUBJECT to the following conditions:-

- I Imposed by the Administrator of the Province of the Cape of Good Hope when approving of the establishment of SUNNY SEAS TOWNSHIP in terms of the provisions of Ordinance No. 33 of 1934 as amended and contained in Deed of Transfer T36498/1980, namely:

...

5. This erf shall be subject to the following further conditions, provided especially that where in the opinion of the Administrator after consultation with the Township Board and the Local Authority it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorise the necessary suspension or relaxation, subject to compliance with such conditions as he may impose:

...

- (b) it shall be used for residential purposes only;
- (c) not more than one building, excluding a hotel, maisonettes and semi-detached houses, shall be erected on this erf together with

such outbuildings as are ordinarily required to be used therewith;

- II Imposed in Deed of Transfer T 36498/1980 by HANGKLIP BEACH ESTATES LIMITED as being applicable to all erven in SUNNY SEAS TOWNSHIP, as being in favour of the registered owner of any erf in the Township:

...

- (I) No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted upon the Special Residential erven.

...

78. The terms and condition of Erf 3108 is more onerous than that of Erf 3054 in the following respects:
- (a) the term and condition, that "it shall be used for residential purposes only" applies to Erf 3108 and not to Erf 3054.
  - (b) the term and condition that only one building or dwelling shall be build on the erf specifically excluded a hotel, maisonette and semi-detached houses in the case of Erf 3108 ... which is not applicable to Erf 3054.

79. Except these differences, the relevant aforementioned terms and conditions of the two erven are similar.
80. If the Municipality demands that the registered owner of Erf 3054 must apply to set aside the abovementioned clauses in its title deed, then the same demands must have been done to the registered owner of Erf 3108.
81. However, it did not.
82. In the same premises, if the Municipality demanded from the registered owner of Erf 3054 that the relevant application had to be sent by registered mail to all the residents of Sunny Seas Township, then the same should have been demanded of the registered owners of Erf 3108.
83. However, it did not.
84. This constitutes transgression of Section 33 of the Constitution.
85. We doubt that either demand was made on any of the hundreds of commercial accommodation ventures in Betty's Bay ... this constitutes transgression of Section 33 of the Constitution.

#### HEADING

86. The character of the area incorporates a number of other businesses which not only potentially but actually result in occasional disturbance and/or noise ... such as those premises

with liquor licenses and at holiday houses.

87. The Upliftment Centre has been indeed an integral part of the character of the area since mid-2013.
88. There is already sufficient parking for seven (7) cars. However, the guests do not come in their own respective motor vehicles; they are all transported between the Upliftment Centre and the intake office in Athlone in only one vehicle.
89. Furthermore, prior to the lodging of the application there was continuous interaction between our agent [PlanActive] and the Municipality which resulted in us having spent about R220 000.00 to bring the Upliftment Centre in line with the recommendations. Hence, not surprisingly, when official of the various departments of the Municipality made inspections *in loco*, they could not find any shortcoming.
90. Moreover, we gave them the assurance that if there any modification required we shall gladly oblige.
91. Find accompanying two statements by various neighbours reflecting on the excellent *actual* consequences of the Upliftment Centre for the immediate community.  
[See Annexure "UC 12" and "UC 13" hereto]

#### CONCLUSION

92. In the above premises, we pray for the Municipality to grant the application as requested.

DATED AT BETTY'S BAY ON THE 19<sup>TH</sup> JULY 2017

  
\_\_\_\_\_  
APPLICANT

# Hulp teen dwelms nou plaaslik

**SLEINMOND** - Die takkatoor van PASA (People Against Substance Abuse), het Maandagoggend hul deure amptelik op die dorp geopen.

PASA is a non-profit organisation with its aim to prevent drugs destroying the life of young people. The organisations started in an around the Garden Route. Freddie Trout and Wayne Windvoel started a programme by means of which children and youngsters were warned and informed against the evils of alcohol and drug addiction, gangsterism and violence and to live life with a purpose. The response to the program was overwhelmingly positive. PASA still runs the programmes with aid from community organisations in that area.

Die plaaslike kantoor sal beman word deur Edmund Arendse as direkteur en Denise, sy vrou as assistent. Die programme soortgelyk aan dié wat in die Tulinoete aangebied is, sal hier aangebied word. PASA bied kursusse aan om vaardighede aan kinders te leer om in 'n snel-veranderende wêreld waarvan hul ouers nie



Hier verskyn Freddie Trout, Edmund Arendse en Wayne Windvoel by die openingsgeleentheid

weet nie, te oortref. Hulle

wil ook graag saam met gemeenskapsinstansies en die polisie werk.

Dwelms en drankverslaafdes sal gehulp kan word om by rehabilitasiesentrums uit te kom en steun sal aan diegene wat skoon terugkom, gebied

word. Konsultasies sal by die kantoor op die terrein van Guthrie en Theron se kantoor aangebied word. Skoolbesoekte is op die program en afspreke vir besoeke kan by Edmund en Denise gemaak word.

Edmund is baie dankbaar teenoor instansies wat reeds hul steun beloof het, sook Shaun en Ingrid van Le Rève; Lizel Krige, Lirika Jacobs en verag Averdise vir die hulp met die opening. Skakel 074 318 1152 vir afsprake.

ANNEXURE G 32/73

ANNEXURE "UC 1"

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Wendie Boonstra McEwen  
11th floor Triangle House  
22 Riebeeck Street  
Cape Town

Received by me

CONVEYANCER  
Carl Christian Burger

Deed No.		Deed Date	
1 300 000 00		2014	
Mortgage No.		Mortgage Date	
Mortgage No.		Mortgage Date	

VERBIND MORTGAGED

VM FOR R 1 300 000 00

30002805 / 2014

2014-10-13

08054744 / 2014

I 0000000000000000

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

Wendie Boonstra McEwen

appeared before me, REGISTRAR OF DEEDS at Cape Town, the said applicant being duly authorised thereto by a Power of Attorney which said Power of Attorney was signed at Hermanus on 20 July 2014 granted to him by

The Executors in the Estate Late  
STEPHANUS TERBLANCHE  
Number 110002812

DATA / VERIFY  
22 OCT 2014  
LADNEY ROSSIGNOL

DATA / CAPTURE  
16 OCT 2014  
SPYTHAMBA RD (LAND)

08054744 / 2014

08054744 / 2014

08054744 / 2014

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And the Appraiser declared that the deceased died on 15 April 2012 and whereas his personal heir, on 2 June 2014, truly and legally sold by Private Treaty, and that he, the said Appraiser, in his capacity aforesaid, did, by virtue of his powers, deeds and transfer to and on behalf of

**ALPAC INVESTMENTS CC**  
Registration Number 2885/169612/23

or its Successors in Title or assigns, in full and free property

ERF 2854 BETTYS BAY  
IN THE OVERSTRAND MUNICIPALITY,  
DIVISION OF CALEDON, WESTERN CAPE PROVINCE

IN EXTENT 1035 (ONE THOUSAND SIX HUNDRED AND SEVENTY FIVE)  
Square Metres

FIRST TRANSFERRED BY Deed of Transfer No T1300/1937 with Diagram No 6793/1939 relating thereto and held by Deed of Transfer No T6933/1933.

A. SUBJECT to the conditions referred to in Certificate of Township Title No. T366/1936

B. SUBJECT further and ENTITLED to the benefit of the conditions referred to in the servitude endorsements on Certificate of Consolidated Title No. T3750/1937, which endorsements are dated and read as follows:

(1) DATED 24 JUNE 1940:

By Deed of Transfer No. 6058/40 certain conditions relating to (b) prohibition of Petrol Station on land (d) wood and iron buildings (e) slaughter poles, cattle kraals (f) manufacture of bricks, tiles etc. have been imposed on the property thereby conveyed for the benefit of the owner and its successors in title of the remainder of the property held hereunder as will more fully appear on reference to the said Deed of Transfer.

(2) DATED 22 OCTOBER 1948:

By D/T 24234 DATED 22.10.48 certain conditions relating to water supply, type of business that may be carried on, prohibition of petrol station on land, slaughter poles, cattle kraals, wood and iron buildings, non-division, manufacture of bricks and tiles, have been

Sherriff 14.11.14

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imposed, as will more fully appear on reference to the said Deed of Transfer."

## (3) DATED 18 JULY 1948:

By D/T 11215 (S.18.7.1948) the vendr. of the land sold hereunder is entitled to a right of way over Erf 467 Bedy's Bay (Ext No. 1) and marked A.E.D. on the diagram thereof. Subject to conditions as will more fully appear on reference thereto.

## (4) DATED 1 DECEMBER 1950:

By Deed of Transfer No. 1887/50 dated this day certain conditions relating to water supply, type of business that may be carried on, planting of trees, prohibition of Petrol Station, slaughter poles, cattle kraals, manufacture of bricks, tiles, etc. non subdivision, have been imposed against and for the benefit of the remaining extent of the property hereby conveyed measuring 5980,6515 ha. as will more fully appear on reference to said Deed of Transfer.

## (5) DATED 28 AUGUST 1951:

By Deed of Transfer No. 14934/51 dated 28.8.51 certain conditions relating inter alia to:-  
prohibition against erection of certain types of building, slaughter poles, cattle kraals, pig-sties, cowsheds, manufacture of bricks, tiles, etc. the value of erections; water supply arrangements etc. have been imposed over the remainder of the land thereby conveyed in favour of the owner and successors in title to the remainder measuring 5955,3544 ha. held hereunder, as will more fully appear on reference to said Deed of Transfer.

## (6) DATED 28 AUGUST 1951:

By Deed of Transfer No. 14935/51 dated 28.8.51 certain conditions relating inter alia to:-

arrangements re water supply, submission of plans for approval, fencing to be used, planting of trees, use of land for Tea Garden or Room, approval re types of trade to be undertaken, erection of only one building, prohibition against erection of Petrol Service Station, and other certain types of buildings, slaughter poles, cattle kraals, pig-sties, cowsheds, manufacture of bricks, tiles etc. subdivision without permission etc., which conditions are imposed in favour of the owner and successors in title to the remainder measuring 5954,9428 hectares, held hereunder, as will more fully appear on reference to said Deed of Transfer.

28/8/51

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C. SUBJECT FURTHER to the following conditions contained in Title Deed No. T1902 / 1957, namely:

- (1) Imposed by the Administrator of the Province of the Cape of Good Hope under Ordinance 33 of 1934, as amended, upon approval of the establishment of Sunny Seas Township;
- (2) Any works and easements used in the following conditions shall have the same meanings as may have been assigned to them by the regulations published under Provincial Administration Number No. 401 dated 17th October 1935, and in the memorandum which accompanied the said regulations;
- (3) The owner of this erf shall without compensation be obliged to allow electricity and water mains and the sewage and drainage including stormwater of any other erf or erven within or without this subdivision to be conveyed across this erf if deemed necessary by the Local Authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, channel, conduit or other works pertaining thereto;
- (3) The owner of this erf shall be obliged, without compensation, to receive the material or permit excavation on the erf as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of this street as finally constructed and the erf unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the Local Authority;
- (4) Pending the establishment of a Local Authority for the Township, the sewage of this erf shall not be disposed of otherwise than by means of a properly constructed septic tank if the nature of the soil permits, otherwise into a properly constructed vacuum tank serving one or more erven. If any such tank is situated on this erf the owner shall, without compensation, be obliged to remove it after three months' written notice served upon him by such Local Authority;
- (5) This erf shall be subject to the following further conditions provided especially that where, in the opinion of the Administrator after consultation with the Township Board and the Local Authority, it is expedient that the restriction in




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any such condition should at any time be suspended or relaxed he may authorise the necessary suspension or relaxation subject to compliance with such conditions as he may impose.

- (a) It shall not be subdivided.
  - (b) It shall be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith.
  - (c) Not more than half the area thereof shall be built upon.
  - (d) 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 nor within 3,15 metres of the rear or 1,57 metres of the lateral boundary common to any adjoining erf provided that with the consent of the Local Authority an outbuilding not exceeding 3,05 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation, may be erected within the above prescribed rear space. On consolidation of any two or more erven this condition shall apply to the consolidated area as one erf.
  - (e) In the event if the provisions of a Town Planning Scheme being made applicable to this erf, which provisions are more restrictive than the provisions contained in the above, then the provisions of such scheme shall apply.
- (i) Imposed by Henglip Beach Estates Limited as being applicable to all plots in Sunny Seas Township as being in favour of the registered owner of any property in the Township:
- (1) No wood and/or iron buildings of any description shall be erected on this erf nor shall corrugated iron be used for roofing purposes.
  - (2) No cattle, horses, sheep, goats, pigs or poultry shall be kept on this erf without the written consent of the Company.
  - (3) Save with the consent in writing of the Company and of any Local Authority, the owner shall have not have the right to make or cause to be made upon the erf for any purposes




18.1.2011

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whosoever any bricks, tiles or earthenware pipes or other articles of such nature, nor shall he have the right (save and except to prepare the erf for building purposes) to dig or quarry any earth, gravel, lime or stone thereon.

- (e) No building (including outbuildings) shall be erected on this erf of a superficial area of less than 99 square metres.
- (f) No noxious trade or noxious business shall be carried on on this erf.
- (g) The Transferee shall not clamp, overnight or light fires on the erf save with the written consent of the Company, nor shall he permit any other person so to do.
- (h) No garage or service station may be erected or carried on on this erf, provided that this condition shall not apply to erven Nos. 1 and 203.
- (i) Until a Local Authority takes over the supply of water for the Township the Company or its successors in title shall be allowed to levy a charge on erf-holders for the service of administering the water of the Township, which charge shall be subject to the approval of the Administrator. This charge, however, shall not be levied until the erf-holder requests that the water be connected to this erf. The Company reserves the right, however, subject to the consent of the Administrator, to install a system for measuring the consumption of water supplied and to make charges based upon such consumption.
- (j) That the Company or its successors in title shall make a charge of R10,00 (Ten Rand) for the connection of water to the nearest point on this erf.
- (k) The buildings, including all fences and gardens or other plots, shall be of good design and sound construction and the plans, elevations and the specifications thereof must be lodged with and approved by the Company before tenders are called for, and no alterations in the plans, elevations and specifications when so approved shall be made without the consent in writing of the Company. The location of the buildings on the site must also be approved by the Company. The buyer shall not commence building operations until he has received the written approval of the Company to his plans, elevations and specifications. In the event of a breach of this Clause the Company shall have the right to interdict the buyer from proceeding with his building operations and shall have the option to repurchase the erf upon payment of the cash price thereof without compensation for improvements.



  
 17/11/2011

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- (l) Outbuildings shall not be built prior to the erection of the main dwelling or building which shall be a complete building and not one partly built and intended for completion at a later date.
- (m) No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential zones.
- (n) No caravan, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever with the exception of boarding houses shall be opened or conducted upon the General Residential zones.
- (o) No signs, advertisements, advertisement boardings or other lettering shall be erected on this erf, nor shall any advertisements, signs or lettering be painted on any buildings, walls or fence erected or to be erected on the said erf save and except with the written approval of the Company.
- (p) No debris, scrap or other unightly material shall be deposited on the said erf nor shall the purchaser or his successors in title deposit or allow to be deposited any debris, scrap or other unightly material on the said erf without the written consent of the Company first had and obtained.
- (q) In the foregoing conditions the expression "the Company" shall mean "The Hanglip Beach Estates, Limited, as owner of the remaining portion of the Township" and its successors in title to the whole of such remainder.




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WHEREFORE the said Appraiser, renouncing all right and title which the said Estate Late STEPHANUS TERBLANCHE

heretofore had to the premises, did in consequence also acknowledge the said Estate to be entirely dispossessed of, and demitted to the said, and that by virtue of these presents, the said

ALPAC INVESTMENTS CC  
Registration Number 200918581920

or its Successors in Title or assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however retaining its rights, and finally acknowledging the purchase price to be the sum of R1 000 000,00 (ONE MILLION ONE HUNDRED THOUSAND RANDS).

IN WITNESS WHEREOF, I the said Registrar, together with the Appraiser, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THIS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at Cape Town on 13 OCT 2011

In my presence

REGISTRAR OF DEEDS

52

Boesl/Boahmk&McLain  
11th floor Triangle House  
22 Riebeck Street  
Cape Town  
8001

1-7-18  
①

Prepared by me

CONVEYANCER  
Gert Christiaan Burger

### POWER OF ATTORNEY TO PASS TRANSFER

I, the undersigned

**MARJORIE DAPHNE TERBLANCHE**, in my capacity as Executor in the Estate Late **STEPHANUS TERBLANCHE**, who died on 16 April 2012, acting under Letters of Executorship Number 110302012 issued by the Master of the High Court of South Africa (Western Cape Division, Cape Town) at Cape Town on 24 August 2012

do hereby nominate and appoint Tertius Lubetz Kile and/or Reald Hubert Beeslaer and/or Carl Christiaan Burger and/or Robert Christopher Ferandi and/or Ronel Els and/or Johanna Phine Phillips and/or Lisa Ann Visagie

with power of substitution to be its true and lawful Attorney and Agent in its/their place and stead to appear at the Office of the REGISTRAR OF DEEDS at Cape Town or any other competent official in the Republic of South Africa and then and there to act as its Attorney and Agent and to pass transfer to:

ALPAC INVESTMENTS CC  
Registration Number 2009/165513/23

The property described as:

ERSF 3054 BETTYS BAY  
IN THE OVERSTRAND MUNICIPALITY,  
DIVISION OF CALEDON, WESTERN CAPE PROVINCE

IN EXTENT 1872 (ONE THOUSAND SIX HUNDRED AND SEVENTY FIVE) Square Metres

HELD BY Deed of Transfer Number T46566/1693

the said property having been sold by me on 2 June 2014, to the said transferee for the sum of R1 600 000,00 (One Million Six Hundred Thousand Rand)

Handwritten initials and signature

DocCopy 14/732.1

ANNEXURE G 42/73

ANNEXURE "UC 3"CERTIFICATE

I the undersigned, SHAIK HASSAN MAHOMED ABBAS do hereby certify that:

1. I am a Conveyancer practicing in Durban, KwaZulu Natal.

2. I have perused Deed of Transfer Number 54244/2014 relating to Erf 3054 Bettys Bay.

3. To the best of my knowledge and belief there is no condition thereon which will restrict the operation of an upliftment centre on the property.

Dated at Durban this 26<sup>th</sup> May 2015



SHAIK HASSAN MAHOMED ABBAS



CITY OF CAPE TOWN  
ESIXEKO SASEKAPA  
STAD KAAPSTAD

ANNEXURE G 43/73  
ANNEXURE UC 4  
MPS-12/11/03  
PLANNING AND BUILDING  
DEVELOPMENT MANAGEMENT

Print Form

### CONVEYANCER'S CERTIFICATE

I/we, HANJIE FERREIRA

(conveyancer's name)

hereby wish to certify that a search was conducted in the Deeds Registry, Cape Town, regarding the following property(ies) (including both current and earlier title deeds/proxy deeds/deeds of transfer):

ERF 3064 BETTYS BAY, IN THE OVERSTRAND MUNICIPALITY, DIVISION CALEDON, PROVINCE OF THE

WESTERN CAPE, IN EXTENT: 1675 SQUARE METRES

(left number/s and description/s as it appear in the title deed/s)

in respect of which it was found that there ~~are/are~~ no restrictive conditions registered against such property(ies) prohibiting it from being utilised/developed for the following purpose(s) as elaborated on in the accompanying application:

TO ESTABLISH AN UPLIFTMENT CENTRE IN THE DWELLING

(proposed use/development/zoning of property)

(\*delete whichever not applicable)


#### LIST OF RESTRICTIVE TITLE CONDITIONS (if any)

Categories	Are there title deed restrictions (indicate below)	Title deed and clause number if restrictive conditions are found (see Annexure A if more space is required)
Use of Land	X	T54244/2014 Clause C(i)(m) Clause C(s)(n)      See Annexure "A"
Building lines		
Height		
Number of dwellings	X	T54244/2014 Clause C(i)(5)(b)      See Annexure "A"
Bulk floor area		
Coverage / built upon area		
Subdivision		
Services that may be required over or in favour of the property		
Other restrictive conditions		

## ANNEXURE G 44/73

PROCESS BY WHICH RELEVANT CONDITIONS WILL BE ADDRESSED (please tick appropriate box)

Application in terms of the City of Cape Town's Municipal Planning By-Law (application type 42(g) or (h))	Notarial Deed of Cancellation (Submit copy of signed agreement)	Expungement by means of 'rule nisi' application to the High Court (Submit copy of court order)	If other, please specify

Signed at: **BELLVILLE** on the **18TH** day of **MAY** 20 **18**Signature: Postal address: Tel: Email: 

Kindly endorse certificate by affixing firm's official stamp here and initialing it.

SMITH TABATA BUCHANAN BOYER  
2ND FLOOR, 5 INGH STREET  
ROSENPARK  
TYPERVALLEY, 7538

Municipal 1/16/2018

## ANNEXURE G 45/73

ANNEXURE 'A'

The following reference is made to restrictive conditions in Deed of Transfer Number T54244/2014:

Ad Clause C(i)(m):

"No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erf."

Ad Clause C(ii)(n)

"No canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever (with the exception of boarding houses) shall be opened or conducted upon the General Residential erf."

The above conditions C(i)(m) and C(ii)(n) are however not applicable in respect of this application due to the fact that the applicable erf is not a Special or General Residential Erf but a Single Residential Erf.

The following clause will have to be removed in order to accommodate the upliftment centre on Erf 3054 Betty's Bay: *peribut in (u) s.*

Ad Clause C(i)(5)(b)

"It shall not be used only for the purpose of erecting thereon one dwelling together with such outbuildings as are ordinarily required to be used therewith."

ANNEXURE G 46/73

ANNEXURE "UC 5"

## Conveyancer Certificate

I, Hanlie Ferreira hereby certify that a search was conducted in the Deeds Registry, Cape Town, regarding the following property:

Erf 3054 Bettys Baai

Situated in the Overstrand Municipality

Division Cape

Western Cape Province

In Extent : 1675.0000 Square meters

Hold by Deed of Transfer Number: T54244/2014

The following restrictive conditions are applicable and will have to be dealt with:

Clause No. C(i)(b) and C(i)(m) of Title Deed T54244/2014 that read as follows:

C(i)(b) "It shall be used only for the purpose of erecting thereon one dwelling, together with such outbuildings as are ordinarily required to be used therewith."

C(i)(m) "No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted on the Special Residential erven."

Signed at Cape Town on the 16th of November 2016

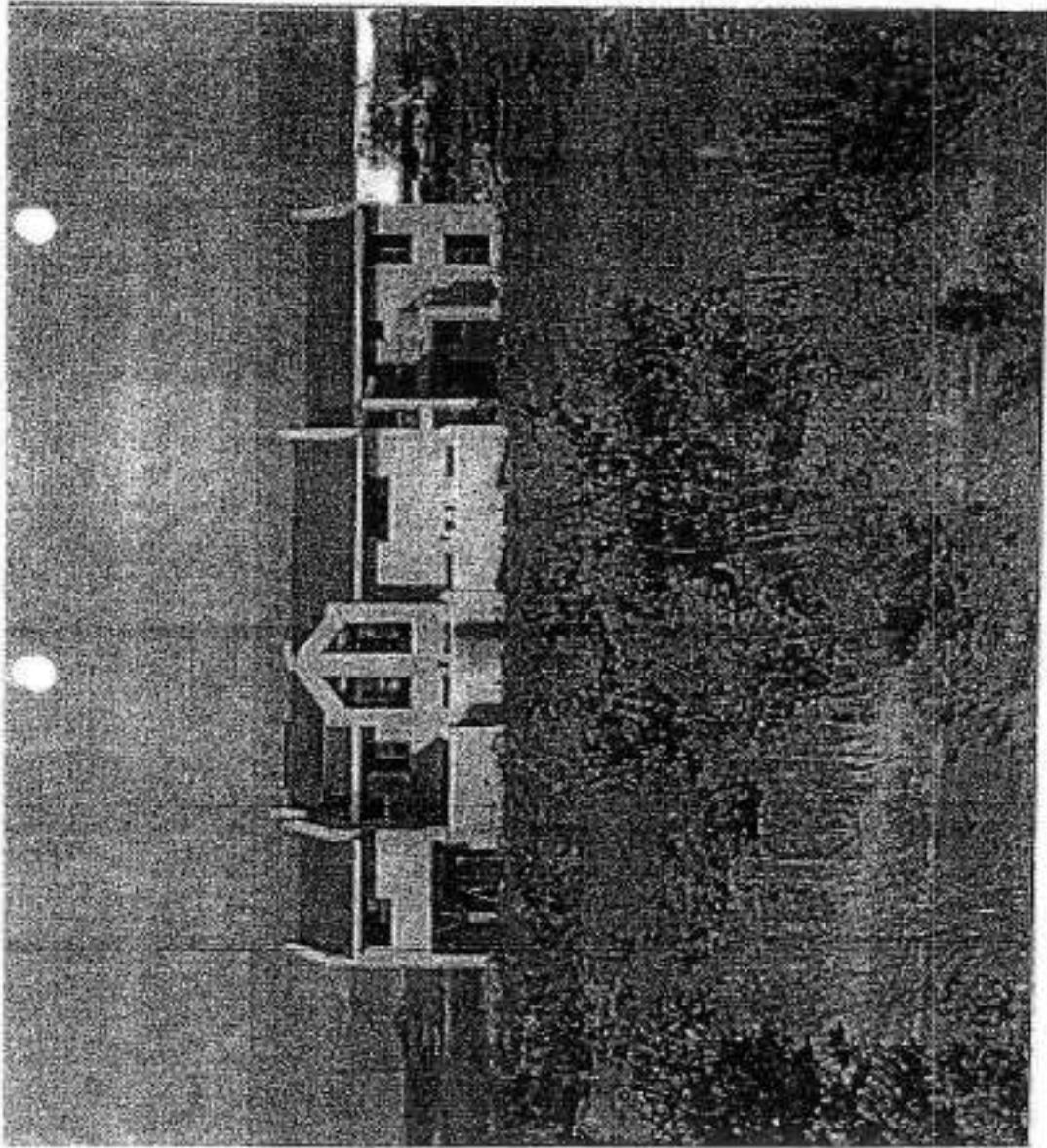


Hanlie Ferreira

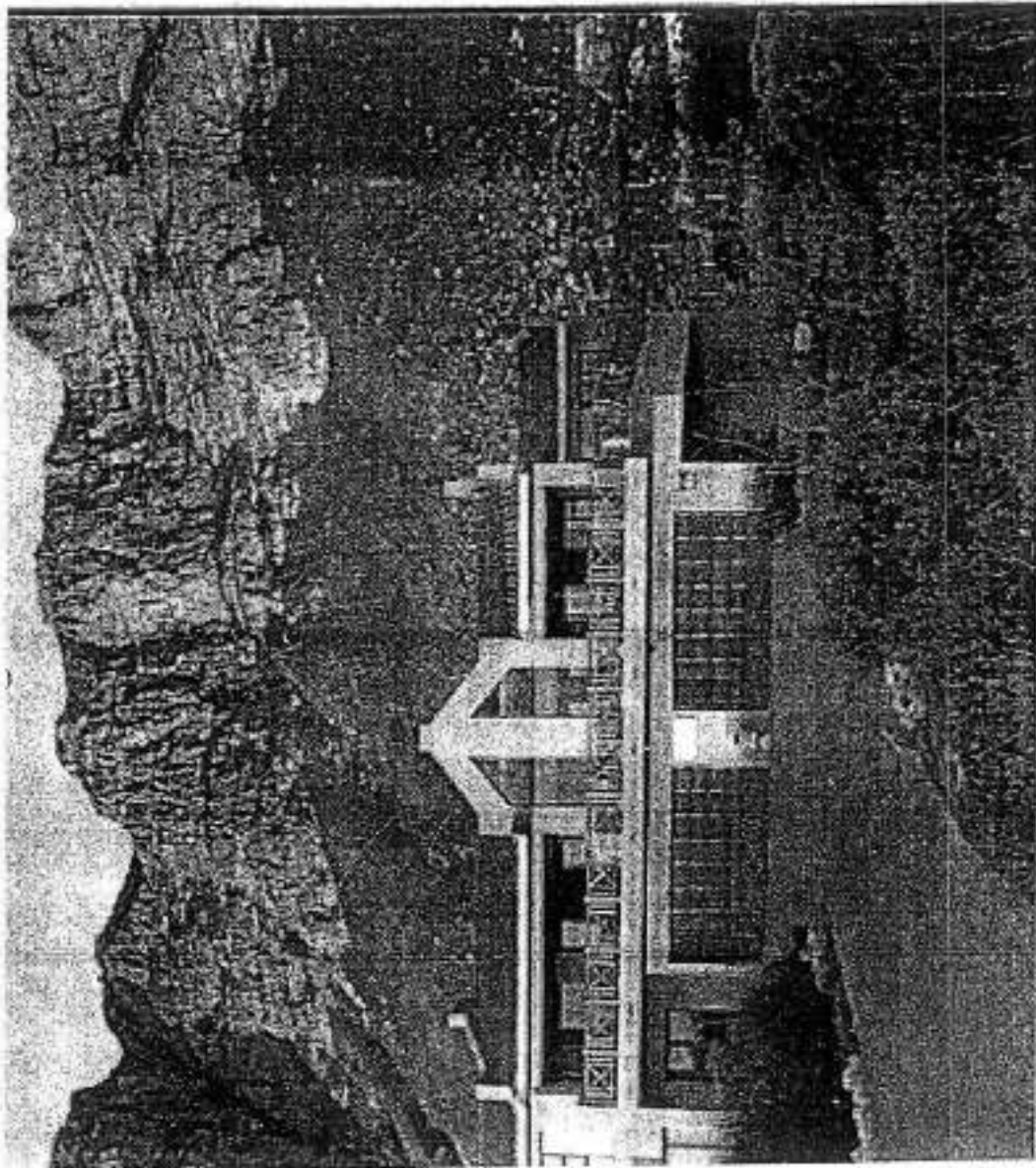
SMITH TABATA BUCHANAN BOYES  
2ND FLOOR, 5 HIGH STREET  
ROSENPARK  
TYGERVALLEY, 7536

ANNEXURE G 47/73

ANNEXURE "UC 6"



ANNEXURE G 48/73  
ANNEXURE "UC 7"



ANNEXURE "UC 8"

224	Provinciaal Kaap: Provinsiale Regering: Tuis	30 Augustus 1973
<b>PROVINCIAL NOTICES</b>	<b>PROVINSIALE KENNINGSWINGS</b>	
The following Provincial Notices are published for general information.	Die volgende Provinsiale Kenningswings word vir algemene inligting gepubliseer.	
<b>ADV. S. GERRER,</b> <b>DIRECTOR-GENERAL,</b> Provincial Legislative Buildings, Main Street, Cape Town.	<b>ADV. S. GERRER,</b> <b>DIREKTEUR-GENERAAL,</b> 28 SEP 73 Provinsiale Wetgewingsgebou, Meubelen, Kaapstad.	
PX. 285013 30 Augustus 1973	PX. 285013 30 Augustus 1973	
<b>CITY OF CAPE TOWN</b> <b>(TYGERBERG DISTRICT)</b> <b>REMOVAL OF RESTRICTIONS ACT, 1967</b> <b>(ACT 84 OF 1967)</b>	<b>STAD KAAPSTAD</b> <b>(TYGERBERG-DISTRIK)</b> <b>WET OP ONSKOPING VAN BEPERKINGS, 1967</b> <b>(WET 84 VAN 1967)</b>	
Notice is hereby given that the Minister of Local Government, Social Welfare and Development Planning, properly designated in compliance with section 14 of the Statute of Provinces No. 100 of 31 October 1969, in terms of section 2(1) of the Removal of Restrictions Act, 1967 (Act 84 of 1967), and in application by the owner of Erf 1241, Tielvelde, immovable number B.1, as mentioned in Deed of Transfer No. T. 23336 of 1971.	Hierby gelêë kennis gees die Minister van Plaaslike Regering, Oorweging en Ontwikkelingsplanning, behoorlik as benoem in ooreenstemming met paragraaf 14 van Statute Provinsiale No. 100 van 31 Oktober 1969, ingevolge Artikel 2(1) van die Wet op Onskoping van Beperkings, 1967 (Wet 84 van 1967), en in aansoek van die eienaar van Erf 1241, Tielvelde, onroerende B.1, soos in Transkripie No. T. 23336 van 1971, opget.	
PX. 285013 30 Augustus 1973	PX. 285013 30 Augustus 1973	
<b>OVERSTRAND MUNICIPALITY</b> <b>(MANDELPLEKLEMMOND ADMINISTRASIE)</b> <b>REMOVAL OF RESTRICTIONS ACT, 1967</b>	<b>MINERALITEIT OVERSTRAND</b> <b>(MANDELPLEKLEMMOND ADMINISTRASIE)</b> <b>WET OP ONSKOPING VAN BEPERKINGS, 1967</b>	
I, Adolf John Lombard, in my capacity as Chief Land Use Management Regulator in the Department of Environmental Affairs and Development Planning, Western Cape, acting in terms of the power vested in me by Section 2(1) of the Removal of Restrictions Act, 1967 (Act 84 of 1967), do hereby give notice in terms of Section 1 of the Western Cape Delegation of Powers Law, 1974, and in application by the owner of Erf 2173, Bony's Bay, immovable number C. 1 (B) mentioned in Deed of Transfer No. T. 20227 of 1962.	Ek, Adolf John Lombard, in my hoedanigheid as Hoof Grondgebruiksreguleerder in die Departement van Omgewingsake en Ontwikkelingsplanning, Wes-Kaap, handelende ingevolge die bevoegdheid wat my in Artikel 2(1) van die Wet op Onskoping van Beperkings, 1967 (Wet 84 van 1967), toekom, en my gebede ingevolge Artikel 1 van die Wes-Kaapse Wet op die Delegering van Bevoegdhede, 1974, en in aansoek van die eienaar van Erf 2173, Bonybaai, onroerende C.1 (B) soos in Transkripie No. T. 20227 van 1962, op.	
PX. 285013 30 Augustus 1973	PX. 285013 30 Augustus 1973	
<b>CITY OF CAPE TOWN</b> <b>(TABLE BAY DISTRICT)</b> <b>REMOVAL OF RESTRICTIONS ACT, 1967</b>	<b>STAD KAAPSTAD</b> <b>(TABELBAAI-DISTRIK)</b> <b>WET OP ONSKOPING VAN BEPERKINGS, 1967</b>	
I, Rene Pavia, in my capacity as Chief Land Use Management Regulator in the Department of Environmental Affairs and Development Planning, Western Cape, acting in terms of the power vested in me by Section 2(1) of the Removal of Restrictions Act, 1967 (Act 84 of 1967), and in application by the owner of Erf 1626, Cape Town at Rugby, immovable number C.3 (B) mentioned in Deed of Transfer No. T. 22610 of 1963.	Ek, Rene Pavia, in my hoedanigheid as Hoof Grondgebruiksreguleerder in die Departement van Omgewingsake en Ontwikkelingsplanning, Wes-Kaap, handelende ingevolge die bevoegdheid wat my in Artikel 2(1) van die Wet op Onskoping van Beperkings, 1967 (Wet 84 van 1967), toekom, en my gebede ingevolge Artikel 1 van die Wes-Kaapse Wet op die Delegering van Bevoegdhede, 1974, en in aansoek van die eienaar van Erf 1626, Kaapstad at Rugby, onroerende C.3 (B) soos in Transkripie No. T. 22610 van 1963, op.	
PX. 285013 30 Augustus 1973	PX. 285013 30 Augustus 1973	
<b>CITY OF CAPE TOWN</b> <b>(TABLE BAY DISTRICT)</b> <b>REMOVAL OF RESTRICTIONS ACT, 1967</b>	<b>STAD KAAPSTAD</b> <b>(TABELBAAI-DISTRIK)</b> <b>WET OP ONSKOPING VAN BEPERKINGS, 1967</b>	
Notice is given that the Minister of Local Government, Environmental Affairs and Development Planning, properly designated in compliance with section 14 of the Statute of Provinces No. 100 of 31 October 1969, in terms of section 2(1) of the Removal of Restrictions Act, 1967 (Act 84 of 1967), and in application by the owner of the Immovable Table Bay ADAMSON HOUSE at 27 1/2 Hill, Meubelen, immovable number B.1 (B) mentioned in the Schedule of Conditions in terms of Section 1(2)(b) of the Immovable Deeds Act, 1956 (Act 85 of 1956) and also in 22 140/1966.	kennis gelêë gees die Minister van Plaaslike Regering, Omgewingsake en Ontwikkelingsplanning, behoorlik as benoem in ooreenstemming met paragraaf 14 van Statute Provinsiale No. 100 van 31 Oktober 1969, ingevolge Artikel 2(1) van die Wet op Onskoping van Beperkings, 1967 (Wet 84 van 1967), en in aansoek van die eienaar van die Onroerende TABELBAAI ADAMSON HUIS op 27 1/2 Hill, Meubelen, onroerende B.1 (B) soos vermeld in die Skedule van Voorwaardes ingevolge Artikel 1(2)(b) van die Wet op Deedereg, 1956 (Wet 85 van 1956) gelêë gees by 22 140/1966 op.	
PX. 285013 30 Augustus 1973	PX. 285013 30 Augustus 1973	

28/08/73 Nuyt D/T 0420  
12/09/73

ROWAN + PULLEN  
No 90

WIR ENDOSSAMENTE KOP DE KOP  
FOR ENDORSEMENTS SEE PAGE 8

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RECEIVED  
FOR R 340,00

Prepared by me.  
CONVEYANCER  
VAN GRUTEN C.J.

VERBIND	MOHTGAGED
WIR FOR R 480 000,00	
B00132449 / 2005	<i>[Signature]</i>
12/09/2005	REGISTRAR VAN GRUTEN

C.J. VAN GRUTEN  
PO Box 3380  
Somerset West  
7120

DEED OF TRANSFER

12/09/2005

DEED OF TRANSFER

Erf 8273, Bathy's Bay

KNOW ALL MEN WHOM IT MAY CONCERN

THAT CELIA JOAN VAN GRUTEN

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN the said  
Apparar, being duly authorized thereto by a Power of Attorney executed at  
KLEINMOND on 7 SEPTEMBER 2005 and printed in herther by

CHRISTOS ATHANASIOS YIATSES  
Identity Number T10302 6267 09 4  
and  
MARIA CATHARINA MAGDALENA YIATSES  
Identity Number 706907 0135 08 6  
Married in community of property to each other

DATA / VERIFY  
30 JAN 2006

DATA / CAPTURE  
23 JAN 2006  
Erf 8273



AND the said Appraiser declared that his/her principal the said CHRISTOS ATHANASIOS VIATSES and MARIA CATHARINA MAGDALENA VIATSES had on 8 July 2005 truly and legally sold the undermentioned property and that his/her, the said Appraiser in his/her capacity aforesaid, did by these presents cede and transfer to and on behalf of

**RADUL VAN DEN BERG**  
Identity Number 990425 5104 08 3  
Married out of community of property

his heirs, executors, trustees or assigns, in full and free property

**ERF 3273 BETTYS BAY**  
Situate in the OVERSTRAND MUNICIPALITY  
Administrative District of CALEDON, The Province of the  
WESTERN CAPE

**IN EXTENT : 1491 (ONE THOUSAND FOUR HUNDRED AND  
NINETY ONE) square metres**

FIRST TRANSFERRED by Deed of Transfer No. T1307/1984 with  
Diagram No. 12551/1857 relating thereto and held by Deed of  
Transfer No. T1368/2005

- A. SUBJECT to the conditions referred to in Certificate of Township Title No. T369/955
- B. SUBJECT and/or ENTITLED TO the benefit of the conditions referred to in the Servitude Endorsements appearing on Certificate of Consolidated Title No. T3729/1977, which endorsements are dated and read as follows :-
1. DATED 24 JUNE 1940  
By Deed of Transfer No. 4948/40 dated 24/6/40 certain conditions relating to (a) prohibition of Public Houses on land, (b) wood and iron buildings, (c) slaughter pens, cattle kraals (d) manufacture of bricks, tiles, etc., have been imposed on the property thereby conveyed for the benefit of the owner and its successors in title of the remainder of the property held hereunder as will more fully appear in reference to the said Deed of Transfer.
  2. DATED 22 OCTOBER 1948  
By Deed of Transfer No T24234 dated 22.10.48 certain conditions relating to water supply, type of business that may be carried on,

*CS*

-3-

prohibition of petrol station or tank, slaughter poles, cattle kraals, wood and iron buildings, non-subdivision, manufacture of bricks and tiles, have been imposed as will more fully appear on reference to the said Deed of Transfer.

3. DATED 18 JULY 1949

By Deed of Transfer No T 11915 s.d. 18/7/1949 the remainder of the land held hereunder is entitled to a right of way over Erf 487 Dolly's Bay (Ct. No. 1) and marked A.E.D. on the diagram thereof, subject to conditions as will more fully appear on reference thereto.

4. DATED 6 DECEMBER 1950

By Deed of Transfer No. T1887/1950 dated this day certain conditions relating to water supply, type of business that may be carried on, planting of trees, prohibition of petrol station, slaughter poles, cattle kraals, manufacture of bricks, tiles, etc. non-subdivision, have been imposed against and for the benefit of the remaining portion of the property hereby conveyed measuring 2553,0545 mgn as will more fully appear on reference to said Deed of Transfer.

5. DATED 28 AUGUST 1951

By Deed of Transfer No T14834/51 dated 28/8/1951 certain prohibitions relating inter alia to:

Prohibition against erection of certain types of building, slaughter poles, cattle kraals, pigsties, cowsheds, manufacture of bricks, tiles, etc., the value of erections, water supply arrangements, etc. have been imposed over the remainder of the land thereby conveyed in favour of the owner and successors in title to the remainder measuring 2252,8035 mgn held hereunder as will more fully appear on reference to said Deed of Transfer.

6. DATED 28 AUGUST 1951

By Deed of Transfer No T14835/1951 dated 28/8/1951 certain conditions relating inter alia to:

Arrangements re water supply, submission of plans for approval, fencing to be used, planting of trees, use of land for Tea Garden or Rooms, approval re types of trade to be undertaken, erection of only one building, prohibition against erection of Petrol Service Station, and other certain types of buildings, slaughter poles, cattle kraals, pigsties, cowsheds, manufacture of bricks, tiles, etc., submission without restriction, etc., which conditions are imposed in favour of the owner and successors in title to the remainder measuring 2352,3880 mgn held hereunder, as will more fully appear on reference to said Deed of Transfer.

D. SUBJECT to the following conditions contained in Deed of Transfer No. T132/1968, imposed by the Administrator of the Province of the Cape of Good Hope when approving of the establishment of Sunny Seas Township in terms of the provisions of Definition No. 33 of 1954 as amended:

1. Any words and expressions used in the following conditions shall have the same meaning as may have been assigned to them by the regulations published under Provincial Notice No. 401 dated 11 October 1955, and in the memorandum which accompanied the said regulations.
2. The owner of this erf shall without compensation be obliged to allow electricity cables and water mains and the sewage and drainage including stormwater of any other erf or erven within or without this subdivision to be conveyed across this erf, if deemed necessary by the Local Authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewers, manholes, channels, conduits or other works pertaining thereto.
3. The owner of this erf shall be obliged, without compensation, to receive the mounds or permit excavation on the erf as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank, owing to difference between the levels of the street or track already constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the Local Authority.
4. Pending the establishment of a Local Authority for this Township, the sewage of this erf shall not be disposed of otherwise than by means of a properly constructed septic if the nature of the soil permits, otherwise into a properly constructed vacuum tank serving one or more erven. If any such tank is situated on this erf, the owner shall, without compensation, be obliged to remove it after "three months" written notice served upon him by such Local Authority.
5. This erf shall be subject to the following further conditions, provided especially that where, in the opinion of the Administrator after consultation with the Township Board and the Local Authority it is expedient that the restriction in any such condition should at any time be suspended or relaxed he may authorize the necessary suspension or relaxation, subject to compliance with such conditions as he may impose:
  - (a) it shall not be subdivided;
  - (b) it shall be used for residential purposes only;
  - (c) not more than one building excluding a hotel, maisonette and semi-detached houses shall be erected on this erf together with such outbuildings as are ordinarily required to be used therewith;
  - (d) not more than half the area thereof shall be built upon;

- (k) 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 nor within 3.15 metres of the rear or 1.57 metres of the lateral boundary common to any adjoining erf provided that with the consent of the Local Authority an outbuilding not exceeding 3.65 metres in height measured from the floor to the wall plate and no portion of which will be used for human habitation may be erected within the above prescribed rear space. Or consolidation of any two or more erf's this condition shall apply to the consolidated area as one erf.
- (l) In the event of the provisions of a Town Planning Scheme being made applicable to this erf, which provisions are more restrictive than the provisions contained in the above then the provisions of such scheme shall apply.

D. SUBJECT FURTHER to the following conditions stipulated in Deed of Transfer No. T19201968 entered by Hanglip Beach Estates Limited as being applicable to all erf's in Sunny Seas Township, as being in favour of the registered owner of any erf in the Township:

- (1) No wood and/or iron buildings of any description shall be erected on this erf nor shall corrugated iron be used for roofing purposes.
- (2) No cattle, horses, sheep, goats, pigs or poultry shall be kept on this erf without the written consent of the Company.
- (3) Save with the consent in writing of the Company and of any Local Authority, the owner shall not have the right to make or cause to be made upon the erf for any purpose whatsoever any bricks, tiles or earthenware pipes or other articles of such nature, nor shall he have the right (save and except to prepare the erf for building purposes) to dig or quarry any earth, gravel, lime or stone thereon.
- (4) No building (including outbuildings) shall be erected on this erf of a superficial area of less than 99 square metres.
- (5) No noxious trade or noxious business shall be carried on on this erf.
- (6) The Transferee shall not camp overnight or light fires on the erf save with the written consent of the Company, nor shall he permit any other person so to do.
- (7) No garage or service station may be erected or carried on on this erf, provided that this condition shall not apply to erf's No 1 and 263.
- (8) Until a Local Authority takes over the supply of water for the Township the Company or its successors in title shall be allowed to levy a charge on erfholders for the service of administering the water of the Township, which charges shall be subject to the

3/0

approval of the Administrator. This charge, however, shall not be levied until the off-holder requests that the water be connected to the erf. The Company reserves the right, however, subject to the consent of the Administrator, to install a system for increasing the consumption of water supplied and to make charges based upon such consumption.

- (g) That the Company or its successors in title shall make a charge of R10,00 (Ten Rand) for the connection of water to the nearest point of the erf.
- (h) The buildings, including all fences and garden or other gates, shall be of good design and sound construction and the plans, elevations and the specifications thereof must be lodged with and approved by the Company before tenders are called for and no alterations in the plans, elevations and the specifications when so approved shall be made without the consent in writing of the Company. The location of the buildings on the site must also be approved by the Company. The buyer shall not commence building operations until he has received the written approval of the Company to his plans, elevations and specifications. In the event of a breach of this clause, the Company shall have the right to interdict the buyer from proceeding with his building operations and shall have the option to repurchase the erf upon payment of the cost price thereof, without compensation for any improvements.
- (i) Outbuildings shall not be built prior to the erection of the main dwelling or building which shall be a complete building and not one partly built and intended for completion at a later date.
- (j) No hotel, boarding house, carters, restaurant, boterijie, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted upon the Special Residential zones.
- (k) No carters, restaurant, boterijie, shop, factory, industry or any place of business or entertainment whatsoever (with the exception of boarding houses) shall be opened or conducted on the General Residential zones.
- (l) No signs, advertisements, advertisement hoardings or other lettering shall be erected on this erf, nor shall any advertisements, signs or lettering be painted on any buildings, walls or fences erected or to be erected on the said erf, save and except with the written approval of the Company.
- (m) No debris, scrap or other useless material shall be deposited on the said erf, nor shall the purchaser or his successors in title deposit or allow to be deposited any debris, scrap or other useless material on the said erf, without the written consent of the Company first had and obtained.
- (n) In the foregoing conditions the expression "the Company" shall mean "the Haastip Beach Estates Limited, as owner of the

remaining effort of the Township and its successors in title to the whole of such remainder.

WHEREFORE the said Appraiser, renouncing all the right and title which the said CHRISTOS ATHANASIOS YIATSES and MARIA CATHARINA MAGDALENA YIATSES heretofore had to the premises, did in consequence also acknowledge CHRISTOS ATHANASIOS YIATSES and MARIA CATHARINA MAGDALENA YIATSES to be entirely dispossessed of, and disentitled to, the same; and that, by virtue of these presents, the said RAOUL VAN DEN BERG, his heirs, executors, trustees or assigns now and in hereafter shall be entitled thereto, conformably to local custom, the State, however, reserving its rights and finally acknowledging the purchase price of the property hereby transferred to be the sum of R450 000,00 (Four Hundred and Fifty Thousand Rand);

IN WITNESS WHEREOF, I, the said Registrar of Deeds together with the Appraiser have subscribed to these presents and have caused the Seal of office to be affixed thereto.

THUS DONE AND EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on 13 December 2006.

  
g.g. Appraiser of Appraiser

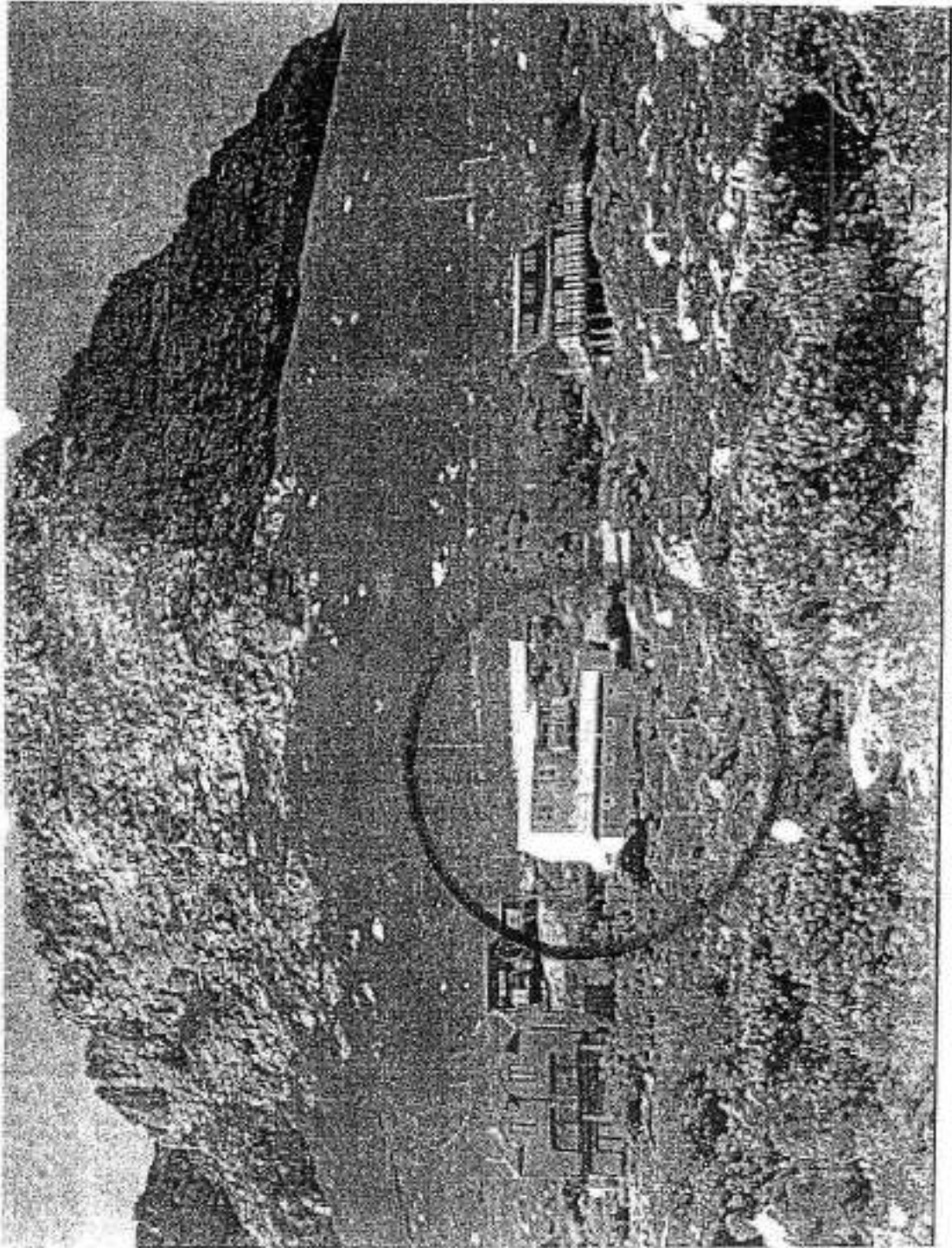
In my presence:

  
REGISTRAR OF DEEDS



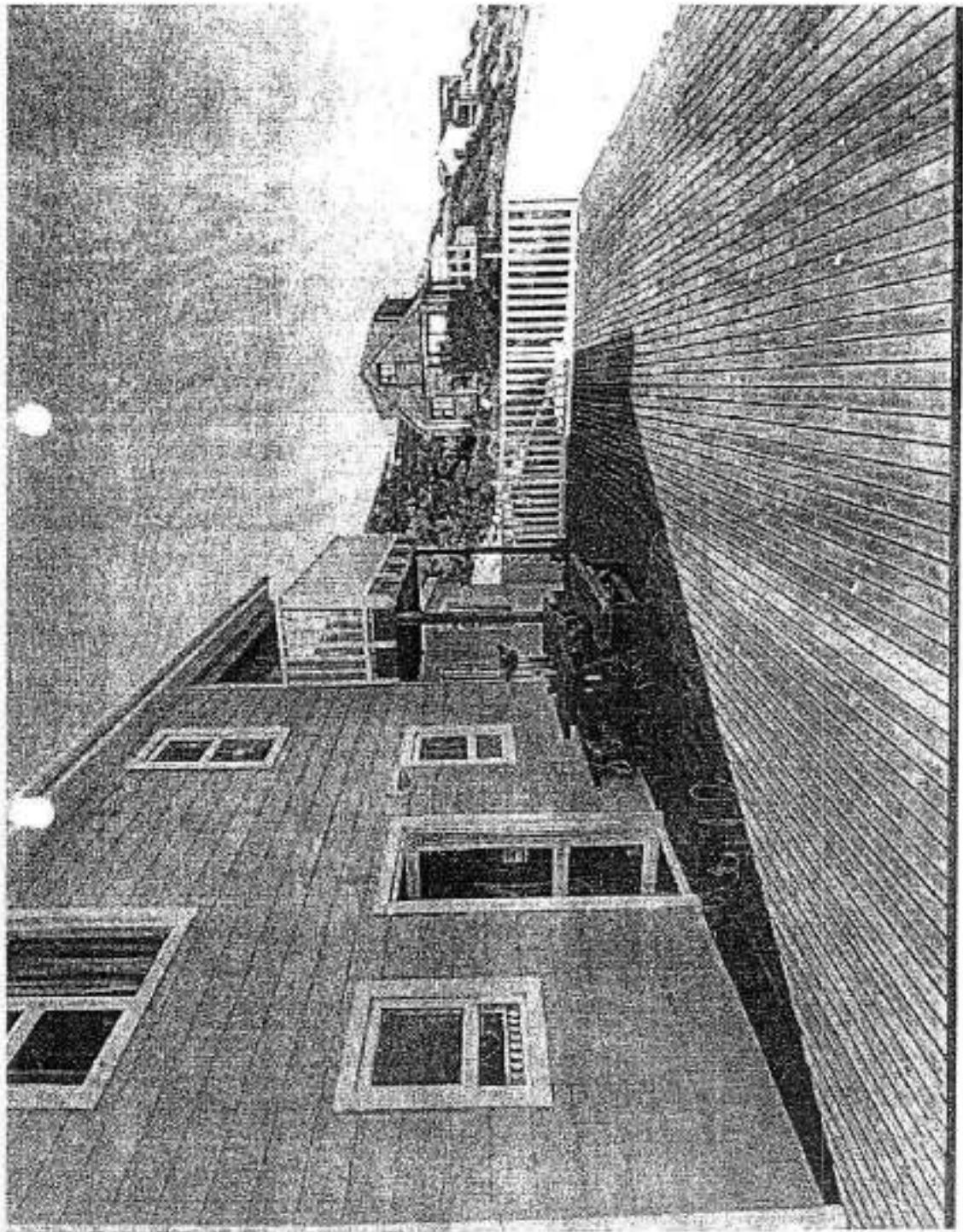
ANNEXURE G 58/73

ANNEXURE "JL9"



ANNEXURE G 59/73

ANNEXURE 'UL 10'



ANNEXURE "UL II"

324

Ledi Friess & Partners  
Block B, The Beachhead Office Park  
10 Niblick Way  
Somerset West  
7130

53

Prepared by me  
*[Signature]*  
CONVEYANCER  
MERRING BJ

**FEE**  
R 500.00

VERBIND		MORTGAGED	
R 550 000.00			
<b>B</b>	112246/07		
	06 DEC 2007		REGISTRAR

T 000097545/2007

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

**MICHELE WRIGHT** GREGORY JOHN CLAUGHTON

appeared before me, REGISTRAR OF DEEDS at Cape Town, the said applier being duly authorised thereto by a Power of Attorney which said Power of Attorney was signed at Gettys Bay on 1 October 2007 granted to him by

MARIA DO CARMO FERREIRA  
Identity Number 333913 0023 08 8  
Unmarried

DATA / VERIFY  
17 JAN 2008  
MURIEL

FOR ENDORSEMENTS SEE BLADDE  
FOR ENDORSEMENTS SEE PAGE 9

DATA / CAPTURE  
18 JAN 2008  
MURIEL

page 9.

VERBIND		MORTGAGED	
VRI FOR R 575,000,00			
B	060781/38	<i>[Signature]</i>	
28 OCT 2008	REGISTRAR		

617

VERBIND MORTGAGED  
VRI FOR R 20,000,00

VERBIND		MORTGAGED	
VRI FOR R 20,000,00			
B	00002924177042	<i>[Signature]</i>	
2008-10-15	REGISTRAR		

Page 2

And the appraiser declared that his said principal had, on 10 September 2007, truly and legally sold by Private Treaty, and that he, the said Appraiser, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of,

**DUARTE-NUNO DE RESENDE FONSECA FERREIRA**

Identity Number 550514 5525 68 5

and

**LIANA FERREIRA**

Identity Number 740528 0227 08 3

Married in community of property to each other

their Heirs, Executors, Administrators or Assigns, in full and free property

ERP 3108 BETTYS BAY  
In the Overstrand Municipality  
Division of Calicoes  
Western Cape PROVINCE

IN EXTENT 1338 (ONE THOUSAND THREE HUNDRED AND THIRTY EIGHT) SQUARE METRES

FIRST TRANSFERRED by Deed of Transfer No. T36498/1960 with General Plan TP 4376 relating thereto and held by Deed of Transfer No. T176187004

A. SUBJECT to the conditions referred to in Certificate of Township Title T 3719/1937

B. SUBJECT FURTHER and ENTITLED to the benefit of the conditions referred to in the following Servitude Endorsements appearing on Certificate of Consolidated Title T 3720/1937 which endorsements are dated and read as follows:-

1. DATED 24 JUNE 1940

"By Deed of Transfer No. 5068/40 dated 24/6/40 certain conditions relating to (i) prohibition of Petrol Station on land (ii) wood and iron building; (iii) slaughter poles, cattle kraals (iv) manufacture of bricks, tiles, etc., have been imposed on the property hereby conveyed for the benefit of the owner and its successors in title of the remainder of the property held hereunder as will more fully appear on reference to the said Deed of Transfer."

2. Dated 22 OCTOBER 1948

"By D/T No 24234 dated 22.10.48 certain conditions relating to water supply, type of business that may be carried on prohibition of petrol station on land, slaughter poles, cattle kraals, wood and iron building, non-division, manufacture of bricks, tiles, etc., have been imposed as will more fully appear on reference to said Deed of Transfer."

3. DATED 18 JULY 1948

D:\NewBerkley 6.11.1.250

Page 3

"By DIT 11915 dated 18.7.1948 the remainder of the land held hereunder is entitled to a right of way over the Erf 407 Bery's Bay (Ext No 1) and marked A.E.D. on the diagram thereof. Subject to conditions as will more fully appear on reference thereto."

## 4. DATED 1 DECEMBER 1950

"By Deed of Transfer No. 1887/50 dated this day certain conditions relating to water supply, type of business that may be carried on, planting of trees, prohibition of petrol station, slaughter poles, cattle kraals, manufacture of bricks, tiles, etc., non-subdivision, have been imposed against and for the benefit of the remaining extent of the property hereby conveyed measuring 3260,6515 ha, as will more fully appear on reference to said Deed of Transfer."

## 5. DATED 28 AUGUST 1951

"By Deed of Transfer No. 14834/51 dated 28.8.51 certain conditions relating inter alia to: prohibition against erection of certain types of building, slaughter poles, cattle kraals, pigsties, cowsheds, manufacture of bricks, tiles, etc., the value of erections, water supply arrangements, etc., have been imposed over the remainder of the land thereby measuring 5855,3544 ha held hereunder, as will more fully appear on reference to said Deed of Transfer."

## 6. DATED 28 AUGUST 1951

"By Deed of Transfer No. 14835/51 dated 28.8.51 certain conditions relating inter alia to: arrangements re water supply, submission of plans for approval, fencing to be used, planting trees, use of land for Tea Garden or Room, building, prohibition against erection of Petrol Service Station and other certain types of building, slaughter poles, cattle kraals, pigsties, cowsheds, manufacture bricks, tiles, etc., subdivisions without permission etc., which conditions are imposed in favour of the owner and successors in title to the remainder measuring 5845,8428 hectares held hereunder, as will more fully appear on reference to said Deed of Transfer."

But without rights to water referred to in (2), (4), (5) & (6) which are retained by the Transferee as owner of the said Township held as aforesaid."

## C. SUBJECT to the following conditions:-

1. Imposed by the Administrator of the Province of the Cape of Good Hope when approving of the establishment of SUNNY BEACH TOWNSHIP in terms of the provisions of Ordinance No. 33 of 1934 as amended and contained in Deed of Transfer T36498/1980, namely:

1. Any words and expression used in the following conditions shall have the same meaning as they have been assigned to them by the regulations published

*Secretary G.F.J. 1980*

Page 4

under Provincial Notice No. 401 dated 17 October 1935, and in the memorandum which accompanied the said regulations.

2. The owner of this erf shall without compensation be obliged to allow electricity cables and water mains and the sewage and drainage of any other erf or erven within or without this subdivision to be conveyed across this erf, if deemed necessary by the Local Authority and in such manner and position as may from time to time be reasonably required. This shall include the right of access to the erf at any reasonable time in order to construct, maintain, alter, remove or inspect any sewer, manhole, drain, conduit or other works pertaining thereto.
3. The owner of this erf shall be obliged, without compensation, to receive the material or permit excavation on the erf as may be required to allow use of the full width of the street and provide a safe and proper slope to its bank owing to difference between the levels of the street as finally constructed and the erf, unless he elects to build retaining walls to the satisfaction of and within a period to be determined by the Local Authority.
4. Pending the establishment of a Local Authority for this Township, the sewage of this erf shall not be disposed of otherwise than by means of a properly constructed vacuum tank serving one or more erven. If any such tank is situated on this erf, the owner shall, without compensation, be obliged to remove it after three months' written notice served upon him by such Local Authority.
5. This erf shall be subject to the following further conditions, provided especially that where in the opinion of the Administrator after consultation with the Township Board and the Local Authority it is expedient that the restriction in any such condition should at any time be suspended or relaxed, he may authorize the necessary suspension or relaxation, subject to compliance with such conditions as he may impose:
  - (a) It shall not be subdivided;
  - (b) It shall be used for residential purposes only;
  - (c) Not more than one building, excluding a hotel, maisonettes and semi-detached houses, shall be erected on this erf together with such outbuildings as are ordinarily required to be used therewith;
  - (d) Not more than half the area thereof shall be built upon;



Official Secretary 2.7.1.1936

Page 3

- (e) 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 boundary of this erf nor within 3.15 metres of the rear or 3.07 metres of the lateral boundary common to any adjoining erf provided that with the consent of the Local Authority an outbuilding not exceeding 3.05 metres in height measured from the floor to the eave plane and no portion of which will be used for human habitation may be erected within the above prescribed rear space. On consolidation of any two or more erven this condition shall apply to the consolidated area as one erf.
- (f) In the event of the provisions of a Town Planning Scheme being made applicable to this erf, which provisions are more restrictive than the provisions contained in the above then the provisions of such scheme shall apply.

ii. Imposed in Deed of Transfer T 38498/1980 by HANGOLP BEACH ESTATES LIMITED as being applicable to all erven in SUNNY SEAS TOWNSHIP, as being in favour of the registered owner of any erf in the Township:

- (a) No wood and/or iron buildings of any description shall be erected on this erf nor shall corrugated iron be used for roofing purposes.
- (b) No cattle, horses, sheep, goats, pigs or poultry shall be kept on this erf without the written consent of the Company.
- (c) Save with the consent in writing of the Company and of any Local Authority, the owner shall not have the right to make or cause to be made upon the erf for any purpose whatsoever any bricks, tiles or earthware pipes or other articles of such nature, nor shall he have the right (save and except to prepare the erf for building purposes) to dig or quarry any earth, gravel, lime or stone thereon.
- (d) No building (including outbuildings) shall be erected on this erf of a superficial area of less than 30 square metres.
- (e) No noxious trade or noxious business shall be carried on this erf.
- (f) The Transferee shall not camp overnight or light fires on the erf save with the written consent of the Company nor shall he permit any other person so to do.



Witnessed by 6.2.1.1/16

Page 6

- (g) No garage or service station may be erected or carried on this erf, provided that this condition shall not be even Nos 20419 and 2311.
- (h) Until a Local Authority takes over the supply of water for the Township the Company or its successors in title shall be allowed to levy a charge on erf-holders for the service of administering the water of the Township, which charge shall be subject to the approval of the Administrator. This charge, however, shall not be levied until the erf holder requests that the water be connected to the erf. The Company reserves the right, however, subject to the consent of the Administrator, to install a system for measuring the consumption of water supplied to make charges based upon such consumption.
- (i) That the Company or its successors in title shall make a charge of R10,00 (Ten Rand) for the connection of water to the nearest point of this erf.
- (j) The buildings, including all fences and garden or other gates, shall be of good design and sound construction and the plans, elevations and the specifications thereof must be lodged with and approved by the Company before tenders are called for and no alterations in the plans, elevations and the specifications when so approved shall be made without the consent in writing of the Company. The location of the buildings on the site must also be approved by the Company. The buyer shall not commence building operations until he has received the written approval of the Company to his plans, elevations and specifications. In the event of a breach in the clause, the Company shall have the right to interdict the buyer from proceeding with his building operations and shall have the option to repurchase the erf upon payment of the cost price thereof, without compensation for any improvements.
- (k) Outbuildings shall not be built prior to the erection of the main dwelling or building which shall be a complete building and not one partly built and intended for completion at a later date.
- (l) No hotel, boarding house, canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever shall be opened or conducted upon the Special Residential erf.
- (m) No canteen, restaurant, bioscope, shop, factory, industry or any place of business or entertainment whatsoever (with the exception of boarding houses) shall be opened or conducted on the General Residential Erf.
- (n) No signs, advertisements, advertisement hoardings or other lettering shall be erected on the erf, nor shall any



W. J. J. J. J.

Page 7

advertisements, signs, or lettering be painted on any buildings, walls or fences erected or to be erected on the said erf, save and except with the written approval of the Company.

- (c) No debris, scrap or other unsightly material shall be deposited on the said erf, nor shall the purchaser or his successors in title deposit or allow to be deposited any debris, scrap or other unsightly material on the said erf, without the written consent of the Company first had and obtained.
  - (d) In the foregoing conditions the expression "the Company" shall mean "the HANDEKLIP BEACH ESTATES LIMITED, as owner of the remaining extent of the Township" and its successors in title to the whole of such remainder.
- D. NOT ENTITLED to the benefit of the water rights referred to in Endorsement dated 1 December 1958 on Certificate of Township Title T 358/1956, which water rights shall be held by the Transferor Company as owner of the remainder of the Township.



Handwritten signature in cursive script, appearing to read 'R. J. ...'.

Handwritten signature

Page 8

WHEREFORE the said Appearer, avouching all right and title which the said  
**MARIA DO CARMO FERREIRA, Unmarried**

heretofore had in the premises, did in consequence also acknowledge her to be  
entirely dispossessed of, and divested of the same, and that by virtue of these  
presents, the said

**DUARTE-RUNO DE RESENDE FONSECA FERREIRA and LIANA  
FERREIRA, Married as aforesaid**

their Heirs, Executors, Administrators or Assigns, now are and hereafter shall be  
entitled thereto, conformably to local custom, the State, however reserving its rights,  
and finally acknowledging the purchase price to be the sum of R11 100 000,00 (ONE  
MILLION ONE HUNDRED THOUSAND RAND).

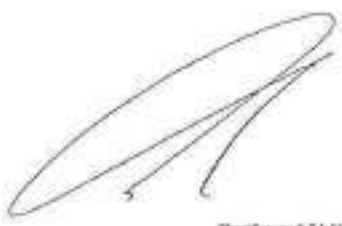
IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have  
subscribed to these presents, and have caused the Seal of Office to be affixed  
hereto.

THIS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at Cape  
Town on 6 December 2007

  
\_\_\_\_\_  
REGISTRAR OF DEEDS

In my presence

  
\_\_\_\_\_  
REGISTRAR OF DEEDS



To whom it may concern

We've learned that complaints were launched concerning the Upliftment Centre at 3054 Sea View Drive, Betty's Bay. We don't know the reason for the complaint but, as fellow ratepayers also residing in Sea View Drive, we've decided to write this letter.

The Upliftment Centre is up and running now for approximately a year and a half already.

If anyone is concerned that it's a business, an upliftment centre is not a business but a service to the community and therefore falls under community services. If one takes into consideration that many people in South Africa suffers from mental and emotional exhaustion due to today's stressful life style, you would think that anybody would be super supportive of ANY centre opening their doors to help our young people uplifting their lives again.

Any other complaints e.g. Religions (seeing that most/all of the occupants of the centre are Muslims) should not even be taken in consideration because South Africa is after all still a country where you can practise your Religious views freely.

All the young men and staff of the house are very friendly and also very helpful e.g. house 3151 had to move a piano and asked if the young men could help with the move. They did. We have old people living in Sea View Drive and, (again at 3151) when the Pais couple goes on holiday and the two 80+ year olds are alone at home, the young men make sure to 'look out' for them. Anyone hanging around not belonging in our street gets asked to leave immediately. The house (centre) is very high up in the mountain and serves as a good lookout point to the rest of the street so, they can see when people don't belong! A knock on the door with a: 'are you ok oupie' will be part of their running routine in the morning and again during their afternoon run, just to make sure that the old couple is fine. If the complaint is about them running in the street, well then, many other people should be stopped as well and also the many families walking their dogs and cycling with their children.

With all this said, we would like to sign this letter to show our support to the centre and also to ask that you grant them the necessary documents so that they can keep on running their centre because they are doing a wonderful job and they are well loved by those who allow themselves to make the effort to know the occupants of the house.

Kind Regards

Paul & JANNORA PAIS 082 461 5807

JAN & NORR BOSCHOP 082 461 7025

FRAN'S & BRIGGIE de VILHUIS 082 444 7340

BENJAMIN & JOSHUA de VILHUIS 071 663 1108

PAUL & EMILIE de VILHUIS 082 461 4090

LESLIE & VAPINE SIMON 073 283 4424

ANNEXURE G,70/73

ANNEXURE 'ULIS'Jannora Pais <jannorapais@yahoo.com>

To

patrickarendse@yahoo.co.uk

16 Mar at 9:12 AM

**PRIVAAT EN VERTROULIK!!!***Geagte leser,*

*Ek gaan begin deur te se dat hierdie nie 'n "complaint" is nie alhoewel die mense wat besig is met 'n petisie ons op 'n nie so mooi manier "georder" het om een te stuur!!*

*Ek wil wel kommentaar lewer oor 'n saak wat nie so mooi hanteer word nie. Hierdie skrywe gaan oor Erf 3054, Sea View Rylaan nommer 11, Bettiesbaai.*

*Ons was nou die aand alreeds in die bed toe die man met sy groot rooi dubbel-cab 4x4 bakkie hier voor ons huis in Sea View Rylaan kom stop en ons deur amper afgeklop het. So met kamerjas aan het ons toe maar gaan oopmaak want ons kon hoor aan die klop dat iets dringend is.*

*"Afrikaans or English" is al wat aan ons gevra is met die oopmaak van die deur en ons se toe maar: "English please", want my man verstaan en praat mos nie Afrikaans so lekker nie.*

*'n Overstrand Municipality brief word toe in ons hand geprop met 'n: "submit a complaint immediately" maar dis bietjie vaag vir my en ek vra toe vir wat die "complaint" moet gaan. Ek meen rerig, ek is mos nie lus om daardie tyd van die aand die hele brief te staan en deurlees nie!! en so word ons toe meegedeel: "to stop this rubbish at the top".*

*Ek hou my toe maar baie dom en vra watter rubbish die kwaai man van praat ... en dis hier waar ek nou eerder 'n lang storie korter gaan maak. Dit gaan toe als oor die aansoek om goedkeuring vir 'an upliftment centre' deur die inwoners van Erf 3054, nommer 11 Sea View Drive.*

*Nou, my kommentaar loop so: Eerstens het ek niks van die man se "attitude" gehou wat amper ons deur kom afklop het nie. Ek gee glad nie om dat mense 'n petisie optrek nie want dit is ons almal*

wegkruip het, het al soveel arends vlerke bygekry dat dit klink na iets waarvan 'n movie gemaak kan word en defnitief nie meer die waarheid nie.

As mens na die polisie statistieke gaan kyk oor die "crime" in die area vandat hulle hier in ons straat woonagtig is, sal mens sien dat dit nie gestyg het nie. Inteendeel, hierdie manne is baie trots en beskermend oor hulle straat. Ons het al gehad dat bouers rondstaan na ure en dan is nommer 11 se manne gou teenwoordig om te hoor hoekom daar rondgesnuffel word deur mense wat nie hier hoort nie.

Wanneer ek en my man met vakansie gaan en ons twee ou mensies is alleen by die huis word daar geklop om te hoor of oupa en ouma iets nodig het. My ouers het van die mans se sellfoon nommers indien hulle hulp sou benodig. Dis hoeveel hulle vertrou word deur ons en met rede!!

Feit: Erf 3054 se mense is Muslims en dit maak mens hartseer om te WONDER of dit nie dalk die regte rede is waaroor die petisie gaan nie want, nie een van die ander redes maak sin nie. Ek is 'n Christen en so ook die res van my huis. Ek kan met liefde in my hart 'n voorstel maak aan die mense wat in vrees lewe oor ERF 3054 se doen en late. Spandeer 'n bietjie tyd saam met hulle deur te stop en te gesels. Leer hulle ken of gaan lees op oor Muslims – nie Islamic State nie – Muslims!! .. dan sal hulle agterkom dat al die redes wat gegee word om die sentrum af te keur ongegrond is. Hierdie mense drink nie. Hulle is maw nooit dronk nie. Hulle moor nie. Hulle verkrag nie. Hulle baklei nie.

Dit is meer as wat mens kan se van die "PUB" oorkant die straat van ons wat deur die vorige eienaars in die nag "dronk-street-racings" parties gehou het. Mens wonder hoe het hulle daarmee weggekome terwyl daar "complaints" ingedien word teen mense wat wil HELP. Upliftment sentrum bied Hulp. Hulp vir jong mans vir wie die lewe effe te veel geword het. 'n Nuwe lewe met HOOP. Laat mens dink ne? Mens sou dink dat die 'community' hulle met ope arms sou ontvang.

Ek wil afsluit deur te se, hier is baie van ons in Sea View Drive wat NIE teen die inwoners van Erf 3054 se planne is nie en hulle met ope arms en liefde hier verwelkom. Ons pad-loop saam met hulle is al paar jaar oud. Soos reeds gese, ons is al gehelp met

se reg in 'n demokratiese land om te verskil soos ons wil maar ek moet se, die kom vra of ons wil deelneem aan so 'n petisie het vir ons veel eerder gevoel na intimidasie en nie 'n keuse nie!! Tweedens: Hierdie "rubbish" waarvan die man praat is wat?? Die mense wat daar bly of wat?? Verkeerde woord keuse sou ek se want, as dit gesinspeel word op die mense wat daar bly, dan weet ek nie so mooi nie!! Hierdie is beautiful mense wat al vir meer as twee jaar hier in vrede saam met ons lewe so sy woords keuse het nie vir my, my man of die res van ons gesin regtig aangestaan nie!!

Die woord Rubbish kan ook nie in die selfde sin as "an upliftment centre" gebruik word nie want, hoe kan "om ander te help" as rubbish beskou word?? Dan se ek weer: Die man het die reg om te voel soos hy voel en ook om kwaad te wees omdat ons nie saam met hom stem of belangstel om deel te neem aan sy petisie nie. Ek voel tog, om weg te trek in sy groot rooi 4x4 met 'n spoed van wit lig en klippe op te skiet, soveel so dat dit amper my kar se venster tref, en dan nog met 'n : "we will see what you will do when they come and steal your vehicle, rape or murder you!" vanuit die venster half te skree vir ons?? Ek het nie eens woorde of kommentaar vir sy gedrag nie!

Die inwoners van Erf 3054 is, soos ek reeds geskryf het al 'n genuïeme tyd hier woonagtig in Sea View Rylaan nommer 11 – meer as 2 jaar. In daardie tyd is nog nie een van ons voertuie gesteel, nog nie een van ons is verkrag of vermoor nie. Hoekom sal dit nou skielik gebeur nadat die sentrum goedgekeur word? so sy argument tot 'n petisie maak vir my glad nie sin nie.

Hierdie jong manne hardloop party oggende hier verby met 'n groet of 'n kort geselsie. Dis met die verbyhardloop wat ons met hulle kennis gemaak het paar jaar gelede. Ons het hul gaan vra om ons asb te kom help klavier skuif vanaf die onderste vloer na vloer nommer 2. So het ons pad-loop saam met hulle begin. Ons het hulle al gehelp met kar regmaak. My pa 86 het hulle ook al vele male 'n "lift" gegee (10 jong manne) in sy combi na Palmiet se strand toe vir 'n lekker swem en nog nie een keer het hulle hom besteel, beroof of enigsins bedreig of leed aangedoen nie. Hoekom sal dit nou skielik gebeur as die sentrum goedgekeur word?

Die storiëttjie wat hulle voorhou as die rede vir die petisie van die een outjie wat eenkeer "ontsnap" het en by Mev C. se huis gaan

*Klaviere trappe opdra, erwe skoonmaak en vele meer. Ons het al in die twee + jare lekker saam ge'curry', ge'snoek', even ge'kersfees' en ge'easter-egg' en ja, saam gekuier, gelag en gehuil en nie een van ons is slegter af daardeur nie.*

*Ek hoop regtig dat julle alles baie mooi sal oorweeg en hierdie aansoek sal goedkeur sodat hulle nou vir eens en altyd kan voortgaan met die goeie werk wat hui reeds al 'n paar jare lank doen.*

*Dankie vir U tyd!!*

*Die Boshoff-Pais gesinne van Sea View Drive!!*

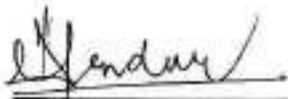
[Reply Reply to All Forward More](#)

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR REMOVAL OF RESTRICTIVE CONDITIONS & CONSENT  
USE: ERF 3054, BETTY'S BAY (3205)**

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

**Conditions**

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that should additional services connections be required, the owner will be responsible for the payment of bulk services levies;
3. that stormwater be allowed to discharge through Erf 3054, Betty's Bay, unobstructed;
4. that no on-street parking be allowed.



**DENNIS HENDRIKS  
SENIOR MANAGER:  
ENGINEERING SERVICES**

11/4/2017  
DATE



File reference: 3054 KBB (3200)  
Date: 2 March 2017

**INTERNAL MEMORANDUM**

From : Town Planning Department  
Town Planner : Hanneen van der Stoep

TO:

<u>Area Manager</u>	<u>Building Department</u>	<u>District Health</u>	<u>Electrical Department</u>
Environmental Officer	<u>Fire Department</u>	<u>Infrastructure and Planning</u>	Local Heritage Committee
<u>Operational Services</u>	<u>Traffic Department</u>	<u>Ward Councillor (Cnr. F. Krug)</u>	Waste Management

Applicant	PLAN ACTIVE (obo ALPAC INVESTMENT CC)
Property Details	ERF 3054, 11 SEAVIEW DRIVE, BETTY'S BAY
Application Description	PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE

**ATTACHMENTS :**

1. Notice	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.
2. Locality Plan	
3. Site Development Plan	
4. Motivation	

**YOUR DEPARTMENT'S COMMENTS** *Must submit a Fire Plan*

Approval is subject to compliance with requirements of National Fire Protection Regulations - SANS 10400T:2011 - See Attached ANNEXURE A.

Signature:	Date: 07 APR 2017	2017
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MUNISIPALITEIT OORSTRAAND MUNISIPALITEIT  
FIRE BRIGADE / BRANDWEER  
APPROVED / GOEDGEKEUR

Please provide your comments (with specific reference to any conditions of approval that should be applied) in the space provided above or in a separate memo to our office no 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 objections to the proposal and where appropriate, the Mayor's 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**



OFFICE OF THE CHIEF FIRE OFFICER  
PO BOX 20  
HERMANUS  
7200  
Tel: 028 313 8980  
Fax: 028 313 1493



STANDARD REQUIREMENTS FOR OPERATION OF AN ESTABLISHMENT CLASSIFIED HOSPITALITY – H5  
- TOURIST or TEMPORARY ACCOMMODATION IN ANY H3 OR H4 CATEGORY BUILDING IN TERMS OF  
THE NATIONAL FIRE PROTECTION REGULATION SANS10400T:2011

**ANNEXURE A – Erf 3054 Betty's Bay, Hangklip Application No: 3054KBB (3205)**

In order to obtain a fire safety clearance the following requirements are prescribed together with any other building compliance requirements:

**Fire Extinguishers:**

SANS10400T:2011 – 4.37:

1 x Portable Fire Extinguisher per 100m<sup>2</sup> of a type - 4.5kg Dry Chemical Powder, 5kg CO<sub>2</sub> or 9 litre H<sub>2</sub>O.

**Combustibility of Floor Coverings:**

Shall comply with requirements of Section 4.14 of SANS10400T:2011.

**Combustibility of Wall Coverings:**

Shall comply with requirements of Section 4.15 of SANS10400T:2011.

SANS10400T:2011 – 4.58 require the provision of:

- Escape route signs – Photoluminescent SANS1186-5 in all passages and corridors and also above all exit doors.
- Self-contained luminaires (automatic actuating battery operated lights) in all passages and corridors
- Stand-alone smoke alarms compliant with the requirements of European Standard EN14604 in each:
  - Sleeping room
  - Communal area
  - Passage or corridor leading to rooms
- Fire Hose Reels for premises larger than 250m<sup>2</sup> at a ratio of 1 per 500m<sup>2</sup> of the establishment.
- Doors leading to the outside of the building with single turn locks or any other lock device approved by the Fire Authority.

A table approved emergency plan indicating evacuation routes that informs guests as to action that must be taken in the event of an emergency that is affixed to the back of each room door or prominent place in the room.

These plans must include:

- Action to be taken when discovering a fire or if an emergency arises
- Action to be taken for evacuation of the building and assuring accountability of all occupants
- The interim action to be taken pending the arrival of emergency services
- An evacuation floor plan that identifies the escape route, appropriate exit doors and post evacuation mustering point.

Chief Fire Officer

## 4.5

**ERF 845, CORNER OF END- AND LOUIS TRICHARD STREET, SANDBAAI, OVERSTRAND MUNICIPAL AREA : APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND CONSENT USE : MESSRS ROUTE 2EC TOWN PLANNING STRATEGIES ON BEHALF OF AC MURRAY**

845 HSB (3759)

H van der Stoep  
15 March 2018

(028) 313 8900

Hermanus Administration

## 1. EXECUTIVE SUMMARY

An application has been received on 24 August 2017 from Messrs Route 2EC Town Planning Strategies on behalf of AC Murray applicable to Erf 845, Sandbaai for the following:

- ❖ Removal of restrictive title deed conditions in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the removal of restrictive title deed conditions B.2.(a). B.2.(b), B.2.(c) and B.2.(d) as contained in Title Deed T85461/2006 applicable to the above erf in order to operate a crèche from the property.

The restrictive conditions B.2.(a) – (d) as contained in Title Deed T85461/2006 to be removed, read as follows:

*(a) "That the above erf or erven be used for residential purposes only.*

*(b) That the above erf or erven be not subdivided.*

*(c) That not more than one dwelling together with the necessary outbuildings and accessories be erected on any one of the above erven and that not more than one-half the area of any one of the above erven be built upon;*

*(d) That no building shall be erected on the above erf or erven within 4,72 metres of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used as gardens, but shall not be built upon."*

- ❖ Application is subsequently made in terms of Section 16(2)(o) of the above By-Law for a consent use in order to enable the owner of the above property to operate a crèche once specifically the above restrictive condition B.2.(a) has been removed from the Title Deed.

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

## 2. DECISION AUTHORITY

Municipal Planning Tribunal

### 3. BACKGROUND / SITE HISTORY

The erf is zoned Residential Zone 1: Single Residential, measures 664m<sup>2</sup> in extent and is located in the residential area of Sandbaai. Additions to and the upgrading of existing structures on the property have recently been done in accordance with its current rights.

During January 2017 complaints were lodged at the Law Enforcement Department of the Municipality that an illegal crèche is being conducted from the premises. Officials of the Department conducted a site inspection that confirmed the illegal activity. The activity was being conducted by the tenants of the property. According to the Law Enforcement officers more than forty (40) toddlers were counted on the property during the site inspection. The latter resulted in the issuing of the notice in terms of the provisions of the Municipal By-Law on the landowner since no such activity on the property has been approved by the Municipality. Follow up site visits by the author were conducted that revealed that the illegal activity has not been ceased. The matter was further processed as prescribed in the By-Law and the application under discussion was eventually submitted by the landowner. All the detail, correspondence, etc. leading up to the submission of the application under discussion is not hereby conveyed since it would only lead to an unnecessary comprehensive background. The application is thus further evaluated on the merits thereof.

### 4. SUMMARY OF APPLICANT'S MOTIVATION

Due to the comprehensive nature of the motivation report only the main points of motivation are summarised as follows (the detailed report is attached as Annexure C):

- ❖ The application is in line with the Municipality's strategic policy and its directives of the various departments.
- ❖ The crèche will provide for the of Early Childhood Development (ECD) for which there is a need for as indicated in the Overstrand Integrated Development Plan and the services will provide for children to be looked after and cared for whilst their parents work within an area where sustainable economic development are promoted.
- ❖ The site plan clearly indicates compliance with all relevant conditions as per the provisions of the Zoning Scheme required to operate a crèche as defined inclusive of the fact that the dwelling house will remain to be used as accommodation for the owner's mother and thus the primary right will prevail in accordance.
- ❖ The application for consent use and removal of restrictive conditions are reasonable and relevant and will result in a service to the needs of the young children residing in the community of Hermanus.
- ❖ The crèche, as a secondary land use, will integrate, enhance and promote sustainable community principles as well as ensuring the alignment of the desired development principles and contribute to achieving the desired mix of land uses as a service to those in need.
- ❖ The crèche as a service to the community will allow for greater social justice and equity of access to basic education of children in their early childhood development stages. The consent use as crèche will be providing a service to and benefit the disadvantaged community for which such services are needed.

- ❖ The proposed land use will not impact negatively on the safety, health and wellbeing of the surrounding community.
- ❖ The proposed land use will not impact negatively on the traffic, parking and transport related considerations as sufficient parking and drop and collect area can be provided for on the property as per the site plan.
- ❖ The proposed crèche will not impact negatively on the quality of life of the immediate and surrounding neighbouring residents in the form of privacy, visual impact or character as aligned to the spatial policies and provisions of the Zoning Scheme.

#### 5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	Yes	17 October 2017	24 November 2017
Gazette	Yes	13 October 2017	24 November 2017
Notices	Yes	13 October 2017	24 November 2017
Ward councillor	Yes	13 October 2017	24 November 2017
Total comments	<b>TWO (2)</b>		
Total letters of support	<b>NONE</b>		
Was public participation undertaken in accordance with Section 45 - 49 of the Proposed Draft By-Law on Municipal Land Use Planning?			<b>Yes</b>
Was the application processed correctly (if no, elaborate below):			<b>Yes</b>
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			<b>Yes</b>

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

Name	Date received	Summary of comments	Recommendation
<b>Ward Councillor</b>	17/10/2017	May not provide any comment because of conflicting interests.	<b>N/A</b>
<b>Building Control</b>	14/11/2017	On-site parking not practical. Supported subject to plans being in compliance with SANS10400 and be in compliance with plans submitted to town planning.	<b>Positive</b>
<b>Fire Department</b>	27/12/2017	Attached as Annexure H.	<b>Positive</b>
<b>Engineering Services</b>	08/02/2018	Attached as Annexure G.	<b>Positive</b>

**7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION**

Two (2) objections were received against the proposal, and can be summarized as follows:

**Objection: Mrs E van Rhyn, Erf 846, Sandbaai**

The points of objection are summarized as follows (translated from Afrikaans to English):

1. Erf 846 is only separated by a boundary wall and the existing noise is deafening and unbearable.
2. Toys and stones and many other items are regularly thrown over the boundary wall that defaces my property and then my dog further tears it apart that leads to an even further mess.
3. My husband suffers from sleep apnoea and must try to sleep during the day, which is impossible with the noise.
4. The value of my property will devaluate astronomically, which I can definitely not afford. Someone who has paid her whole life on instalments with difficulty and who had to forfeit almost everything to retire peacefully does not deserve this. Place yourselves in our shoes; there are many pensioners in the area.
5. With regard to parking - when the children are dropped off, the accesses to our properties are blocked which is frustrating. I can go on and on. We please request that the consent be turned down.

**Objection: Mrs R Louw, Erf 776, Sandbaai**

The points of objection are summarized as follows:

1. I am a 76 year old woman who is on pension.
2. I have an elderly couple living on my property aged 69 and 70 who are also on pension.
3. A crèche will disrupt our living conditions materially in that the noise levels will increase dramatically through the daily activities of the children. It will also increase dramatically in the early morning hours due to the increase in vehicle traffic.
4. My property value will decrease due to the emergence of economic activity in a residential area.
5. There is ample commercial property available in the area that can be utilised as a crèche without affecting long standing residents in Sandbaai.

## 8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

The comments of the applicant on the points of objection are summarized as follows:

### General comments:

1. Comments on the reasons for opposing the application are dealt with in accordance with the provisions of SPLUMA in no specific order. The Municipality in terms of provision of Social Services to communities and the fact that the application is now being delayed due to an error on the side of the administration with respect to the participation process.

#### Planner's comment:

In response on the accusation made by the Consultant, the following is of importance:

Firstly: One (1) neighbour was omitted during the public participation process and in terms of the Constitution, PAJA, SPLUMA and the By-Law, should such an omission be noted, it must be rectified to have a fair and correct public participation process.

Secondly: The question with regard to the provision of Social Services by the Municipality, the Constitution is clear on a Municipality's mandate. Residential neighbourhoods have been planned according to the relevant planning principles in terms of land use allocations as determined by the amount of erven. The exponential population growth in Africa, migration and urbanization in developing countries have caused that the applicable principles to lay-out plans became out-dated. Thus to make in such a general statement that the municipality is responsible for the provisioning of social services in towns predating the aforementioned phenomena's are not valid and is not even considered as an objection. There is an existing vacant site which is zoned for a crèche. This provision has been made.

Thirdly: The applicant was informed on various occasions and on various premises of the process to be followed for a crèche, which she ignored. Thus the consent use could have been addressed had the correct procedure been followed. Therefore to make the accusation that the application is delayed due an omission of the neighbour is unfounded since the applicant delayed her own application by not following due procedure.

2. It should be noted that two (2) objections were received in the direct vicinity of the property. It is clear from the submissions that the current scale has an impact and therefore to be mitigated to ensure no undesirable effect on the Sandbaai community residing in the area.
3. The Overstrand Zoning Scheme allows for a number of secondary rights, which can be applied for in the case of the property. It is therefore clear that the application as submitted demonstrate it to be consistent with the applicable policy of the Municipality. However the number of toddlers kept could be strictly monitored to ensure compliance.

Applicant's comments on Objections: The objections are collated and summarised as below:

4. **The intended and proposed use will disrupt the living conditions with respect to the increase in noise levels related to the daily activities of the children attending the facility:**
  - 4.1 The statement that the crèche will be a noise disturbance (children playing in the yard) to surrounding neighbours who are retired and at home during the day cannot be seen as a valid objection. From a town planning point of view, it is important to take note of the positions of the buildings on the property, as well as the relation of the property in relation to surrounding properties. Applicant indicated in the motivation and on the site plan that the playing area of the proposed crèche are provided in the secured back-yard area.
  - 4.2 The property is fenced with 1,2m brick walls on all boundaries abutting residential properties with a high screen that is erected on the boundary that abuts Erf 846, Sandbaai.
  - 4.3. Crèches operate within certain time periods with activities during the day. The children will thus only play at certain times of the day, as they will mostly be tutored inside and have a set time schedule which include outside play times. These playtimes will thus not as stated in the objections be "through-out the day". It is the intention of the owner to see to it that the children play in a controlled environment.
  - 4.4. The Constitution of South Africa are clear with respect to the rights of all residents and the statements made as mentioned cannot be seen as valid as no evidence lead related to alleged noise factors that will increase pertaining to the crèche and the children playing at the facility. The submissions made in the form of comments and objections are thus not seen to be evidence lead and therefore cannot be seen as facts and circumstances which explain the objection, comment or representation in this case, it is seen as mere general statements made without it being technically confirmed.

Planner's Comment:

At present there are forty (40) children on site, which contributes to the excessive noise levels. To indicate it is not a valid point of objection is not correct. The applicant indicates that in terms of the Constitution that the respect to rights of all residents and thus in actual fact emphasize the rights of all residents. In this case the residents of the immediate area have also a right in terms of the Constitution above the rights of the wider interpretation of the residents of the whole of the Overstrand. The amount of children to be restricted to a maximum of twenty (20) subject to compliance with applicable legislation.

Therefore the objection is a valid objection in terms of the Constitution of South Africa.

The time schedule of the use was not submitted with the application during the application process, but at a later date. The wall abutting Erf 846 to be raised to 2,1m to mitigate noise.

5. **The noise levels that will increase dramatically in the early morning hours due to the increase of vehicular traffic:**

End Street is known as an access collector road which serves the community of Sandbaai carrying residential traffic due to the development of the residential suburbs which include a number of town house developments. It should be noted that a crèche is seen as a service use to the neighbouring residential community and thus the children which are accommodated at the crèche mostly comes from the nearby surrounding neighbourhood and thus the statement made that traffic will increase cannot be seen as valid. The owner of the property also provides a transport service which collect and drop-off a number of children attending the crèche facility of which are mostly during normal work trips to and from the area.

The site plan submitted also clearly indicate a safe collection and drop-off area to be located in End Street which in this case will have no effect on the surrounding residences towards noise levels that could increase as it will form part of normal vehicular traffic in the existing area. It is the submission of the applicant that the statements and comments made are being one-sided and in the absence of evidence that do not in any way demonstrate the undesirable effect which the application will have on the area related to increase traffic.

Planner's Comment:

The increase of traffic may be of concern. However, the increase of traffic is mitigated due to the fact that the applicant collects children and thus limits the possible traffic increase in End Street.

6. **Decrease of value of property due to economy activity in a residential:**

The statement made on the value of properties in the direct vicinity and the devaluation of the properties in the residential area cannot be substantiated. The overall value of properties are driven by numerous factors related to market forces throughout South Africa and various secondary uses such as guesthouses, institutions, places of public worship and crèches do not *per se* decrease property rights. The statement therefore does not demonstrate the undesirable effect which the application will have on the area.

Planner's Comment:

The objectors have not furnished any proof to substantiate their claim of devaluing their properties with the type of application.

7. **Behaviour of the children:**

It was stated that numerous objects, shoes, toys, etc. are being thrown over the boundary walls at a daily basis. The owner of the property will address the matter with the children attending the facility and has also erected a high screen on the boundary to resolve the subject complaint and to alleviate the disturbance. The statement made therefore has been addressed and will be taken care of towards future disturbances and thus cannot be seen as having an undesirable effect on the area.

Planner's Comment:

The screen wall may not be higher than 2,1m and a plan must be submitted in this regard. The behaviour of the children is a management issue. It is the responsibility of the applicant to ensure that the children comply with the rules and regulations of the crèche. This aspect remains the responsibility of management to ensure proper behaviour of the children.

**8. Parking:**

The statement made that access to drive-ways are blocked is noted even though no evidence are lead with respect to the matter. A site plan was submitted clearly showing the provision for the safe off- and on-loading of children and provision of on-site parking as well as parking in the form of drop-off and collection in End Street which will be presented to the parents to abide by. The application therefore as submitted demonstrates compliance with the provision of parking applicable to the policy of the Municipality.

Planner's Comment:

The comment is valid, since it is only with the application that a proper site plan was submitted indicating the parking arrangement of the crèche. Again, this aspect must be dealt with by the applicant ensuring that no neighbour is affected by the proposed land use activity.

**9. Ample commercial property available in the area that can be utilised for the purpose of a crèche facility without affecting residents in Sandbaai**

- 9.1 The motivation clearly deals with the existing planning provisions for the area as well as that of the development principles applicable to SPLUMA, the National, Provincial and Local Policies applicable to the provision of social facilities and services to residents of a residential area as well as secondary rights permitted as per the zoning scheme.
- 9.2 The service provided for the schooling of young children of the area and nearby residential community is necessary and desirable and the owners of the property can comply with all conditions that need to be met related to a crèche facility in a residential township.
- 9.3 The "not on my doorstep" statement cannot be seen as a valid reason pertaining to "so called commercial property available". Places of Instruction in the form of schools, crèches and playschools are seen as secondary rights to the primary uses and cannot be seen as negatively affecting "the residents of Sandbaai".
- 9.4 The primary land use is not affected as the principle of the crèche will still reside on the property and a portion of the property will remain residential. The statement made by the objectors do not give sufficient evidence demonstrating undesirable effect which the application will have on the area and that of the need of the residential communities residing in the area and nearby area.

Planner's comment:

The policy on crèches was specifically written to accommodate the growing number of people and that fact that both parents are employed. However the number of children to be limited to a maximum of twenty (20), and further subject to applicable legislation. The prime use of the building should still be single residential.

**10. Closure**

It is thus the applicant's submission that the two (2) objections as submitted have been fully addressed as no substantial evidence were lead of it being "alleged undesirable affect" as per the principles and requirements of SPLUMA on technical grounds and that the application can be supported as proposed, motivated and permitted in terms of the Zoning Scheme and further approved in terms of the Spatial Development Framework. The Zoning Scheme is clear to towards the provision of compliance of the intended use as applied for and therefore cannot be seen as undesirable.

It is the submission that any decision made and the application serving before the Municipal Planning Tribunal as constituted in terms of SPLUMA to be assessed and presented together with the proposals as submitted made and history related to the application should be considered as per the response and motivation made above and for the matter to be considered with a positive outcome.

**9. MUNICIPAL ASSESSMENT OF COMMENTS**

None of the internal departments have negative comments.

**10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)****10.1 Background**

See paragraph 3. of this submission.

**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**

The application will not perpetuate spatial injustices.

**Spatial sustainability**

The application is located within the urban edge and thus will not lead to urban sprawl. No natural habitat is impacted upon and will have no negative influence on the environment.

**Efficiency**

The application will optimize the use of property in terms of municipal services and infrastructure.

**Spatial resilience**

The application will ensure that the existing resource (land) is used to its maximum in an affordable manner and in line with the Overstrand Municipality's forward planning documents.

**Good administration**

The application follows the required planning procedures and a good public participation process has been followed.

**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 Point 10.2 above.

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

Consistent with the Zoning Scheme and Spatial Development Framework.

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

N/A

**10.6 Impact on Municipal engineering services**

The existing services are available and have been viewed positively by the Engineering Department.

**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****The financial or other value of the rights**

The applicant will accrue financial benefit in as far as the additional usage will add value to the property.

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

The applicant will benefit personally should all the requested conditions be removed in as far as the cost implication is concerned and the opportunity to make use of the secondary land uses allocated within the Residential Zone 1 zoning.

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

No social benefit can be obtained should the conditions remain in place the erf will not be able to make use of the secondary land uses associated with a Residential Zone 1 zoning.

The social benefit, should the conditions be removed, would enable the applicant to upgrade the erf and utilise it to the benefit to the community of the broader area.

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

The removal of the conditions will remove the rights of the beneficiaries in part. The aforementioned relates to title deed restrictions and not the Zoning Scheme. The applicant will still be restricted to the development parameters in terms of the Overstrand Zoning Scheme.

**12. THE DESIRABILITY OF THE PROPOSAL**

Removal of Restrictive Title Deed Conditions

The property is burdened with restrictions in the Title Deed pertaining to the use thereof. The owners of the subject property wish to have these restrictions removed from the Title Deed in order to be in line with the applicable primary rights and development parameters as set out in the Overstrand Municipality Zoning Scheme, as well as to be able to apply for a consent use to operate a crèche from the property. Cognisance must be taken of the fact that the title deed restrictions date back to before the establishment of the Overstrand Municipality and the relevant Zoning Scheme Regulations. As such the Title Deeds of single residential properties in Sandbaai were used to limit the development thereof. However, various property owners in the township already had their respective Title Deeds altered by means of relaxations or removals of the specific restrictive development clauses. It is therefore the opinion that the restrictions set out in the Title Deed are not relevant anymore, because they are out-dated, thus the removal of the restrictions will enable the owner to utilise the property more efficiently, but still in line with the development rules as set out in the Zoning Scheme. Thus, development control will still be in place.

Taken the abovementioned into consideration the following is recommended:

Title Deed B.2.(c) and (d) are recommended for approval, since this conditions are out-dated and is addressed in the Zoning Scheme.

Title Deed B.2.(a) be amended as follows: *"That the above-mentioned erf of erven be used primarily for residential purposes and any other use be subservient to the residential use."*

This will ensure that the residential character remains intact.

Title Deed B.2.(b) is not recommended for removal. To ensure that the residential character remains in place, this condition must remain. The forward policy documentation has a generic guideline pertaining to subdivisions of erven and

densities for the Overstrand and therefore provides very little to prevent ad hoc subdivisions, which may have an influence on capacity and provisioning of engineering services. The area south of End street has not experienced any pressure of densification and should ad hoc subdivisions be approved, the area is forced to densify whereas the market has given no such indication.

#### Consent Use (Crèche)

The applicant applied for a specific additional land use (crèche as a consent use) that is to be evaluated on its merits.

Some of the core objectives of the OMSDF are to promote more uses within residential areas. Amongst others, at least ONE (1) crèche per six hundred (600) erven should be provided. Currently no crèches occur within the primary residential areas of Sandbaai. It is further a known fact that there is a demand for crèches throughout the Overstrand. From a town planning perspective the consent use is supported since consent uses can be regarded as being ancillary to the primary uses of a property.

In terms of the Layout Plan (attached as Annexure B), the crèche will be used for twenty (20) children from toddlers to five (5) year olds. A full timetable has been drawn-up by the operators of the crèche that sets out specified times during normal weekdays and holidays to ensure that the noise levels during outdoor play times are kept to a minimum. The timetable has been submitted to the Town Planning Department for record keeping. In order to alleviate noise levels further the operators of the crèche should not use loud bells, shouting or whistling to beckon the children.

It should be noted that the current Play School Policy only allows for a maximum of twenty (20) children. The proposal is therefore in line with the current Policy. However, adequate space must be provided for the children inside and outdoors, as per the requirements of the Fire Department (attached as Annexure H). Due to the aforementioned stipulation, it is clear that it will not be possible to accommodate 20 children as per the site plan. Should the baby, toddler, kids and reading and playroom, which amount to approximately 68sq, only 13 children can be accommodated at 5sq per child. However this area is still more than the residential component and has to be scaled down. Should the reading and play room area of 12sq be subtracted, the area for the crèche is 54sq and can accommodate 10 children.

The character of the building will remain residential in conjunction with the proposed crèche and the opinion is thus held that the crèche will not detract from the residential character of the area. In terms of the submitted site plan, only approximately 27sq is utilized for residential, excluding the garage and patio and the remainder for the crèche. This is not in line with the Overstrand Scheme Regulations that the building must remain and be used for primarily residential use. The office and medical room and the reading and playroom areas will have to be used for residential purposes to ensure that the primary use of the dwelling remain residential.

All engineering services are available; the onus will be on the owner of the property to ensure that the conservancy tank meets the minimum requirements of SANS 10400.

In terms of the Zoning Scheme parking must be provided at a ratio of one (1) bay per ten (10) children and two (2) per residential property. A double garage exists on the property and three (3) additional parking bays that are practical will be provided on the property. Ample on-site parking can therefore be provided. Further, a collect and drop area will also be provided at the End Street side of the property (the property is a corner erf). All parking bays and the collect and drop area must be clearly demarcated.

The landowners/operators of the crèche must obtain all the necessary health and safety certificates, prior to the crèche being operated. Further, all the regulations as set in the Children's Act No. 38 of 2005, as amended, must also be adhered to.

Considering the above the opinion is held that the crèche will be a benefit to the community and is further regarded as being desirable from a town planning perspective and is recommended for approval as set out hereunder.

### 13. RECOMMENDATION

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the removal of restrictive title deed condition B.2.(a) as contained in Title Deed T85461/2006 applicable to Erf 845, Sandbaai in order to accommodate a crèche on the property, **be amended**, to read as follows:

*“That the above-mentioned erf of erven be used primarily for residential purposes and any other use be subservient to the residential use.”*

2. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the removal of restrictive title deed condition B.2.(b) as contained in Title Deed T85461/2006 applicable to Erf 845, Sandbaai in order to accommodate a crèche on the property, **not be removed**.
3. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the removal of restrictive title deed conditions B.2.(c) and B.2.(d) as contained in Title Deed T85461/2006 applicable to Erf 845, Sandbaai in order to accommodate a crèche on the property, **be removed** in terms of the provisions of Section 61 of the By-Law;
4. that the application in terms of Section (16)(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for consent use applicable to Erf 845, Sandbaai in order to accommodate a crèche on the property, **be approved** in terms of the provisions of Section 61 of the By-Law;
5. that the amendment in Point 1. and the approvals in Points 3. and 4. above be subject to the following conditions:
  - (a) that a site development plan be submitted indicating the crèche areas and the residential areas applicable. The crèche has to be subservient to the residential use of the building.
  - (b) that a maximum of ten (10) children may be looked after at the crèche

- at any given time;
- (c) that the timetable as submitted by the operators of the crèche be adhered to in ensuring that the noise levels during outdoor play times are kept to a minimum
  - (d) that no loud bells, shouting or whistling the be allowed;
  - (e) that the requirements of the Fire Department (attached as Annexure H, be complied with;
  - (f) that the requirements of Engineering Services attached as Annexure G), be complied with;
  - (g) that all parking bays and the collect and drop area must be clearly demarcated;
  - (h) that the operators of the crèche obtain all the necessary health and safety certificates, prior to the crèche being operated;
  - (i) that the approval does not absolve the landowners/operators of the crèche from compliance with any other relevant legislation;
  - (j) that all other development parameters, as prescribed in the relevant Zoning Scheme, be complied with;
  - (k) that all the regulations as set in the Children's Act No. 38 of 2005, as amended, be adhered to;
  - (l) that commercial rates and service tariffs, as determined by the annual budget, be made applicable to refuse removal, which tariffs are automatically adjusted in terms of the annual budget;
  - (m) that should justified complaints be received in the manner in which the crèche is being operated, or be operated in such a manner that it impacts negatively on the surrounding neighbourhood, the Municipality reserves the right to rescind the consent use approval;
  - (n) that the rights not be transferrable, and
  - (o) that a 2,1m solid wall be built on the boundary abutting Erf 846.
6. that the applicant and objectors be notified of their respective appeal rights in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above conditional approvals.

#### 14. REASONS FOR RECOMMENDATION

##### APPROVAL

- ❖ The application has followed due procedure.
- ❖ None of the internal departments have any objection.
- ❖ The consent use is in line with policy documents.
- ❖ The development of the erf will be beneficial for optimization of the erf.

- ❖ The removal of some of the restrictive conditions will also ensure that the primary and secondary uses of the property will be aligned with the Overstrand Zoning Scheme.
- ❖ Contribute to alleviate the need for temporary employment possibilities.
- ❖ Is not regarded as being undesirable from a town planning point of view.

### **NON-APPROVAL**

- ❖ There is no need for smaller erven in Sandbaai.
- ❖ The forward policy of the Overstrand is a generic guideline and does not have enough protection against the creation of smaller erven.
- ❖ The area south of End Street has not experienced any pressure of densification and should ad hoc subdivisions be approved, the area is forced to densify whereas the market has given no such indication.
- ❖ The Municipal Growth Management Strategy, 2010 earmarked the area as status quo.
- ❖ The removal promotes the possible densification through subdivision.

### **15. Annexures**

Annexure A:	Locality Plan
Annexure B:	Site Development Plans
Annexure C:	Motivation Report
Annexure D:	Title Deed T85461/2006
Annexure E:	Objections received
Annexure F:	Applicant's comment on objections
Annexure G:	Services Report
Annexure H:	Comment: Fire Department
Annexure I:	Timetable of the crèche

### **SIGNATURES**

#### **REGISTERED PLANNER:**

Name : **H VAN DER STOEP**

SACPLAN registration number: **A/1708/2013**

Signature : \_\_\_\_\_

Date: \_\_\_\_\_

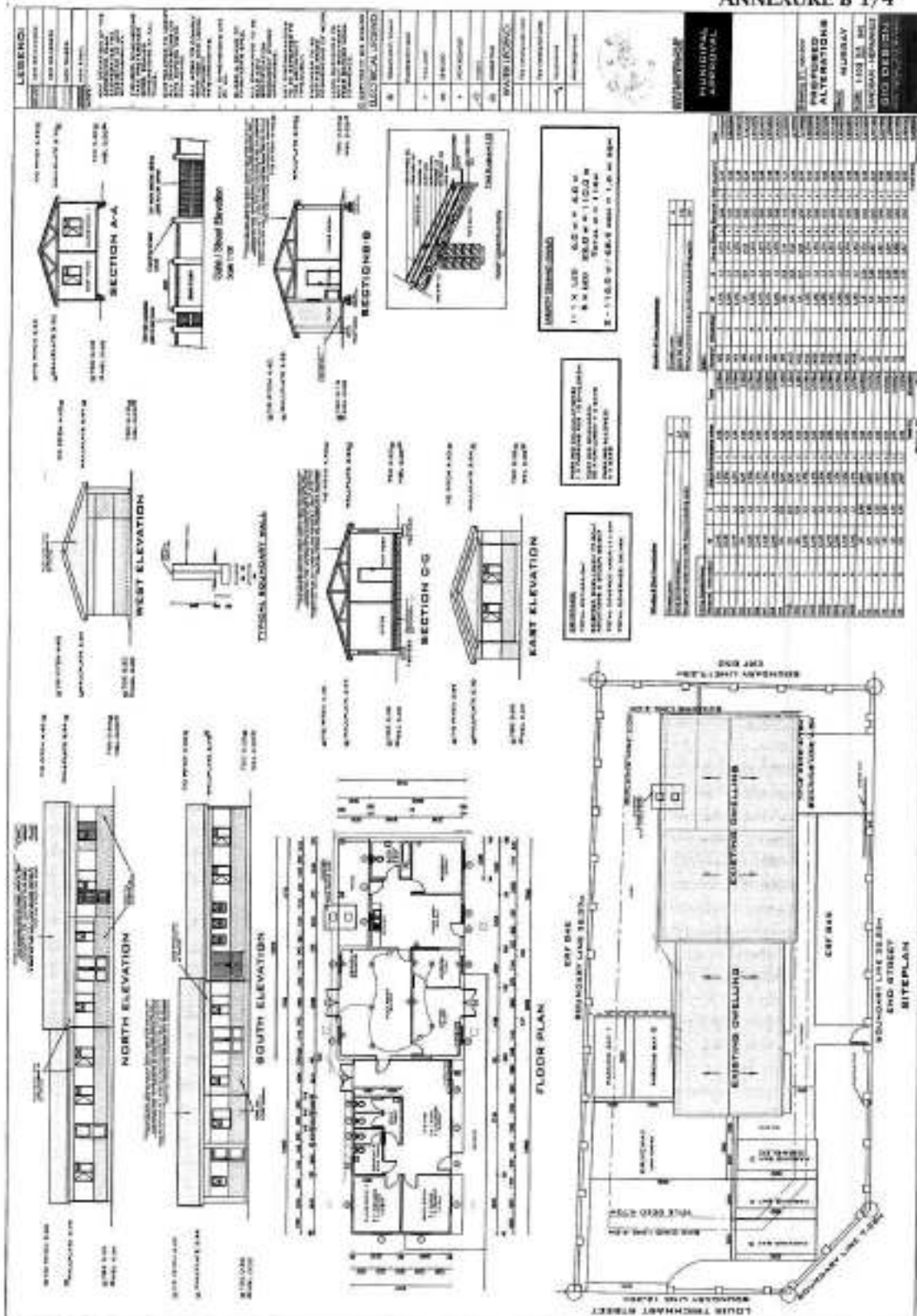


ERF 845, SANDBAAI - LOCALITY PLAN

Date: 2017-09-18



ANNEXURE B 1/4



**LEGEND**

1	CONCRETE
2	BRICK
3	WOOD
4	GLASS
5	ROOFING
6	PAINT
7	PLASTER
8	INSULATION
9	FOUNDATION
10	LANDSCAPE
11	MECHANICAL
12	ELECTRICAL
13	PLUMBING
14	HEATING
15	Cooling
16	Lighting
17	Acoustic
18	Fire
19	Security
20	Accessibility
21	Other

**MUNICIPAL APPROVAL**

PROJECT LOCATION: [Blank]

ALTERATIONS: [Blank]

MURRAY: [Blank]

DATE: 10/12/2011

BY: [Blank]

FOR: [Blank]

NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
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**WINDOW FRAME DETAILS**

1. 1 X 1.5m 6.5m x 4.0m  
 2. 1 X 1.5m 6.5m x 1.100m  
 3. 1 X 1.5m 7.5m x 1.100m  
 4. 1 X 1.5m 7.5m x 1.200m

**DOOR FRAME DETAILS**

1. 1 X 1.5m 6.5m x 4.0m  
 2. 1 X 1.5m 6.5m x 1.100m  
 3. 1 X 1.5m 7.5m x 1.100m  
 4. 1 X 1.5m 7.5m x 1.200m

**ROOFING DETAILS**

1. 1 X 1.5m 6.5m x 4.0m  
 2. 1 X 1.5m 6.5m x 1.100m  
 3. 1 X 1.5m 7.5m x 1.100m  
 4. 1 X 1.5m 7.5m x 1.200m

**FLOORING DETAILS**

1. 1 X 1.5m 6.5m x 4.0m  
 2. 1 X 1.5m 6.5m x 1.100m  
 3. 1 X 1.5m 7.5m x 1.100m  
 4. 1 X 1.5m 7.5m x 1.200m

**PAINT DETAILS**

1. 1 X 1.5m 6.5m x 4.0m  
 2. 1 X 1.5m 6.5m x 1.100m  
 3. 1 X 1.5m 7.5m x 1.100m  
 4. 1 X 1.5m 7.5m x 1.200m

**PLASTER DETAILS**

1. 1 X 1.5m 6.5m x 4.0m  
 2. 1 X 1.5m 6.5m x 1.100m  
 3. 1 X 1.5m 7.5m x 1.100m  
 4. 1 X 1.5m 7.5m x 1.200m

**INSULATION DETAILS**

1. 1 X 1.5m 6.5m x 4.0m  
 2. 1 X 1.5m 6.5m x 1.100m  
 3. 1 X 1.5m 7.5m x 1.100m  
 4. 1 X 1.5m 7.5m x 1.200m

**FOUNDATION DETAILS**

1. 1 X 1.5m 6.5m x 4.0m  
 2. 1 X 1.5m 6.5m x 1.100m  
 3. 1 X 1.5m 7.5m x 1.100m  
 4. 1 X 1.5m 7.5m x 1.200m

**LANDSCAPE DETAILS**

1. 1 X 1.5m 6.5m x 4.0m  
 2. 1 X 1.5m 6.5m x 1.100m  
 3. 1 X 1.5m 7.5m x 1.100m  
 4. 1 X 1.5m 7.5m x 1.200m

**Mechanical Details**

1. 1 X 1.5m 6.5m x 4.0m  
 2. 1 X 1.5m 6.5m x 1.100m  
 3. 1 X 1.5m 7.5m x 1.100m  
 4. 1 X 1.5m 7.5m x 1.200m

**Electrical Details**

1. 1 X 1.5m 6.5m x 4.0m  
 2. 1 X 1.5m 6.5m x 1.100m  
 3. 1 X 1.5m 7.5m x 1.100m  
 4. 1 X 1.5m 7.5m x 1.200m

**Plumbing Details**

1. 1 X 1.5m 6.5m x 4.0m  
 2. 1 X 1.5m 6.5m x 1.100m  
 3. 1 X 1.5m 7.5m x 1.100m  
 4. 1 X 1.5m 7.5m x 1.200m

**Heating Details**

1. 1 X 1.5m 6.5m x 4.0m  
 2. 1 X 1.5m 6.5m x 1.100m  
 3. 1 X 1.5m 7.5m x 1.100m  
 4. 1 X 1.5m 7.5m x 1.200m

**Cooling Details**

1. 1 X 1.5m 6.5m x 4.0m  
 2. 1 X 1.5m 6.5m x 1.100m  
 3. 1 X 1.5m 7.5m x 1.100m  
 4. 1 X 1.5m 7.5m x 1.200m

**Lighting Details**

1. 1 X 1.5m 6.5m x 4.0m  
 2. 1 X 1.5m 6.5m x 1.100m  
 3. 1 X 1.5m 7.5m x 1.100m  
 4. 1 X 1.5m 7.5m x 1.200m

**Acoustic Details**

1. 1 X 1.5m 6.5m x 4.0m  
 2. 1 X 1.5m 6.5m x 1.100m  
 3. 1 X 1.5m 7.5m x 1.100m  
 4. 1 X 1.5m 7.5m x 1.200m

**Fire Details**

1. 1 X 1.5m 6.5m x 4.0m  
 2. 1 X 1.5m 6.5m x 1.100m  
 3. 1 X 1.5m 7.5m x 1.100m  
 4. 1 X 1.5m 7.5m x 1.200m

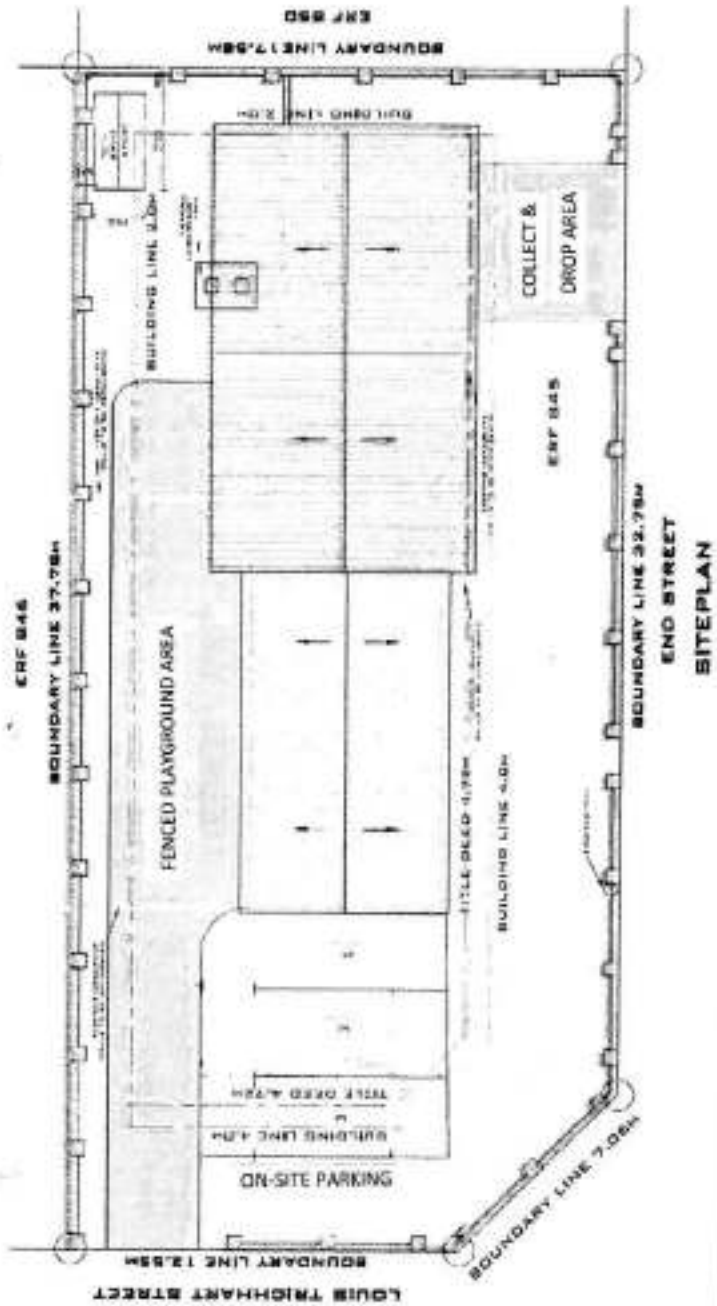
**Security Details**

1. 1 X 1.5m 6.5m x 4.0m  
 2. 1 X 1.5m 6.5m x 1.100m  
 3. 1 X 1.5m 7.5m x 1.100m  
 4. 1 X 1.5m 7.5m x 1.200m

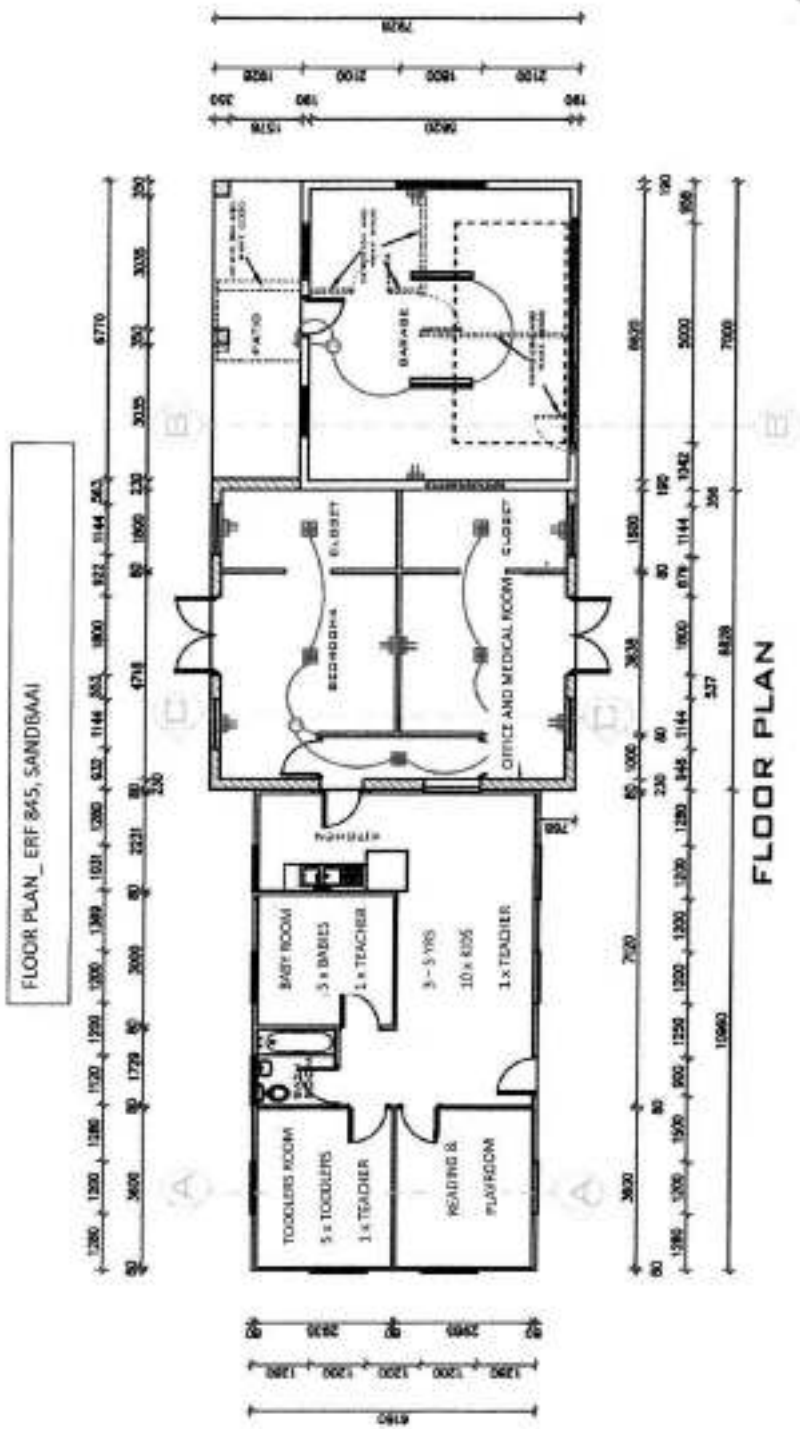
**Other Details**

1. 1 X 1.5m 6.5m x 4.0m  
 2. 1 X 1.5m 6.5m x 1.100m  
 3. 1 X 1.5m 7.5m x 1.100m  
 4. 1 X 1.5m 7.5m x 1.200m





ERF 845, SAMBIDAAI  
SITE PLAN FOR THE PROPOSED SPECIAL CONSENT USE: CRECHE FACILITY



## MOTIVATION IN SUPPORT OF THE APPLICATION FOR THE REMOVAL OF THE CONDITIONS IMPOSED BY THE ADMINISTRATOR

### Background

The subject property is zoned Residential Zone 1: Single Residential and developed accordingly.

The applicant was informed that an application for the removal of Restrictive conditions is required as part of the application for Consent Use to operate a crèche. It should be noted that the owners will also reside on the property and thus only a portion of the property will be allocated to the use of crèche. The restrictive conditions held in T85461/2006, Page 3 as per Paragraph B, which reads as follows:

"B. AS BEING imposed by the Administrator:-

- (a) That the above erf or erven be used for residential purposes only.
- (b) That the above erf or erven be not subdivided.
- (c) That no more than one dwelling together with the necessary outbuildings and accessories be erected on any one of the above even and that not more than one-half the area of any one of the above erven be built upon.
- (d) That no building shall be erected on the above erf or erven within 4,72 metres of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts, such space may be used as gardens, but shall not be built upon".

### Existing planning in the area

The property falls within the Sandbaai area which is an area where development took place in low densities with single residential development over time. The properties are developed as aligned with the provisions of zoning scheme.

The existing development on the erf in the form of a dwelling house with related outbuilding and the use of the property are therefore aligned and in keeps with the urban residential character of the area which is further in line with spatial planning policy for the area.

### Vehicular movement, parking and access

Access, vehicular movement and parking are provided on site and aligned to the provisions of the relevant Department. Access is obtained from both End and Louise Trichardt Streets.

### Comments relating to the removal of restrictive conditions in the allotment area

- The Dominant/subservient relationship has been modified as similar applications which have already previously been approved in the township and other areas within the boundaries of the Overstrand Municipal area and Sandbaai.
- The land use rights for Residential Zone 1 was approved as per the township establishment conditions and the rights are currently being enjoyed, however it should be noted that the Consent Uses permitted as per the Overstrand Zoning Scheme Regulations have not been taken into account at the time of which a number of removals had to be effected for uses such as guest houses, place of public worship, residential buildings and tourist accommodation etc.

### Interest of the development of the area

It can be stated that the existing use of the property as developed with dwelling house including related outbuildings is in line with the provisions of the Spatial and Land Use Management Act, Act 16 of 2013 and the proposals of the Overstrand Spatial Development Framework Plan and further the application for Consent Use for crèche as social facility service to the community mainly as it concur with optimise use of the property as further motivated in the paragraphs below. There are thus no adverse effects that could affect the interest of the development of the area.

#### 1. The Spatial Planning and Land Use Management Act, Act 16 of 2013 (SPLUMA)

The application is aligned with the Development Principles, Norms and Standards as contemplated in Chapter 2 of SPLUMA and which is further aligned with the Spatial Development Framework Plans of NMBM.

The following development principles are applicable to the application at hand:

- The principle of *spatial sustainability* of which promotes land development in locations that are sustainable and which limit urban sprawl – the application property falls within an area which is located within the urban development boundary and which are known for low density residential development.
- The *principle of efficiency* – the application on the property will allow for the optimised the use of existing resources and infrastructure within the surrounding area as well as provide for a service which is much needed in the community related to ECD.
- The *principle of spatial resilience* – the application property falls within an existing built up area and aligns itself with the spatial development framework in which it is intended to be of residential nature and allows for optimum use of the property.

The application conforms to the norms and standards and is aligned with the framework for desired land use patterns of the National and Provincial policies and further that of Overstrand policies which is discussed in more detail in the headings below. It is the intention of the owner of the property to adhere to the conditions of the relevant municipality and that of the conditions that could further be laid down upon decision of this application.

## MOTIVATION IN TERMS OF PLANNING LEGISLATION AND POLICIES

### The Spatial Planning and Land Use Management Act, Act 16 of 2013 (SPLUMA)

The application is aligned with the Development Principles, Norms and Standards as contemplated in Chapter 2 of SPLUMA and which is further aligned with the various Local Spatial Development Framework Plans of NMBM.

The following development principles are applicable to the application and related to the motivation as submitted:

PRINCIPLE	UNDERSTANDING AND EXPLANATION
Spatial Justice	Refers to the need to redress the past apartheid spatial development imbalances and aim for equity in the provision of access to opportunities, services, facilities and land and therefore seeks to promote the <b>integration of communities</b> .
	<i>The application for social services to provide for educational needs of the children of a nearby community in the form of a crèche complies with the principle to integrate communities and thus that of Spatial Justice.</i>
Spatial Sustainability	Refers to the sustainable form of any development which promotes compaction and mixed use urban environments which <b>limits urban sprawl</b> .
	<i>The application property are located within the urban development boundary and thus do not impact on urban sprawl and thus spatial sustainability. It is important to align the principle with the five focus areas of the Overberg Local Municipalities IDP 2015 as reviewed which are:</i> <ul style="list-style-type: none"> <li>&gt; Basic Service Delivery</li> <li>&gt; <b>Social upliftment and Economic development</b></li> <li>&gt; Optimization of financial resources</li> <li>&gt; Good Governance</li> <li>&gt; Safe and Healthy Environment</li> </ul>
Efficiency	Refers to create the optimisation of the use of space, energy, infrastructure, resources and land and further to effective decision making processes which are developed to <b>minimise negative financial, social, environmental and economic impacts</b> .
	<i>The application for consent use allows for the provisions of social services in the form of a crèche to the local communities children in close vicinity of which are in need for provision of care and education.</i>
Spatial Resilience	Refers to the promotion for the development of sustainable livelihoods for all communities, the <b>flexibility in spatial plans, policies and land use management systems</b> which adapt to increase sustainability.
	<i>The application for consent use allows for a service towards basic</i>

	<i>education and aligns to the principle of spatial sustainability where the provision of care and education for young children are provided for in close proximity to where they live. It should be noted that Local Authorities need to plan and make provision for social services and earmark areas where this can be provided to the community as part of their spatial plans and policies. It is our understanding from the Overstrand IDP that there is still a lot to be done with the alignment of provision of ECD (early childhood development) facilities in specific areas and further the identification of facilities and establishment of additional crèches to provide for the huge need in the area of which Zwellihle which the applicant serve are one area identified.</i>
Good administration	Refers to the promotion of integrated consultative planning practices in which all spheres of government and other role-players ensure a <b>joint planning approach</b> . In addition it is critical that decisions made in terms of land use planning seek to <b>minimise the negative financial, social, environmental and economic impacts of such development</b> within the context of a <b>system that is efficient, well run and aligned to timeframes being adhered to.</b>
	<i>The application aligns with the provisions of the Overstrand Zoning Scheme Regulations and further our motivation requires a sound joint planning approach – the existing day care facility provide for much needed social services to the young children from Zwellihle and it is the intent of the owners to ensure that they comply to all conditions and requirements of the various departments.</i>

The application conforms to the norms and standards and is aligned with the framework for desired land use patterns of the National policies, Provincial policies and that of Overstrand Local Municipality policies and KPA's of which one is the development of strategies and projects to provide for the needs of the vulnerable groupings in this case young children in need for care and education during day time when their parents have to work for income.

### **The Overstrand Integrated Development Plan (IDP), 2006**

The Overstrand Integrated Development Plan (IDP), 2006 makes provision for future education and recreation facilities in the municipal area. This does also support pre-primary and other educational institutions. These infrastructure developments however will require financial investment by the National and Provincial Governments and or other funding partners.

It is the responsibility of the Municipality to develop strategies linked to projects for vulnerable groupings of which a special focus should thus be on ECD. The application as submitted and service to the community provided directly for the need as identified in the IDP.

It can therefore be stated that the application aligns to the development goals and responsibilities towards the provisions for the much needed educational service to the children of the local community. It is our submission that the mother of the soon to be owner of the property whom is providing the educational services to the community has consulted with all relevant Departments and has also investigate the option of additional facilities – however as the ECD programmes and policies are not in place there was no such available.

### **Spatial Development Framework Plan (SDF), 2006**

The Overstrand Spatial Development Framework (SDF), 2006 refers to the area in which the Sandbaai area are located as the Greater Hermanus area (excluding Hawston/Fishermhaven areas).

The SDF refers to the provision of Community Facilities to be distributed in a more equitable manner and clearly indicated the need for Social Services in the Zwelihle area relating to schools, sport facilities, health services and a satellite police station. The multi-purpose community facility within Zwelihle is seen as a priority and it is said to include adult education facilities, a crèche, small business hives etc.

It is clear that the suggested multi-purpose community centre do not provide for the direct need of the community and therefore the application for the crèche in close vicinity to render much needed social services in the form of education to the to the direct community aligns with the service rendered by the new owner of the property to the community can be seen to be

It is the intention of the owner of the property to adhere to the conditions of the relevant Overstrand Zoning Scheme Regulations and conditions specified by other Departments upon a decision.

The proposed development will provide for an existing need for care of young children from the community as well as nearby community. The primary use of the property will remain as dwelling house of which the owner will reside in. It will furthermore contribute to the provision of social services to the community and those working in the area.

## **CONCLUSION**

In closure it can be stated that the simultaneous Special Consent application and Removal of Restrictive Conditions for the crèche to operate from Erf 845, Sandbaai in the context of the various layers of planning policies and the existing and surrounding development environment has been motivated sufficiently from a town planning point of view as:

- The application is in line with the strategic policy and its directives of the Overstrand Municipality various Departments.
- The crèche will provided for the need of EDC development of which there is a need for as indicated in the Overstrand IDP and the service will provided for children to be looked after and cared for whilst their parents work within an area where sustainable economic development are promoted.
- The site plan clearly indicated compliance with all relevant conditions as per the provisions of the Overstrand Zoning Scheme Regulations required to operate a crèche as defined inclusive of the fact that the dwelling house will remain to be used as accommodation for the owners mother and thus the primary right will prevail in accordance.

It is therefore our conclusion that the application for the Consent Use as well as the Removal of the Restrictive Conditions as per this submission and motivation are:

- Reasonable and relevant and will result in a service to the needs of the young children residing in the community of Hermanus.

- The crèche as a secondary land use will integrate, enhance and promote sustainable community principles as well as ensuring the alignment of the desired development principles and contribute to achieving the desired mix of land uses as a service to those in need.
- The crèche as a service to the community will allow for greater social justice and equity of access to basic education of children in their early childhood development stages. The consent use as crèche will be providing a service to and benefit the disadvantaged community for which such services are needed.
- The proposed land use will not impact negatively on the safety, health and wellbeing of the surrounding community.
- The proposed land use will not impact negatively on the traffic, parking and transport related considerations as sufficient parking and drop and collect area can be provided for on the application property as per the site plan.
- The proposed crèche will not impact negatively on the quality of life of the immediate and surrounding neighbouring residents of Sandbaai in the form of privacy, visual impact or character as aligned to the spatial planning policies and provisions of the Zoning Scheme.

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**79**

Meyer Nel Attorneys  
P O Box 132  
BELLVILLE  
7535



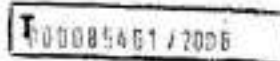
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*[Signature]*  
CONVEYANCE  
GILLIE P J



<b>VERBIND MORTGAGED</b>	
VR FOR R <u>600 000.00</u>	
<b>B</b> 080711981 / 2006	<i>[Signature]</i>

**DEED OF TRANSFER**

BE IT HEREBY MADE KNOWN THAT  
PETRUS JOHANNES GILLIE



appeared before me, REGISTRAR OF DEEDS, at CAPE TOWN, the said appearer being duly authorized thereto by a Power of Attorney which said Power of Attorney was signed at HERMANUS on 12 SEPTEMBER 2006 granted to him by

1. PIETER HERMANUS PIETERS  
Identity Number 711108 5020 08 7  
Unmarried
2. WILLEM HUGO MURRAY  
Identity Number 491004 5044 08 4  
Married out of community of property



*GhostConvey 8.2.6.11*

Page 2

And the appearer declared that his said principal had, on 30 AUGUST 2006, truly and legally sold by Private Treaty, and that he, the said Appearer, in his capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

**ANNÉ CATHARINA MURRAY**  
 Identity Number 540917 0125 08 0  
 Married out of community of property

her Heirs, Executors, Administrators or Assigns, in full and free property

**ERF 845 SANDBAAI**, in the **OVERSTRAND** Municipality, Division **CALEDON**, Province of the **WESTERN CAPE**;

**IN EXTENT 864 (SIX HUNDRED AND SIXTY FOUR) SQUARE METRES**

**FIRST TRANSFERRED** by Deed of Transfer No. T 8455/1953 with Diagram No. 1173/53 relating thereto and held by Deed of Transfer No. T 99999/2005

- A. SUBJECT** to the conditions referred to in Deed of Transfer No T 5209/1915 and, being ground held by Title Deeds derived from Deed of Grant dated 15 May 1834 (Swellendam Freeholds Volume 2 (1) No. 1), subject to the reservation in favour of the State of all rights to mines of gold, silver and precious stones mentioned in Section 4 of Sir John Cradock's Proclamation dated 6 August 1813.
- B. SUBJECT FURTHER** to the following special conditions contained in Deed of Transfer No T 8455/1953:
- <sup>(1)</sup> Imposed for the benefit of **SANDBAAI SEASIDE ESTATE COMPANY (PROPRIETARY) LIMITED** as owner of the remainder of Lot No. 3 from the farm Onrust River, held by the said Company by virtue of Deed of Transfer No. 11486 of 1929, and the owners of all Lots in Sandbaai Township already transferred or may in future be transferred subject to the same conditions, namely:
- (a) The Company reserves to itself and its successors in title the sole right to all hotels and all liquor licences and Purchaser/s (Transferee/s) or his/their successors in title shall not have the right to erect any hotel or hold any liquor licence, without the written consent of the Directors of the Company, or its successors in title, first had and obtained.
  - (b) The Company and its successors shall not have the right to subdivide and/or sell in even the land between lots sold as seafront lots and the sea.
  - (c) That no building shall be erected on any stand unless and until the plans for such buildings have been submitted to and approved by the Directors of the said Company or the successors in title of the said Company.
  - (d) The Transferee/s and his/their successors in title of the hereinabove described property shall have the right to divert any stream of water running on the said property so as to run

Page 3

alongside any of the avenues or streets as laid down on the General Plan of the township.

- (e) The Company 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 the property hereby purchased, with further right of causing them to be affixed to any building or erection not less than 3,05 metres from the ground with access at any time to such wires for the purpose of removal or maintenance.
  - (f) The Company further reserves to itself and its successors in title the right at any time hereafter to lay and to maintain piping under any portion of the above land or elsewhere, and at all times to have access to such piping 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 regard to supplying them with water.
  - (h) The Company reserves to itself the sole right to all water arising on or flowing over the Company's property. There shall, however, be excluded from this reservation any water obtained by the owner of the above land by means of wells or boreholes sunk on such land.
2. AS BEING imposed by the Administrator:-
- (a) That the above erf or erven be used for residential purposes only.
  - (b) That the above erf or erven be not subdivided.
  - (c) That not more than one dwelling together with the necessary outbuildings and accessories be erected on any one of the above erven and that not more than one-half the area of any one of the above erven be built upon;
  - (d) That no building shall be erected on the above erf or erven within 4,72 metres of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used as gardens, but shall not be built upon.



Page 4

WHEREFORE the said Appearer, renouncing all right and title which the said

1. PIETER HERMANUS PIETERS, Unmarried
2. WILLEM HUGO MURRAY, Married as aforesaid

heretofore had to the premises, did in consequence also acknowledge them to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

**ANNÉ CATHARINA MURRAY, Married as aforesaid**

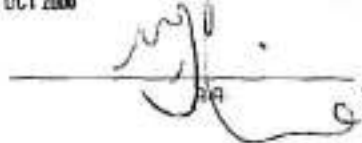
her Heirs, Executors, Administrators or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of **R600 000,00 (SIX HUNDRED THOUSAND RAND)**.

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THIS DONE and EXECUTED at the Office of the Registrar of Deeds at Cape Town on

27 OCT 2006

2006



In my presence



REGISTRAR OF DEEDS

ANNEXURE E 1/2



From: Elizette  
 Date: 11/21/2017 3:50:27 PM  
 To: Loretta Gillon  
 Subject: Re brief van beswaar te ERF 845 Sandbaai



Have a Nice Day!

Munisipale bestuurder  
 Overstrand munisipaliteit  
 Posbus 20  
 Hermanus  
 7200

E van Rhyn 5302170058084 eienaar van erf 846 Sandbaai  
 Louis Trichardt straat 85  
 Sandbaai  
 7200  
 tel.0824659914

AANDAG  
 Munisipale Bestuurder

- 1 Bogenoemde erf 846 is slegs geskei met n skeidsmuur.  
 Die geraas soos dit reeds is is onverdoewend en onuithoudbaar
- 2 Speelgoed en klippe en vele ander items word gereeld oor die muur gegooi en my erf ontsier, en hond aan my kant verskeur dit Dan verder wat lei na nog n groter gemors
- 3 My man lei aan Slaap Apnee en moet probeer om in die dag te rus wat absoluut onmoontlik is met die geraas
- 4 Die waarde van my eiendom sal astronomies daal wat ek as pensionares beslis nie kan bekostig nie  
 Iemand wat sy hele lewe swaar aan paaiemente betaal en byna alles moes verbeur om darem rustig af te tree verdien nie dit nie.  
 Plaas julle asseblief in ons skoene ons is verskeie pensionarisse om die eiendom
- 5 Wat parking betref as kinders afgelaai word, Ons toegange word toegetrok en dis frustrerend  
 So kan ek aangaan en aangaan, Asseblief ons vra mooi keur die vergunning af

Met vriendelike groete

ELIZETTE VAN RHYN

ERF 846

file:///C:/Users/Elizette/AppData/Local/Temp/Runtime/Message/7B7CB8D32C-D08B... 11/21/2017

22 NOV 2017

TRATHANT  
 CH Olivier)

FILE NO:	EL 845
SCAN NO:	Sandbaai
COLLABORATOR NO:	1104665

ANNEXURE E 2/2

TP-A Theart  
(H Olivier)

Loretta Gillion - Objection to Creche - Notice 141/2017



From: "rita.louw1" <rita.louw1@gmail.com>  
 To: <loretta@overstrand.gov.za>  
 Date: 12/11/2017 12:31 PM  
 Subject: Objection to Creche - Notice 141/2017

Re: Erf 845 Sandbaai

To whom it may concern

I hereby wish to submit my objection to the proposed creche. The reasons are as follow:

1. I am a 76 year old woman who is currently on pension.
2. I have an elderly couple living on my property aged 70 and 69 respectively. They are also on pension.
3. We live at 86 Louis Trichard Street (erf 776).
4. A creche will disrupt our living conditions materially in that:
  - the noise levels will increase dramatically through the daily activities of the children,
  - the noise levels will increase dramatically in the early morning hours due to the increase in vehicle traffic.
  - my property value will decrease due to the emergence of economic activity in a residential area.
5. There is ample commercial property available in the area that can be utilised as a creche without affecting long standing residents in Sandbaai.

Regards  
 Rita Louw

Sent from my Samsung Galaxy smartphone.

FILE NO:	EZ 845
	Sandbaai
SCAN NO:	
COLLABORATOR NO:	1101345

TP

17: 80W .007

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ANNEXURE F 1/6

**ROUTE<sup>2</sup>EC**  
TOWN PLANNING STRATEGIES



022 575 3608 • NAARTOL 160147,00 BA  
PO BOX 117 • SANDBAAL • 6012 • 0222

Our reference : SAND845  
Your reference : 845 HSB (3759)

20 December 2017

The Municipal Manager  
PIA Director, Infrastructure and Planning  
PO Box 20  
HERMANUS  
7200

TP A Theart  
Choliver

FILE NO:	EL 845 Sandbaal ✓
SCAN NO:	HSB 845
COLLABORATOR NO:	1115240

For the attention: To Whom It May Concern (Mr H. Boshoff – Town Planner)

ERF 845, SANDBAAL, OVERSTRAND MUNICIPAL AREA. APPLICATION FOR REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE. ROUTE2EC ON BEHALF OF AC MURRAY

Your letter dated 28 November 2017 as received via email on the same day and collected from the post on 14 December 2017 refers.

We take note that upon preparation of the application one (1) surrounding property owner was erroneously not included in the list provided for the serving of notices of which the property owner is now given the opportunity to comment on the application of which the closing date will be Friday, 26 January 2018. It is important to note that the applicant would like to state that the delay with respect to the serving of the notice should not be taken into account with respect to the time-lines of processing the application as stated in the By-laws and we would appreciate the application therefor to be dealt with accordingly and not be delayed further for decision.

Please also find as attached the relevant requested affidavit as well as photo evidence including the Site Plan with all relevant additional information required as Annexure's 1 and 2.

We hereby take note of the two (2) objections as received on 13 November 2017 and 22 November 2017 from Ms Rita Louw residing at Erf 776, Sandbaal and Ms Elizette van Rhyn residing at Erf 846, Sandbaal.

This letter will deal with the applicant's response to the written comments made in a summarized form and will also only deal with a technical response upon matters as per the detailed submission made in the Motivating Memorandum as submitted as part of the application.

It is important to note that the Spatial Planning and Land Use Management Act, Act 16 of 2013 (further referred to as SPLUMA) allows for objections to be submitted towards applications which should include the following:

TP 29 DEC 2017

- (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.

It is of utmost importance to also note the Development Principles of SPLUMA upon assessment and decision making related to the application submitted in this case which include the following:

PRINCIPLE	UNDERSTANDING AND EXPLANATION
Spatial Justice	Refers to the need to redress the past apartheid spatial development imbalances and aim for equity in the provision of access to opportunities, services, facilities and land and therefor seeks to promote the <b>integration of communities</b> .
Spatial Sustainability	Refers to the sustainable form of any development which promotes compaction and mixed use urban environments which <b>limits urban sprawl</b> .
Efficiency	Refers to create the optimisation of the use of space, energy, infrastructure, resources and land and further to effective decision making processes which are developed to <b>minimise negative financial, social, environmental and economic impacts</b> .
Spatial Resilience	Refers to the promotion for the development of sustainable livelihoods for all communities, the <b>flexibility in spatial plans, policies and land use management systems</b> which adapt to increase sustainability.
Good administration	Refers to the promotion of integrated consultative planning practices in which all spheres of government and other role-players ensure a <b>joint planning approach</b> . In addition it is critical that decisions made in terms of land use planning seek to <b>minimise the negative financial, social, environmental and economic impacts of such development</b> within the context of a <b>system that is efficient, well run and aligned to timeframes being adhered to</b> .

Furthermore it should be stated that the general considerations specific to an application submitted must be taken into account by the relevant report writer, in this case the Town Planner as well as decision maker, in this case the Municipal Planning Tribunal – in this case the history of the crèche and it's owners desire to provide for a much needed serve to the community, the responsibility of the Municipality in terms of provision of Social Services to communities and the fact that the application is now being delayed due to an error on the side of the administrative with respect to the participation process.

Comments on the reasons raised for opposing the application as submitted for the proposed Removal of Restrictive Conditions and Consent Use are hereby dealt with in accordance with the provisions of SPLUMA under the following headings in no specific order:

**The number of objections/comments received:**

It should be noted that the objections and comments of only two (2) property owners in the direct vicinity of the property were submitted as per the Notice given in the Local Newspaper, Registered Letters sent to the various surrounding property owners as per list received from the Overstrand Town Planning Division as well as the site notice which was posted during the same period.

*It is therefore clear that the number of submissions being a mere two clearly demonstrated the scale of impact of the application to the surrounding community to be of little or no impact. It therefore does clearly demonstrate that the application will have no undesirable effect on the Sandbaai community residing in the area.*

6.1.1 The following use restrictions apply to property in this zone:

- (a) **Primary uses** are: day care centre, dwelling house, guest rooms, home occupation, second dwelling unit;
- (b) **Consent uses** are: crèche, green house, guest house, house shop, institution, place of instruction, place of worship, residential building, tourist accommodation.

**The existing zoning of the property known as Erf 845, Sandbaai:**

It is important to note that the Overstrand Zoning Regulations allows for a number of secondary rights which can be applied for in the case of a property of which an extract is as below:

*It is therefore clear that the application as submitted demonstrate it to be consistent with the applicable policy of the Municipality of which a number of primary rights as well as Consent Uses are permitted.*

**The intended and proposed use will disrupt the living conditions with respect to the increase in noise levels related to the daily activities of the children attending the facility:**

The statement made that the crèche will be a noise disturbance (children playing in the yard) to the surrounding neighbours who are retired and at home during the day cannot be seen as a valid objection. From a town planning point of view, it is important to take note of the location of the buildings on the property as well as the location of the property in relation to the surrounding properties. It can be stated that the applicant indicated in the motivating memorandum and site plan that the play-area of the proposed crèche are provided in the secured back-yard area of the existing dwelling house.

The property is also fenced with 1,2m brick walls on all boundaries abutting residential properties with a high screen that is erected on the boundary of the erf which abuts Erf 845, Sandbaai.

All crèches operate within certain time periods with activities during the day. The children will thus only play at certain times of the day, as they will mostly be tutored inside and have a set time-schedule which include outside play times. These play times will thus not as stated in the objections be "through-out the day". It is however the intention of the owner to see to it that the children play in a controlled environment.

It can be stated that the Constitution of South Africa are clear with respect to the rights of all residents and the statements made as mentioned cannot be seen as valid as no evidence are lead related to alleged noise factors that will increase pertaining to the crèche and the children playing at the facility.

*The submissions made in the form of comments and objections are thus not seen to be evidence lead and therefore cannot be seen as facts and circumstances which explains the objection, comment or representation in this case; it is seen as mere general statements made without it being technically confirmed.*

**The noise levels that will increase dramatically in the early morning house due to the increase of vehicular traffic.**

End Street is known as an access collector road which serves the community of Sandbaai carrying residential traffic due to the development of the residential suburbs which include a number of Town House developments. It should be noted that a crèche is seen as a service use to the neighbouring residential community and thus the children which are accommodated at the crèche mostly comes from the nearby surrounding neighbourhood and thus the statement made that traffic will increase cannot be seen as valid. The owner of the property also provides a transport service which collect and drop-off a number of children attending the crèche facility of which are mostly during normal work trips to and from the area.

The site plan submitted also clearly indicate a safe collection and drop-off area to be located in End Street which in this case will have no effect on the surrounding residences towards noise levels that could increase as it will from part of normal vehicular traffic in the existing area.

*It is the submission of the applicant that the statements and comments made are being one-sided and in the absence of evidence lead do not in any way demonstrate the undesirable effect which the application will have on the area related to increase traffic.*

**Decrease of Value of property due to economy activity in a residential area:**

The statement made on the value of properties in the direct vicinity and the devaluation of the properties in the residential area cannot be substantiated. The overall value of properties are driven by numerous factors related to market forces throughout South Africa and various secondary uses such as guesthouses, institutions, places of public worship and crèches do not per say decrease property rights. The provision of social services in a community are necessary and thus seen as contributing to the value of residential neighbourhoods where such facilities are available to the communities as a necessary service.

*The statement made therefore do not demonstrate the undesirable effect which the application will have on the area.*

**Behaviour of the children:**

It was stated that numercus objects, shoes, toys etc. are being thrown over the boundary walls at a daily basis. The owner of the property will address the matter with the children attending the facility and has also erected a high screen on the boundary to resolve the subject complaint and to alleviate the disturbance.

*The statement made therefore has been addressed and will be taken care of towards future disturbances and thus cannot be seen as having an undesirable effect on the area.*

**Parking:**

The statement made that access to drive-ways are blocked is noted even though no evidence are lead with respect to the matter.

A site plan was submitted by the applicant clearly showing the provision for the safe off- and on-loading of children and provision of on- site parking as well as parking in the form of drop- off and collection in End Street which will be presented to the parents to abide by.

*The application therefor as submitted demonstrate compliance with the provision of parking applicable to policy of the Overstrand Municipality.*

**Ample commercial property available in the area that can be utilised for the purposes of a crèche facility without affecting residents in Sandbaai.**

The motivating memorandum clearly deals with the existing planning provisions for the area as well as that of the development principles applicable to SPLUMA, the National, and Provincial and Local policies applicable to provision of social facilities and services to residents of a residential area as well as secondary rights permitted as per the relevant Town Planning Zoning Regulations.

It is our submission that the service provided for the schooling of young children of the area and near- by residential community is necessary and desirable and that the owners of the property can comply with all conditions that need to be met related to a crèche facility in a residential township.

The "not on my doorstep" statement cannot be seen as a valid reason pertaining to "so called commercial property available". Places of instruction in the form of schools, crèches and playschools are seen as secondary rights to the primary uses and cannot be seen as negatively affecting "the residents of Sandbaai".

It should be noted that the primary land use right is not affected as the principle of the crèche will still reside on the property and a portion of the property will remain residential.

*The statement made by the objectors do not give lead sufficient evidence demonstrating the undesirable effect which the application will have on the area and that of the need of the residential communities residing in the area and nearby area.*

**In Conclusion**

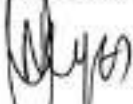
In closure it is thus the applicant's submission that the two (2) objection's as submitted have been fully addressed as no substantial evidence were lead of it being "alleged undesirable affect" as per the principles and requirements of SPLUMA on technical grounds and that the application can be supported as proposed, motivated and permitted in terms of the provisions of the Overstrand Zoning Scheme Regulations and further approved in terms of the Overstrand Spatial

Development Framework Plan. The Overstrand Zoning Scheme Regulations are clear towards the provision of compliance of the intended use as applied for and therefore cannot be seen as undesirable.

*It is our submission that any decision made and the application serving before the Municipal Planning Tribunal as constituted in terms of SPLUMA to be assessed and presented together with the proposals as submitted made and history related to the application should be considered as per the response and motivations made above and for the matter to be considered with a positive outcome.*

Should you require any further information, please do not hesitate to contact the undersigned at 041-379 1756 or 082 375 3882 during office hours.

Yours sincerely,



**MS. MAARTJE WEYERS PR. PLN (A/1206/2001), SAPI**

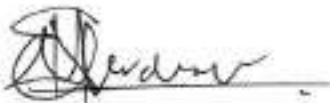
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**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR REMOVAL OF RESTRICTIVE CONDITIONS &  
CONSENT USE: ERF 845, SANDBAAI (3759)**

Electricity	:	In order
Water	:	In order
Sewer	:	In order
Stormwater	:	In order
Roads and traffic	:	In order

**Conditions:**

1. that only the existing water connection and sewer conservancy tank shall be used to service Erf 845;
2. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the owner's cost;
3. that any commercial food preparation facilities (e.g. restaurant / guest house etc) must be provided with grease trap, which must comply with the standards and Specification of the Department: Operational Services;
4. 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 Area Manager: Hermanus for written approval;
5. that stormwater be allowed to discharge through Erf 845, Sandbaai, unobstructed;
6. that no on-street parking be allowed.



**DENNIS HENDRIKS  
SENIOR MANAGER:  
ENGINEERING SERVICES**

8/2/2018  
DATE



**FIRE SAFETY GUIDELINES FOR THE OPERATION OF AN EARLY CHILD CARE/LEARNING FACILITY IN TERMS OF THE NATIONAL FIRE PROTECTION REGULATIONS AND COMMUNITY FIRE SAFETY BY-LAW**

**ERF B45 HSB, END & LOUIS TRICHARD STREETS, SANDBAAL, HERMANUS**

The Children's Act 38 of 2005 does not prescribe the possession of a Fire Safety Certificate as a requirement in order to gain registration.

What the Children's Act does say is that: **"A partial care facility must comply with the structural safety, health and other requirements of the municipality of the area where the partial care facility is situated."**

National Building Regulations SANS10400A:2010 - A21 Table 2 determines that a "place of instruction" design density for occupancy A.1 - Place Of Instruction may not have more than **1 person per 5 square meter**.

**Furthermore:**

It is imperative that **consent use** is obtained from the Town Planning Department in order to legally operate an ECD.

The Overstrand zoning scheme makes provision for the following types of use applicable to child care facilities:

a) **day care centre:** "means the use of a portion of a dwelling house or outbuildings by the occupant to provide **day care, pre-school, play group or after school care services for a limited number of children** provided that the primary use of the property shall prevail".

b) **crèche:** "a facility for the day care of young children in the absence of their parents, and may provide **care for more children than are permitted in a day care centre**, subject to any **applicable legislation by the Department of Education**, provided that the primary use of the property shall remain".

c) **place of instruction:** "means a place for education at pre-school, school or post school levels, including a day care centre, a crèche, farm school, nursery school, primary school ...

Guidelines for ECDS:

**Early Child Development Centre which is determined as a Place of Instruction in terms of the National Building Regulations SANS10400A:2010 - compliance with the National Building Regulations SANS10400A21 - Table 2 for Design Population i.e. 1 person per 5sqm.**

**This regularization process requires that the owners must submit a building plan to the municipality for approval of all structures (formal & informal). This process entails the input of all departments including Town Planning and Fire Services in terms of section 9 of SANS10090 and SANS10400T:2011 which will ensure compliance with regulations and By-laws. This being that the following has been set forth to be included on the building plans that will allow the approval of a proposal:**

**\* All timber structures for habitable use must either be compliant with SANS10082 regulations for Timber Frame Structures with approved fire resistant cladding or they must be registered as Category 1 structures in terms of section 4.57 of SANS10400T:2013 which provides an alternative for structures that cannot fully**



comply with the requirements of the regulations. In terms of the regulation they may be utilized for a place of instruction however, the submission of plans for such structures is a prerequisite in terms of the National Building Standards Regulator.

\* In order to meet these requirements any structure must provide a nominal 30 minute fire resistance as prescribed in section 4.57.7. Therefore in order to achieve compliance it is necessary to clad exterior walls internally with an appropriately approved (SANS10177-2 Fire Resistant Tested) material in accordance with Table 14 of SANS10400T:2013. Any cladding material will not meet the minimum requirements of SANS10177-2 unless a valid test certificate registered by the South African Bureau of Standards is provided in mitigation unless it is of the following material - 9 & 12mm Gypsum or 15mm Fire Stop boards of various manufacture.

\* Escape routes in compliance with the National Fire Protection Regulations SANS10400T:2011 must be provided for each centre and must be indicated on any proposed plan.

\* Due to the combustibility of the timber (Wendy Type) structures it may be required that a Fire Hose Reel be installed as prescribed by section 4.34 of SANS10400T:2013. This Fire Hose Reel must be in compliance with SANS543 with adequate water supply and where water supply cannot be achieved an additional 2 x 4.5kg Dry Chemical Powder fire extinguishers must be provided in place of a FHR.

\* The provision of adequate Fire Extinguishers in compliance with Table 11 of SANS10400T:2011 was also required together with appropriate location signs as prescribed i.e. 1 x 4.5kg Dry Chemical Powder fire extinguisher per 200sqm.

\* The provision of adequate emergency escape routes and doors must be indicated with approved SANS1186-1 as prescribed by section 4.29 of SANS10400T:2013 which must be indicated on the proposed plan for approval.

\* In terms of section 23(1) of the Overstrand Community Fire Safety By-law the establishment must have in place an emergency evacuation plan which must be tested at 6 monthly intervals that must be recorded in a register available to any inspector of the local authority (in this case the Fire Service).

Chief Fire Officer



## DAILY PROGRAMME FOR BABIES AND TODDLERS 1-3 YEAR

7:00- 8:00	Free play on carpet and in fantasy corner
8:00-9:00	Toilet, washing hands, eating porridge, changing nappies
9:00-9:15	Children sit on carpet, teacher discussing theme of the week Tuesdays learn a new rhyme Thursdays do perception activities ( about the senses)
9:15- 9:45	Artwork activities (only one or two children at a time) Rest of the class play on carpet, fantasy, toys ect
9:45-10:00	Music or Movement activities
10:15-10:30	Toilet and Refreshments
10:30-10:30	Free play outside: NB PUT OUTSIDE TOYS OUT!!!!
11:30-12:00	Toilet, washing hands, reading short story
12:00	Lunch
12:30	Sleeping until 14:00
14:00	Wake children, give something to drink
15:00	Freeplay until going home

**Enlighten - Eyona**  
**WEEKLY PLANNING: 3 Yrs - 5 Yrs**

7 - 8		8:30-8:45		8-8:45-9:00		9:00-10:00		10:00-10:15		10:10-11:30		11:30-12:00		12:30	13:30
Date	Activity	Free Play Toys/corner	Morning ring	Theme Language	Creative Art Side activities	Music or Movement	Outside Free Play	Story							
Mon			MATHS PERCEPTION Counting Children	Theme: Who am I? Name, age, language address ect.	Play Dough: *knead the dough *sit with fist *Back of hand, palm (Side)	Music: Jesus loves me When you happy and you know it clap your hands		T I D Y					Bible	L S	30
Tues			Opening Regisler Days of week Month of year	Rhymic: "My names"	Rolling (in sand) Take children outside Draw circle - Draw face in sand	Movement: Beanbags -> Throw in box Stand +- 2m away		T O I L E T					Happy (Birthday)	L U N C E H P	30
Wed			Birthdays Prayer	Theme: How do I feel?	Cutting out faces Paste on paper	Music: Loud and soft Sing cultural songs Dance to it		W A S H					'Afraid'	A B L * L E S	30
Thu				Perceptions: My face	Painting: hand & feet prints Paint a happy face - smile Paint a sad face - tears (Jump to work on the next day)	Movement: Outside on grass Use knitted bands Jump like frogs		H A N D S					'Angry'	H A N D S	30
Fri				Theme: My Privacy	Collage: tea leaves *Use flour glue to stick hair on- use tea leaves	Music: Sing songs and use shakers as instruments		S N A C K					Story:		30

4.6

**ERF 238, 4 ROCKLANDS ROAD, WESTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA : PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND DEPARTURE : MESSRS INTERACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF THE KAMMARBIEB FAMILY TRUST**

238 HWC (3621)

H van der Stoep

3 January 2018

(028) 313 8900

Hermanus Administration

## 1. EXECUTIVE SUMMARY

An application has been received on 16 March 2017 from Messrs InterActive Town & Regional Planners (A. Wiehahn) on behalf of the Kammarieb Family Trust on Erf 238, Hermanus for the following:

- ❖ Removal of restrictive title conditions with reference to Clauses B.(a) – (f) of Title Deed T69108/2011 applicable to Erf 238, Hermanus in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015.

Clauses B.(a) – (f) of Title Deed T69108/2011 reads 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 not more than half the area of this erf be built upon.*

*(d) That no building shall be erected within 4.72 metres of any street line which forms a boundary of this erf. No building shall be situated within 2.35 metres of the lateral boundary common to any adjoining erf.*

*AS being in favour of the Administrator:*

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

*AS being in favour of the Municipality of Hermanus:*

*(f) That the owner of this erf shall be obliged to allow the drainage and sewerage of any other erf or erven to be conveyed over this erf if deemed necessary by the Municipality and in such manner and in such position as may from time to time be reasonably required by the Municipality.”*

- ❖ Departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 on Erf 238, Hermanus to relax the rear building line with Erf 237 from 2m to 0m and the eastern lateral building line with Erf 235 from 2m to 0m to accommodate a proposed new triple garage on the property concerned.

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

## 2. DECISION AUTHORITY

Municipal Planning Tribunal

## 3. BACKGROUND / SITE HISTORY

N/A

## 4. SUMMARY OF APPLICANT'S MOTIVATION

The application is to remove the restrictive conditions applicable to the erf that is catered for in the Overstrand Zoning Scheme and to accommodate a garage transgressing the lateral and rear building lines. An application is also simultaneously made to transgress the lateral and rear Zoning Scheme building lines to accommodate the garage.

The development proposal is to erect a triple garage of 48m<sup>2</sup> to accommodate the owner's three (3) vehicles. The most practical position is in the north western corner of the erf. This is the only space available without demolishing existing structures. The proposed location of the garage will ensure easy access and egress on the property.

The erf is located in Westcliff and measure 694m<sup>2</sup> in extent. The erf is zoned Residential Zone 1 and is located approximately 700m west of the Central Business District (CBD). The proposed garage will be screened by the gate and will have limited visibility.

The proposed development will have little negative impact on the surrounding neighbours since it does not influence any views or restrict sunlight. The owner already parks his vehicles on-site and the garage is to safeguard the vehicles from theft and/or adverse weather conditions. The proposed structure is in line with buildings normally associated with residential dwelling.

The motivation for the removal of the restrictive conditions is as follows:

- B.(a): the removal will enable the applicant to make use of the primary rights as allowed by the Zoning Scheme such as a second dwelling, guest rooms and home occupation etc. These are specific land uses allowed in the Overstrand Municipal area on Residential Zone 1 to optimize the erven.
- B.(b): the same as above
- B.(c): The restrictions of half the erf may be built on are reflected in the Zoning Scheme restricting the built environment on an erf to 50%, which is similar to the condition.
- B.(d): the removal of this condition will enable the erection of the proposed garage.
- B.(e): The restriction of the subdivision of the erf except with the consent with the administrator. This entails that subdivision can only be with an application in terms of the Overstrand By-Law on Municipal land Use Planning, 2015 and

the Overstrand Zoning Scheme, 2014. This title condition is thus catered for in the land use legislation of the Municipality.

B.(f): The condition dealing with services over the erf is catered for in the Overstrand By-Law on Municipal Land Use Planning, 2015.

The planning principles can be summarized as follows:

#### **Spatial justice**

The proposal is fully justified in terms of the character and use of the proposed structure. The removal of the restrictions will result that all land use matters will be placed under the competency of the local authority.

#### **Spatial sustainability**

The proposal will have no negative effect on the sustainability of the erf or the general area.

#### **Efficiency**

The proposed position of the garages is the most efficient place since other alternatives will cost more and reduce the usability of the property.

#### **Spatial Resilience**

The proposal is in line with the character of the area and will not cause any nuisance or restriction on any abutting property owners.

#### **Good administration**

The correct process is being followed in terms of the prescribed application procedures.

### **5. ADMINISTRATIVE COMPLIANCE**

Methods of advertising		Date published	Closing date for comments
Local newspaper	Yes	4 July 2017	11 August 2017
Gazette	Yes	7 July 2017	11 August 2017
Notices	Yes	4 July 2017	11 August 2017
Ward councillor	Yes	4 July 2017	11 August 2017
Total comments	<b>FOUR (4)</b>		
Was public participation undertaken in accordance with Section 45 - 49 of the By-Law on Municipal Land Use Planning?			<b>Yes</b>
Was the application processed correctly (if no, elaborate below):			<b>Yes</b>
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			<b>Yes</b>

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

Name	Date received	Summary of comments	Recommendation
<b>Fire Department</b>	17/08/17	No objection provided that the sections of the proposed structure on the boundaries are 60 minute walls as required in terms of the National Fire Protection Regulations SANS 10400T : 2011.	Positive
<b>Engineering Services</b>	15/08/17	See Annexure G.	Positive
<b>Building Control</b>	14/07/17	Section (f) should still be retained as the Municipality still needs to cover itself as far as access to put in services. A triple garage is a large structure on a boundary – should be limited to 2 garages in compliance with SANS 10400.	Negative

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Objections were received from four (4) individuals. See the objections attached as Annexure E. The applicant's response to the objections received is attached as Annexure F.

The objections can be summarized as follows:

- Messrs Jordaan, Du Toit & Company as co-owner of Erf 239, Westcliff, Hermanus and on behalf of Feltre Holdings (Pty) Ltd owner of Erf 240, Westcliff, Hermanus**

Reference	Objection Summary	Applicant's Response
Introduction p1	The objector objects to the removal of Conditions B.(a) – (f) in Deed of Transfer T69108/2011, <u>but consents to the relaxation Condition B(h) to allow for the building line departure as applied for by the applicant.</u>	The intension of the objector is clear, namely that he supports the proposed garage in the north-western corner of the application site within the building lines, however this "consent" is as a matter of fact is ultra-vires given that if the title deed condition remains within the Title Deed, the development cannot be legally accommodated.  In the light of the above it is clear

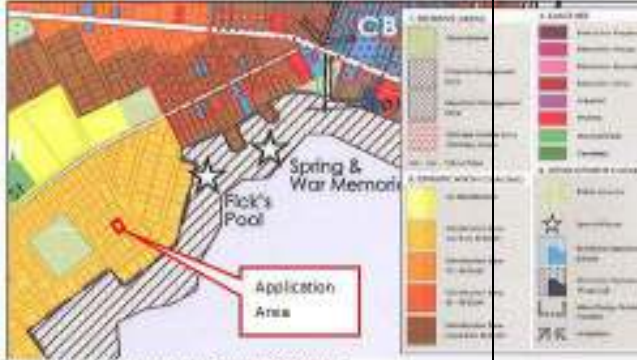
		that the restrictive condition needs to be removed to accommodate any structure within the building line in terms of the Title Deed.
<b>Town Planner's response:</b>		
<b>Please note that the applicant has made a typing error with reference of Condition B.(h), it should be Condition B.(d). The consent cannot be given for the relaxation of B.(d) by the objector and has to be removed to enable the applicant to erect a garage.</b>		
<b>Reference</b>	<b>Objection Summary</b>	<b>Applicant's Response</b>
Paragraph A.1. to A.5	The objector base his objection on the following: <ul style="list-style-type: none"> <li>In the South African Property Law and Constitution property owners' rights are protected by the Deeds Registries system in their title deeds.</li> </ul>	The Deeds Registry system is fully supported and respected, however as mentioned in the application, the function of title deeds and zoning schemes have become fused over time resulting that both title deeds and Zoning Schemes controls land-use rights.  Even though the South African Law considers Title Deeds dominant over Zoning Scheme conditions in general, the Overstrand Zoning Scheme is a more resistent and dynamic tool to manage land-use than a Title Deed.
	<ul style="list-style-type: none"> <li>That the applicant's motivation, argument and reasoning, namely that the restrictive title deed conditions are inconsistent with the provision of the Overstrand Zoning Scheme, 2013, is flawed.</li> </ul>	This objection is unfounded and unsubstantiated.  As per the previous paragraph and indicated in the motivation report the restrictive title deed being applied for to be removed are in principle duplicated and also not fully aligned with that of the land-use regulations of the zoning scheme, and therefore they are inconsistent.  In the light of the above, the decision making authority is requested to reject this point of objection.
<b>Town Planner's response:</b>		
<b>The objector is not correct in indicating that it is a blanket removal. In the motivation it is clear that the garage is the priority, but that the applicant would, should he want to, make use of the primary rights and or the consent uses available in terms of the Zoning Scheme.</b>		
Paragraphs A.8., A.9. and B.1.	<ul style="list-style-type: none"> <li>Apart from the garage being applied for, <u>no development proposal</u> is made on the</li> </ul>	It is evident that the objector is not familiar with land-use planning procedures. His view is considered

	<p>remainder of the property to justify the removal of any of the restrictive conditions being applied for.</p> <ul style="list-style-type: none"> <li>Given the above, read with Section 35(4) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015, the municipality is <u>not in a position to consider the removal of restrictive conditions</u> without any development proposal on the remainder of the property thus consider it as a blanket removal of title conditions.</li> <li>The applicant should apply according to <u>his timeous need with the required detail of what is intended</u> to the local authority whereby they can assess the application based on the prescribed criteria.</li> </ul>	<p>to be short sighted and impractical. Even <b>with or without</b> the restrictive title conditions of the subject erf/erven, future unknown development proposals / developments will be relevant and applicable.</p> <p>Relating to my previous point of dynamic zoning schemes; cognisance must be taken that zoning schemes are lately drawn up in such a way to actually provide more flexibility in collaboration with structuring / guidance plans, resulting to less prescriptive development proposals but still within certain development guidelines. The reason for this is to encourage optimal sound and harmonious development of a scarce resource.</p> <p>Furthermore it must be taken into consideration that the conditions being applied for to be removed are already contained (with slight variations) in principle in the Overstrand Zoning Scheme and Municipal By-Law for Planning.</p> <p>Following the above these points of objection should be rejected.</p>
<p><b>Town Planner's response:</b></p> <p><b>The objector is not correct in its interpretation of Section 35(4), where it makes reference of aspects to be taken into consideration. It does not state that the applicant must have any development proposals. The consideration is thus taken on the primary rights available to the applicant. The application for the removal is evaluated against the possible influence the primary rights may have on the surrounding neighbours.</b></p> <p><b>The primary rights allocated to residential zone 1 erven in the Overstrand went through an extensive public participation process in the amalgamation of the various scheme regulations applicable. As recent as 2017 it went through a public participation process to amend the Scheme regulations and at no stage did the objector submit any comments in this regard.</b></p>		
<p>Paragraphs A.6. and A.8.</p>	<ul style="list-style-type: none"> <li>The restrictive conditions are applicable to all erven in Hermanus Extension Number 2 (being a portion of Westcliff).</li> </ul>	<p>These arguments used by the objector is acknowledged and respected. However the <b>objective</b> of <u>this</u> removal of the restrictive title conditions application is to make</p>

	<ul style="list-style-type: none"> <li>• Each erf is simultaneously a dominant and servient tenement based on the judgement of 29 March 2008 (under case number 1440/07).</li> <li>• Title Deed Conditions have precedence over zoning regulations and the strongest safeguard for property owners to protect their property rights.</li> </ul>	<p>future applications from <u>this</u> property <b>more efficient and cost effective, if required.</b></p> <p><b>To put the above point into perspective, the cost of the application process for the removal of this restrictive title conditions application is estimated at approximately 30% to 40% of the actual construction cost of the proposed garage. The time relevant to this application is approximately 9 – 10 months. The work, time and cost are considered excessive with such applications.</b></p> <p><b>Several on-going work is in process to streamline land-use processes with the aim of stimulating the economy of the country.</b></p> <p>The motivation provided by the objector that each erf is simultaneously dominant and servient tenement will not change if these conditions are removed, given that these conditions are already contained in principle in the zoning scheme and municipal planning by-law (duplicated as illustrated in the motivation report). <b>It should furthermore be noticed that any departure from these conditions is subjected to a public participated application process.</b></p> <p>Thus, all the conditions applied for to be removed contained in the title deed conditions of the erven within Hermanus Extension 2 (with the exception of those properties which have already been approved to remove the subject conditions) are also contained in the Overstrand By-Law on Municipal Land Use Planning, 2015 and the Overstrand Zoning Scheme.</p> <p>The fact that title deed conditions have precedence over zoning</p>
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		<p>regulations is acknowledged and surely retains the character of areas/suburbs; however, it should also be realised that these unchangeable conditions restrict progressive and modern land-use development in accordance with regular reviewed town planning regulations based on new development trends and activities. Without saying, changes to the town planning schemes are also subjected to public participation processes.</p>
<p>Paragraphs A.6. A.7. and A.8.</p>	<ul style="list-style-type: none"> <li>• The applicant mistakenly motivates that the restrictive title conditions are inconsistent with the zoning scheme and planning by-law and base it on the judgement of Campsbay Ratepayers and Resident Association and Others v Minister of Planning, Culture and Administration, Western Cape and Other [2001(4)SA294] Griesel J had to say about branding title deed conditions as relics of the past and abolishing in favour of the applicable zoning scheme and stated that “<b><i>this is not the philosophy of the [Removal] Act</i></b>” and case Van Rensburg NO and Another v MEC for Housing, Local Government and Traditional Affairs, Eastern Cape Province and Others (3399/2010, 3498/2010) “<b><i>that a zoning scheme as a matter of law does not override title deed restrictions.</i></b>”</li> <li>• Application should actually then be made for the removal of all the restrictive conditions from all the title deeds of all erven within the affected township in order that all the erven in the said township will have the benefit of the removal of the</li> </ul>	<p>The case highlighted by the objector is taken out of context with regards to this application.</p> <p>In the same case of the Campsbay Ratepayers and Resident Association and Others v Minister of Planning, Culture and Administration, Western Cape and Other [2001(4)SA294] Griesel J it is also stated that “if it were in the interest of the public or the interest of all properties to be subject to zoning restrictions, the legislature would have abolished all restrictive conditions by Statute. Instead, it has laid down a procedure, in the Removal Act, whereby such conditions can be removed if it were in the public interest to do so.” This does not happen in practise and with due respect is considered not practical.</p> <p>In accordance with the above advised procedure, application is made for the removal of the restrictive title conditions of Erf 238 Westcliff Hermanus which will be considered on merit and clearly determining the impact on the adjacent properties. Each individual owner or collectively all owners of the township can on their own do the same.</p> <p>In contradiction with the objector’s argument he makes the statement as part of his objecting motivation that “Application should actually then</p>

	<p>conditions, i.e. "Why should the conditions be removed only from the applicant's property"</p>	<p>be made for the removal of all the restrictive conditions from all the title deeds of all erven within the affected township in order that all the erven in the said township will have the benefit of the removal of the conditions, i.e. "Why should the conditions be removed only from the applicant's property?"</p> <p>The objector by implication states that he has no objection to the removal of the conditions, subject thereto that these conditions be removed for all properties in the subject township.</p> <p>In the light of the above, this point of objection is obsolete and should subsequently be ignored.</p>
<p><b>Town Planner's response:</b></p> <p><b>The fact that the Title Deed conditions take precedence over the Zoning Scheme is not in dispute. However legislation has been created in 1967 to address restrictive conditions in Title Deeds and the process of the removal of restrictive conditions has been followed by the applicant.</b></p>		
<p>Paragraph B 1. – B.6.</p>	<p>The second part of the objections is based on the criteria of Section 35(4) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the municipality to take regard when considering the application. In essence the objector motivated repeating why there will be no benefit for him from these following guided viewpoints:</p> <ol style="list-style-type: none"> <li>1. the <u>financial</u> 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;</li> <li>2. the <u>personal</u> benefits which accrue to the <u>holder of rights</u> in terms of the restrictive condition;</li> </ol>	<p>The objector lays great emphasis on the general character of the area as the reason for not removing the restricted title deed conditions.</p> <p>It is evident that the objector is not familiar with the planning processes especially highlighted in Paragraph 6 of his objection where he states that only services cannot be conveyed over neighbouring properties "as we are not referring to an erf that is being subdivided in terms of this By-law at all" This is completely wrong.</p> <p>Furthermore, the objector provides no proof at all that the removal of the applied for restrictive title conditions will impact financially, personally and socially on him and the party he represents. He only provides general reasons like the removal of the restrictive conditions will change the character of the area, will diminish the enjoyment that he enjoys from his property and reduce his privacy, create uncertainty of future</p>


	<p>3. the personal benefits which will accrue to the person seeking the removal of the restrictive condition, if it is removed;</p> <p>4. the social benefit of the restrictive condition remaining in place in its existing form;</p> <p>5. the <u>social benefit</u> of the removal or amendment of the restrictive condition; and 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.</p> <p>Based on the above six (6) points of consideration the objectors motivated each of the restrictive title conditions.</p> <p>As part of the introduction the objector emphasises the preservation of character of the area.</p> <p>He also makes the point that title deeds cannot be changed but Zonings Schemes can and subsequently accuses the applicant of disregarding the importance and nature of a title deed. He makes the statement that a subdivision can take place without residents knowing.</p> <p>He further recommends that application for specific developments should be made only when a definite development proposal exist.</p> <p>The objector makes the incorrect assumption that services may only be conveyed over adjacent erven where subdivisions take place.</p>	<p>development on the application property <b><u>without providing any concrete proof or evidence or even examples.</u></b></p> <p>In addition to the above, notice should be taken that the application area is inter alia identified as an area of densification as shown in the following extract from the Overstrand Growth Management Strategy, 2010:</p> <div data-bbox="949 627 1588 1198"> <p>b. Overstrand Municipality: Growth Management Strategy – 2010</p> <p>In terms of the Overstrand Growth Management Strategy, the application area falls within Less Than 10 Dwelling Units Per Hectare Densification Zone as illustrated in the following extract of the said document:</p>  <p>Figure 8: Growth Management Strategy 2010 extract</p> <p>No change in zoning, density or land-use is proposed and is consistent with the said policy document.</p> </div> <p>In order to do densification of the application area, title deed restrictions are reality. Thus the resistance of the removal of restrictive title conditions with specific reference to Condition B.(e) of Title Deed T69108/2011 referring that the property may not be subdivided is misaligned with this policy of the Overstrand Municipality.</p> <p>The objection is subsequently not considered of value and should be rejected by the decision-making authorities.</p>
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	<p>He also states that only the applicant benefits whilst the adjacent properties suffer from the applicants benefit.</p> <p>Based on the above the objector motivates that the properties within the township will <u>financially</u> impacted detrimentally if the applied for restrictive title conditions are removed as the character of the suburb is considered special given located close to green belt, near footpaths to new harbour and wants the suburb to preserve its quiet residential character.</p> <p>From a <u>personal</u> point of view the objector argues that should the conditions remain property owners will retain his enjoyment of the property and privacy and provide the security of knowing that what can be expected in future.</p> <p>Should the conditions be removed the objector cannot comment as he cannot foresee what developed is foreseen. The removal of the title deed conditions according to the objectors can imply that application can be made without hindrance / difficulty / obstructions.</p> <p>In terms of <u>Social</u>, the objector argues that the retaining of the restrictive title conditions will preserve the character of the area and the nearby greenbelt through ensuring continued outdoor and tourist activities in the area. The objector recommends that the conditions be retained in order that densification is better to take place not so close to the sea and green belt.</p>	
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	<p>The objector emphasis also that the application is a blanket application for the removal of restrictive title conditions amounting to the removal of the erven in the township's rights whilst the applicant still enjoys the benefit of additional rights.</p>	
<p><b>Town Planner's response:</b></p> <p><b>The residential area is earmarked as a densification area, but due cognisance be given to the surrounding area in terms of subdivisions of an erf. In this aspect the removal of Condition B.(e) is not recommended, since the Overstrand Municipality Growth Strategy of 2010 is not specific in this regard. Thus to ensure that the erf size of the area remains in place and be dealt with on merit per application, the condition should remain in place.</b></p>		

## 2. Liesl Hawkins

Reference	Objection Summary	Applicant's Response
	<p>The access gate to the proposed garage is located partly on the objector's property and various attempts were made to negotiate to an agreement of lease or purchase without any success and a dispute has vested regarding the ownership and use of a section of the objector's property.</p> <p>The portion within the boundaries of Erf 238 Westcliff is too narrow to provide access to the proposed garage.</p>	<p>The access to the property and to the back of the property <b>is</b> wide enough to accommodate the applicant's vehicles to the proposed garage; however it is relatively narrow and a wider access is more ideal. Subsequently arrangements were made in the past with the previous owner to use a portion of his property for such a wider and more convenient width access driveway to the back of the property which the previous owners agreed to.</p> <p>However, the objector's point of objection has no bearing on the application and considered irrelevant.</p> <p><b>This is a personal dispute between the owners and now being used to object to the application.</b></p> <p>This point of objection should subsequently be omitted.</p>
	<p>The proposed removal of conditions will negatively affect the objectors property rights and privacy due to the position</p>	<p>The objector makes a general statement without providing any proof or evidence of her property will be affected by the proposed garage.</p>

	<p>of the proposed garage within the building line that will:</p> <ul style="list-style-type: none"> <li>• Cut of the sunlight</li> <li>• Impact on privacy</li> <li>• An additional dwelling on top of the garage is proposed and as a result of the zoning scheme the objector will not be able to comment on the proposal.</li> </ul>	<p>The following photograph, taken from the application motivation report, clearly indicates that none of the objector's building faces the garage or any living areas being affected by the proposed garage.</p>  <p>Given this unfounded point of objection it is requested that this objection be ignored.</p>
	<p>In terms of desirability the proposed departure and removal the restrictive title conditions</p> <ul style="list-style-type: none"> <li>• will not be compatible with the surrounding land-uses</li> <li>• Will have a negative impact on the safety, health and wellbeing of the surrounding community and specifically on the objectors property</li> </ul>	<p>The objector provides another point of unfounded and incorrect assumption. The proposed land-use, namely a garage to accommodate the owner's vehicles, is a use on the property which is present on most erven in the area.</p> <p>The removal of the restrictive title conditions will also not be detrimentally on the objector's property as these conditions remains in principle applicable through the Overstrand Zoning Scheme and By-Law on Municipal Land Use Planning, 2015</p> <p>Subsequently this objection should also be rejected.</p>
<p><b>Town Planner's response:</b></p> <p><b>The access to the property is sufficient should the dispute and the involvement of a previous owner not be resolved. The agreement between the applicant and the previous owner of Erf 235 is a matter between individuals and the Municipality will not get involved in a civil legal dispute. It is clear from the applicant's photographs that the objector will not be negatively impacted on by the garage in terms of privacy and sunlight deprivation. It should be made clear that a second dwelling cannot be built on the garage on a 0m building line as it is not allowable in terms of the Overstrand Zoning Scheme.</b></p>		

Additional input from Joubert Attorney's on behalf of Ms Hawkins, dated 24 April 2018 relating to the following:

The photographs submitted with the application of the clients property was before extensive renovations were done. The applicant indicated incorrectly that none of the objectors building faces the garage or any living areas are being affected by the proposed garage.

The proposed garage will definitely deprive her of sunlight to two of her living areas.

Planner's Comment:

The photographs of the applicant were taken in March 2017 and the objectors building plan for renovations was approved in September 2017. A site inspection was conducted on 2 May 2018 to verify the correctness of the building work according to the approved building plans. Both properties comply, however the applicant's property is located on a higher ground level than objector's property. It is also clear that the existing wall and tree on the applicant's property does limit the sunlight without any departure of the building lines.

A triple garage will exacerbate the present situation. According to the plan submitted with the application, a double garage can be accommodated within the Title Condition restriction.

**3. Desirée Walker**

Reference	Objection Summary	Applicant's Response
	<p>The objector states that her rights are not directly impacted by the building of the proposed garage or by the removal of the restrictive conditions contained in Title Deed T69108/2011, however she indicates that she is opposed in principle to the proposed relaxation to accommodate the proposed garage</p> <p>For the reason that the relaxation / departure limits the development options to the present and future owners of the adjacent erven and could rather have been built directly attached to the back of the house.</p> <p>From the diagram / building plan, it is apparent that a second dwelling is already in existence and thus legitimising</p>	<p>The objector's declaration that she will not be affected by the proposed garage, is acknowledged.</p> <p>The objection against the removal of the restrictive title conditions is considered unjustified given that no fundamental reasons are provided.</p> <p>The objector's comment that the applicant should rather have built attached to the house takes no regard to the layout of the property and is considered undesirable given the existing development and layout of the erf as is explained in the motivation report.</p> <p>The objector makes a blatant incorrect and false assumption that a second dwelling is already in existence on the property. It appears as if the objector tries to harm the image of the applicant.</p>

	the second dwelling by the application removal	This objection is strongly rejected.
<p><b>Town Planner's response:</b></p> <p><b>It should be noted that the Municipality has supported garages on the 0m lateral and rear building lines. The reasoning is that it is not habitable and eliminates passages that create risk situations with regard to safety. No application was made for a second dwelling.</b></p>		

### **Internal Departments**

No negative comments were received.

## **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**

One of the spatial justice principles to be considered is whether the physical footprint supports the urban or suburban footprint. The proposed garage is part and parcel of the development parameters as per the Overstrand Zoning Scheme. It therefore supports the suburban footprint, which is prevalent on all Residential Zone 1 erven in the area.

#### **Spatial sustainability**

The proposed application is compaction and optimizing the land within the parameters of the Residential Zone 1. The application will enable the owner of the property to utilize his erf without negatively influence the environment or social character of the area.

#### **Efficiency**

The main objective is the integration of services relating to urban and rural. The proposed development will enable the applicant to use his erf more efficiently and has no need for any additional municipal services.

#### **Spatial Resilience**

The proposed garage will add to the resilience of the property and its inhabitants by providing a cover for the vehicles presently standing in the open, thus minimizing any financial costs with regard to adverse weather conditions.

#### **Good administration**

The application followed due procedure.

**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 Point 10.2 above.

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

The Spatial Development Framework, 2006 earmarks the area as Residential. The Overstrand Municipal Spatial Growth Management Strategy, 2010, Hermanus Central, Planning Unit 16 earmarked the Unit as a densification zone less than 10 units per ha. In terms of the aforementioned policies, the application is in line with the residential use and it is consistent with Overstrand Zoning Scheme, 2014.

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

N/A

**10.6 Impact on Municipal engineering services**

None

**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 being made to remove the restrictive conditions and depart from the scheme development parameters, the present activities are in line with the development parameters attached to home occupation.

**11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS****The financial or other value of the rights**

The applicant will accrue financial benefit in as far as the additional structure will add value to the property. The other value is the safeguarding of the vehicles in an enclosed structure.

The financial benefit will be that the owner will not need to do an application for removal of restrictive conditions should he intend to exercise the full extent of his primary and or secondary rights and therefore it will benefit the applicant financially.

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

The applicant will benefit personally should all the requested conditions be removed in as far as the cost implication is concerned and the opportunity to make use of the land uses allocated within the Residential Zone 1 zoning.

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

The social benefit should the conditions remain in place, is that the erf will not be able to make use of the other land uses associated with a Residential Zone 1 zoning. The erf will be used solely for residential purposes.

The social benefit should the conditions be removed is to enable the applicant to upgrade the erf, which is to the benefit to the area. Should the owner wish to make use of the primary rights catered for in terms of his zoning, social benefits may be a home occupation, guest rooms, etc.

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

The removal of the conditions will remove the rights of the beneficiaries in part. The aforementioned relates to title deed restrictions and not the Zoning Scheme. The applicant will still be restricted to the development parameters in terms of the Overstrand Zoning Scheme. However, the objector will be deprived of the existing title deed restriction which ensures sunlight and liveability of her rooms facing Erf 238.

**12. THE DESIRABILITY OF THE PROPOSAL**

The main objective of the application is to remove Condition B.(d) which relates to the building lines and simultaneously to depart from the Zoning Scheme building lines in order to erect a garage on the 0m lateral and rear building lines. In terms of the Zoning Scheme, the 0m building line for garages was implemented due to the following: it is not habitable and is dead space on any residential erf. It has also become clear that the passage created by garages not transgressing the building lines, has become a safety issue. The passages between the garages as non-habitable space and a boundary wall have become the escape passages for criminals. The title deed building lines was instituted before the Zoning Scheme to ensure privacy, view lines and to excessive massing.

The garage on the 0m lateral and rear building lines in this application is the most practical place to be constructed. Various similar applications in the Municipal area have been approved with neighbours consent. The applicant at this stage does park the vehicles in this location, but is in dire need of protection. The application for the removal of the restrictive condition is in line with similar structures erected in the Westcliff residential area and is in line with the character of the area, however in this case the objector will be influenced substantially in view of the sunlight loss.

In investigating the building plans of Erven 235, one lateral building line is on 1,5m as per approved building plan in the 1940's. Later building plans indicated the lateral building line as 2,260m and 2,3m, all of which should have been 2,35m. All the building plans were approved. Erf 239 is fully compliant with the Title Deed restriction. Erf 240 did obtain a relaxation of the lateral and rear building line on 0m for an outbuilding consisting of an employee quarters and a store room, but the applicant built it in compliance with the Title Deed restriction of 2,35m. Erf 236 complies with the building lines and Erf 237 does have outbuildings on the 0m lateral and rear building lines. It is clear that the lateral and rear building lines have been relaxed in the past for outbuildings and that the character did not change.

The proposed garage is located in the north western corner of Erf 238 and its adjacent owners are Erven 235, 236 and 237 of which the latter two (2) owners did not object to the application. Erf 235 did submit a building plan which was approved in September 2018 indicating renovations of structures into a bedroom and kitchen. The amendments comply with the lateral building line restriction of 2,3m and thus have a valid objection. The applicant application for the removal of the restrictive condition to a 0m building line will only be to his benefit and will definitely impede on sunlight into the habitable rooms of the objector. A double garage can be accommodated without transgressing the title deed restriction of 2,35m.

The matter of the access on a portion of Erf 235 was done by means of a written agreement with the previous owner of Erf 235. This dispute is a civil matter and the Municipality does take note, but will not get involved in the dispute. Should the portion of land fall away, the existing access to the proposed garage is sufficient to cater for motor vehicles. The proposed garage will be located on the farthest corner of Erven 239 and 240 and it is unclear the influence it may have, since they would not have a direct view of the garage.

The Building Section did indicate that a double garage is sufficient to accommodate the applicant's vehicles. This comment is presumptuous and it is not for the Municipality to indicate the amount of vehicles any person may have. It is a well-known fact that many of the residents are swallows and thus keep the holiday vehicles and equipment in lock up garages to ensure that it is not necessary to transport the equipment once a year to Hermanus. The garage does not affect the street scape and transgresses the street building line that can have a visual effect on the character of the area. It does however influence the objector's liveability of the two (2) habitable rooms facing the proposed garage.

**The restrictive conditions can be discussed as follows:**

**Condition B.(a)**

The restriction on the erf to be used for residential purposes only is catered for in the Zoning Scheme. The condition does restrict the primary uses as per the Zoning Scheme, which entails a second dwelling, home occupation, guest rooms and child care facility restricted to five (5) children.

These uses were widely advertised during the amalgamation of the Scheme and no objections were raised against these land uses during the process. Westcliff residential area has home occupation practices and various guest houses as consent uses. The area is still primarily residential in nature with the land uses in existence.

**Condition B.(b)**

The condition refers to only one dwelling and the associated outbuildings. As a primary use, a second dwelling is allowed in terms of the Zoning Scheme. The previous Hermanus Scheme did allow employee residential units and garaging of vehicles and store rooms on the 0m lateral and rear building lines.

In terms of the Overstrand Zoning Scheme the habitable outbuildings is regarded as a second dwelling and various erven in Westcliff does in fact have second dwellings. The adjacent erven of 236, 237 and 240 have outbuildings that are habitable and

thus constitute a second dwelling in terms of the Overstrand Zoning Scheme. Thus an additional habitable structure is already prevalent in the immediate area of the application erf. The restrictions on a second dwelling are compliance with building lines and height restrictions of the Residential Zone 1 parameters and is seen due to the establishment of habitable structures as an outbuilding since the inception of the township, in line with the character of the area. An additional habitable structure is more restricted in as far as the transgression of building lines are concerned.

#### **Condition B.(c)**

This condition relates to that only half of the erf may be built on, which is similar to the 50% applicable on erven more than 400m<sup>2</sup>. The application erf is more than 400m<sup>2</sup> and thus the restriction is catered for in the Zoning Scheme.

Condition B (d):

This condition relates to the building lines applicable to the erf. The removal of the condition can be removed in part. The street building line of 4,72m can be removed, since 0,72m will make no difference on the street scape. The lateral building line of 2,35m is not recommended for the removal of the restrictive condition due to the impact on the adjacent erf's habitable rooms.

#### **Condition B.(e)**

The condition relates to the subdivision of the erf. The removal of this condition is not recommended. The Overstrand policy documents do address densification in this area, but it does not place any specific restriction on subdivision of residential erven in the area. In order to ensure an added restriction and safeguarding of the extent of the predominantly big erven and character of the area, it should remain.

#### **Condition B.(f)**

The condition relates to municipal services crossing the erf and although the By-law also makes provision for services transgressing private property, the By-law can be changed and leave the Municipality and the surrounding owners stranded in terms of service provision or future upgrades to the system. The removal of this condition is not recommended.

### **13. RECOMMENDATION**

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 for the removal of restrictive title conditions with reference to Clauses B.(a), B.(b), B.(c) of Title Deed T69108/2011 applicable to Erf 238, Hermanus, **be approved**;
2. that the application in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 on Erf 238, Hermanus for a departure in order to relax the rear building line with Erf 237 from 2m to 0m to accommodate a proposed new double garage on the property concerned, **be approved**;
3. that the approvals in Points 1. and 2. be subject to the following conditions:

- (a) that the approval for the departure is only for the building line relaxation as indicated on Plan dated 8 February 2017, as submitted with the application;
  - (b) that building plans be submitted to the Building Department for approval, and that all conditions of the Building- and the Fire Department be complied with at that stage;
  - (c) that all the conditions in the Services Report (attached as Annexure G), be complied with;
  - (d) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with, and
  - (e) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.
4. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 for the removal of restrictive title condition Clause B(d) be approved in part. The 4,72m street building line be removed, but that the lateral building line 2.35m remains due to the following reasons:
  - (a) The impact of the proposed triple garage on the adjacent erf's habitable rooms with regard to sunlight
  - (b) The deprivation of liveability of the habitable rooms
5. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 for the removal of restrictive title conditions with reference to Clauses B.(e) and B.(f) of Title Deed T69108/2011 applicable to Erf 238, Hermanus, **not be approved**, due to the following reasons:
  - (a) the Overstrand policy documents are guidelines and promote densification; however the densification policy relates to the whole of Westcliff and does not take into account the trend in the immediate vicinity of the application erf. Therefore it is prudent that the condition remains in place to ensure that subdivisions be limited until the market indicates that there is a need in the area to move to smaller erven.
  - (b) the condition relating to allowing services transgressing the erf should the need arise needs to remain in place to ensure that the Municipality can serve the area in an effective manner. Although it is duplicated in the By-Law, a prospective owner does not read the By-Law, but is immediately informed of conditions when purchasing the erf. The Title Deed condition is thus the first information document to inform the applicant of the erf's services obligation.
6. 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 decision.

**14. REASONS FOR RECOMMENDATION**

- ❖ The application is in line with the development parameters for Residential Zone 1.
- ❖ Garages on the rear and lateral boundaries are allowed on the boundaries in the Municipal area.
- ❖ The location of the proposed garage is the most practical location on the property.
- ❖ Some of the erven already has an employee habitable unit, which in terms of the zoning scheme is regarded as a second dwelling of which strict parameters are applicable.
- ❖ The proposed garage is not habitable and thus should have limited noise pollution. The vehicles are already making use of the space for parking purposes.
- ❖ The non-residential land uses as per the zoning scheme is prevalent in the Westcliff area and the application erf is restricted in terms of its parking availability which limits the practising of non-residential land uses.

**15. ANNEXURES**

Annexure A:	Locality Plan
Annexure B:	Site Development Plan
Annexure C:	Motivation Report
Annexure D:	Title Deed T69108/2011
Annexure E:	Objections received
Annexure F:	Applicant's response to objections received
Annexure G:	Services Report

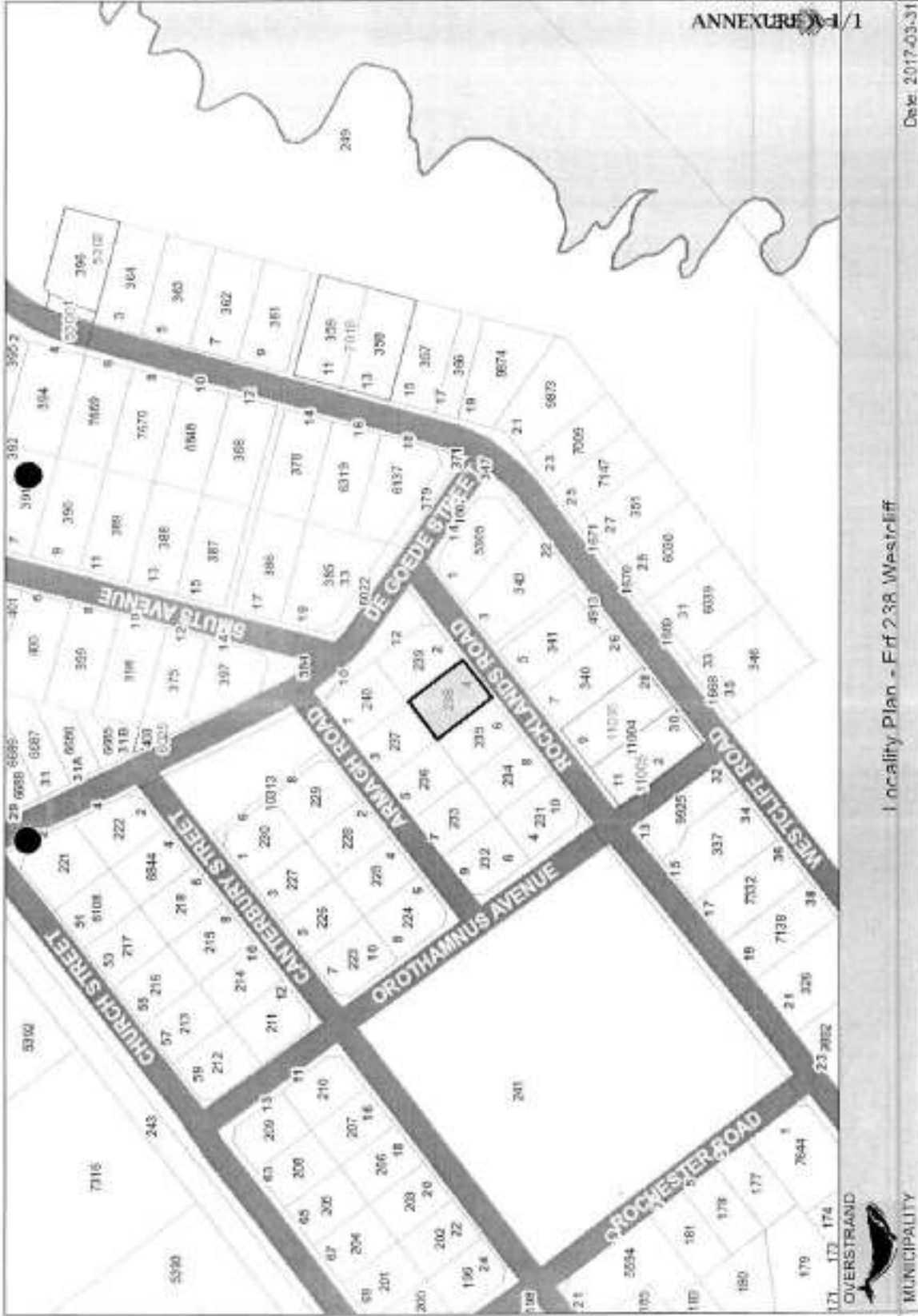
**SIGNATURES****REGISTERED PLANNER**

Name : **H VAN DER STOEP**

SACPLAN registration number: **A/1708/2013**

Signature : \_\_\_\_\_

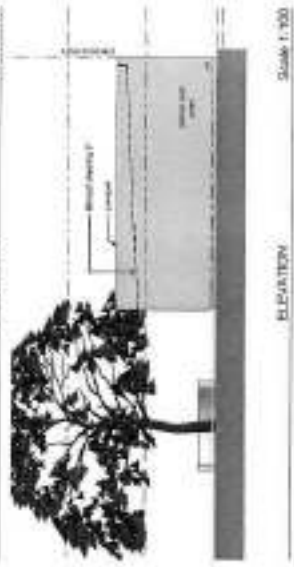
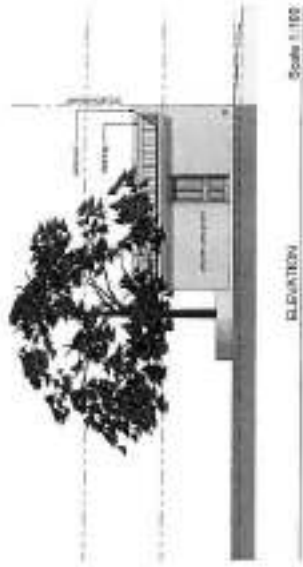
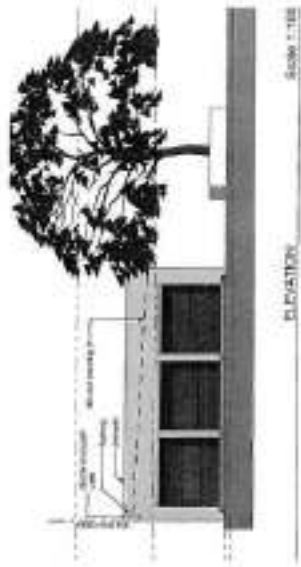
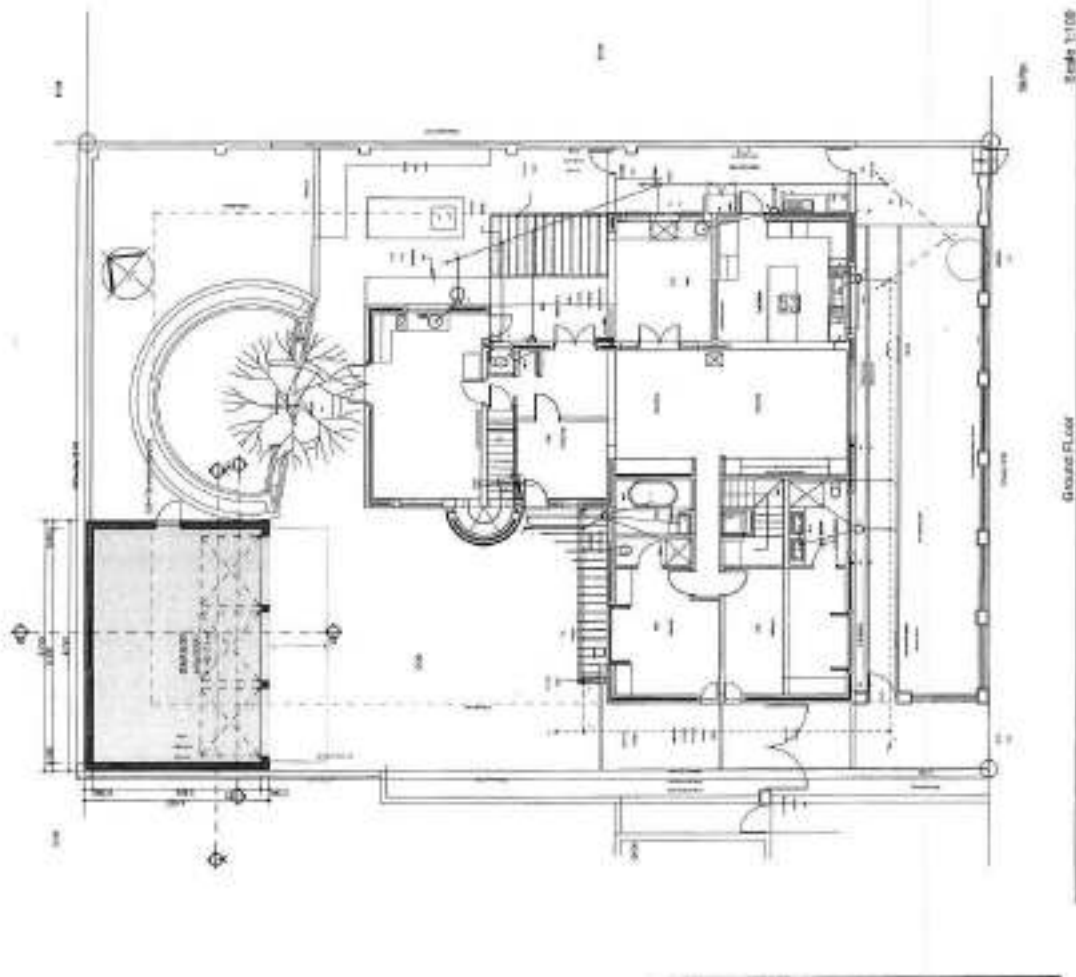
Date: \_\_\_\_\_



Date: 2017-03-31

Locality Plan - Erf 238 Westcliff





ANNEXURE B

**FINLAYSON**  
VANI DER MERWE  
P. B. C. 11 11 11 11 11

**CLASSENS GARAGE | CONCEPT**  
Scale 1:100 (8 February 2017)

Finlayson van der Merwe Architects (Pty) Ltd. Cape Town, South Africa. www.finlayson.com

4. The application motivation	
<p>a. Motivation for the application:</p> <p>Refer to Annexure I for the Site Development Plan</p>	<p>i. Introduction and overview</p> <p>The objective of the application is to build a garage to accommodate the owner's vehicles, since no covered garaging is provided on the property.</p> <p>The title deed for Erf 238 Westcliff Hermanus has restrictive as well as non-applicable title deed conditions, including building line restrictions that limits the proposal for a garage.</p> <p>The dwelling on the application site accommodates a double storey house within title deed building lines. There is an existing driveway leading to the back of the property along the western boundary of the subject erf. Access is obtained from Rocklands Street.</p> <p>ii. The proposed development</p> <p>The development proposal consists of a 48m<sup>2</sup> garage meant to accommodate three vehicles on the north western corner of the erf, considered being the most suitable position for the garage as illustrated in the following sketches:</p>
	<p>Figure 11: Building plan overlay illustrating the building lines and proposed garage.</p> <p>The proposal will allow for a single storey garage on the rear boundary of the property. The proposed garage will be screened mostly by a gate and the existing dwelling, subsequently resulting to limited visibility from the street.</p>

### iii. Existing character of the environment

The existing character consists of mostly single residential dwellings of good aesthetical quality and appearance with a number of guest houses within relatively close vicinity.

The proposal will not have an impact on the character of the area but rather align with the character of the area.



Figure 12: Photo showing the gate screening the proposed garage

### iv. Desirability of the proposal

The application proposal is to add a garage, being a single storey building and as a result will not have a negative effect on the neighbours as it does not obstruct any views or restrict light to the neighbouring properties.

The application will also not have an effect on land use as vehicles are presently being parked on the location of the proposed garage.

Furthermore, a garage is considered to be a standard structure / facility/ feature of especially properties within the vicinity of the application area.

### v. The need for a building line departure

The proposed location on the north western corner of the erf is the most practical and suitable position for the proposed garage.

No practical space exists elsewhere on the property to locate the garage without demolishing any existing structure. The proposed position of the garage also allows some manoeuvring space as shown in the following sketch for easy access and egress to and from the proposed garage:

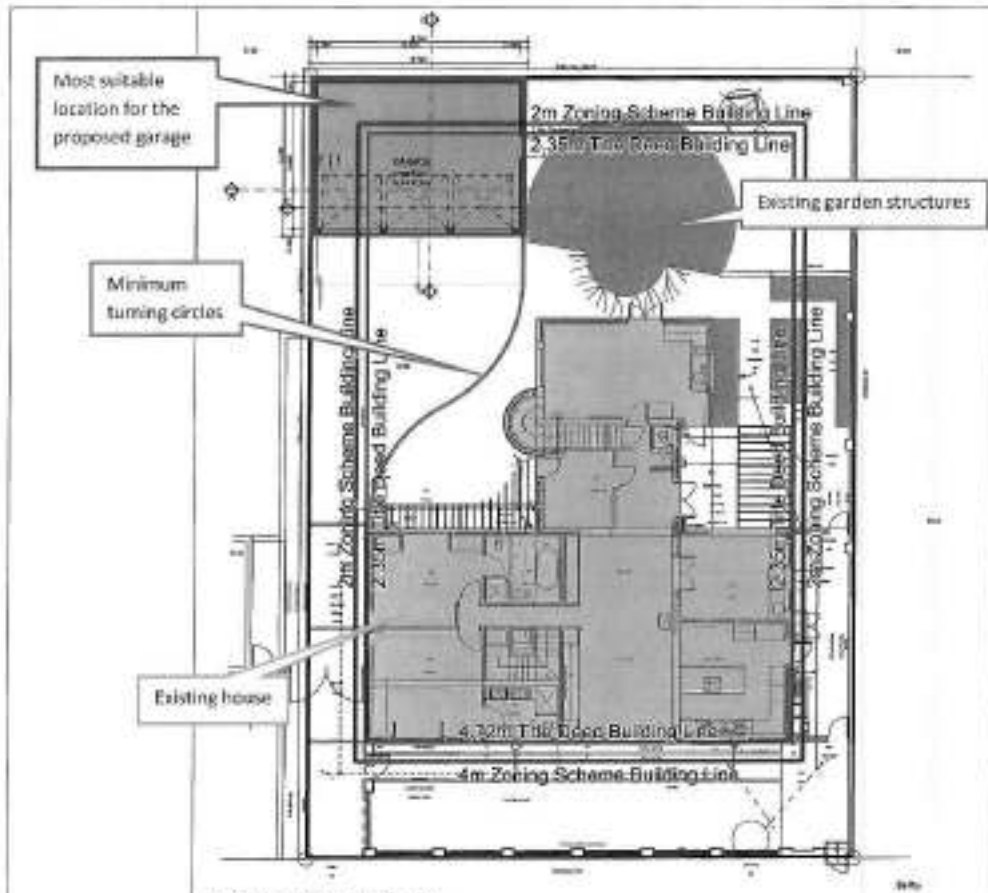


Figure 13: Building plan overlay

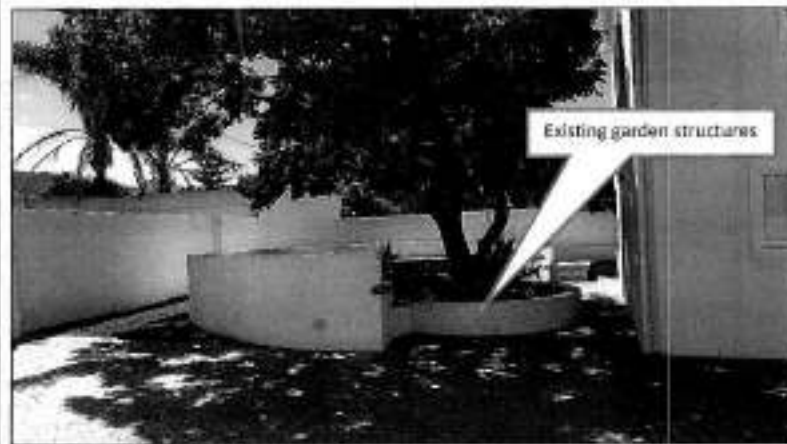


Figure 14: Photo illustrating existing garden structures

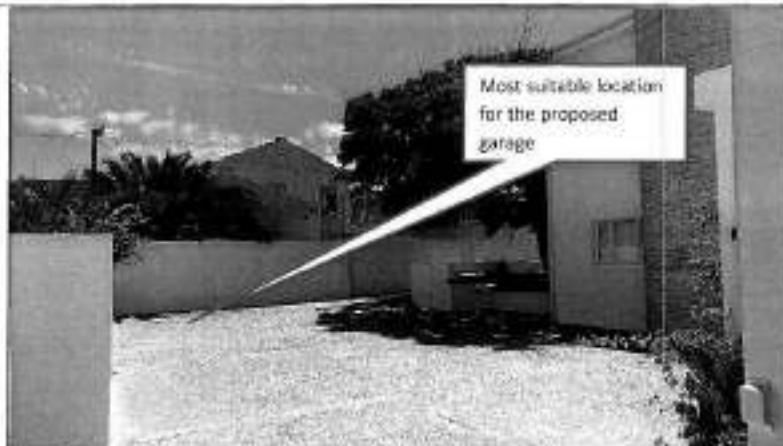


Figure 15: Photo showing the proposed location of the garage

The application is therefore for the relaxation of the western side and rear building line to 0m to allow for the proposed garage.

The Overstrand Zoning Scheme 2013 makes provision for this proposal in terms of section 16.1, by allowing for outbuildings within the common building lines subject to certain limitations and council approval.

#### vi. Impact on neighbours

The proposal for a garage will result in walls higher than the existing boundary walls. The proposed garage is a single storey structure and will not block any views or limit the amount of light to the neighbouring properties.

The proposed structure will also be aligned with the general character and quality of the surrounding properties. The application proposal will not have any negative effect on neighbouring properties.

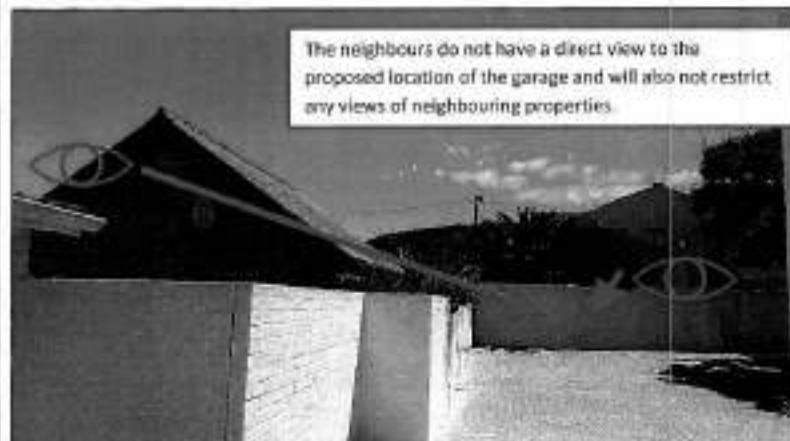


Figure 16: Photo illustrating that the neighbours don't have a direct view to the proposed location of the garage.

	<p><b>vii. Restrictive title deed condition removal</b></p> <p>The restrictive and non-applicable conditions, Clause B(a) to (f) from the Title Deed no T69108/2011 reads as follows:</p> <p>"B. ONDERHEWIG verder aan die volgende spesiale voorwaardes vervat in gemeide Transportakte Nr T5611/1938 opgelê deur die Administrateur van die Kaapprovinsie by goedkeuring van Hermanus dorp uitbreiding Nr 2, kragtens die bepalinge van Artikel 16(3) van Ordinance 33 van 1934 synde ten gunste van die geregistreerde eienaar van enige erf en gemeide dorp, en onderhewig aan wysiging of verandering deur die Administrateur naamlik:</p> <p>"</p> <p>(a) That this erf be used for residential purposes only.</p> <p>(b) That only one dwelling together with such outbuildings as are ordinarily required to be used therewith be erected on this erf.</p> <p>(c) That no more than half the area of this erf be built upon.</p> <p>(d) That no building shall be erected within 4.72 meters of any street line which forms a boundary of this erf. No building shall be situated within 2.35 meters of the lateral boundary common to any adjoining erf.</p> <p>AS being in favour of the Administrator:</p> <p>(e) That this erf be not subdivided except with the consent in writing of the Administrator.</p> <p>AS being in favour of the Municipality of Hermanus:</p> <p>(f) That the owner of this erf shall be obliged to allow the drainage and the sewerage of any other erf or even to be conveyed over this this erf if deemed necessary by the Municipality and in such manner and in such position as may from time to time be reasonably required by the Municipality."</p> <p>Historically (1938), zoning criteria and subdivisions were managed by Provincial Government and added to title deeds as part of township establishments or township extensions in order structure and regulate development. This system is however outdated; these functions have since been transferred to municipalities that now regulate zoning criteria and subdivisions in terms of zoning schemes and planning bylaws that are subject to the Spatial Planning &amp; Land Use Management Act, 26 of 2013 and the Land Use Planning Act 3 OF 2014.</p> <p>In this case the zoning criteria is presently being regulated by the Overstrand Municipality via the Overstrand Zoning Scheme Regulations 29 November 2013 and in terms of the Overstrand Bylaw on Municipal Land Use Planning 2015.</p> <p>The Clause B(a-f) on title deed T69108/2011 are inconsistent with the provisions of the zoning scheme and the municipal planning bylaw.</p> <p>This application is to remove Clause B(a-f) on title deed T69108/2011 as a whole and not only to the extent that it limits the proposal for a garage. This will eliminate all inconsistencies between the title deed, Overstrand Zoning Scheme Regulations 29 November 2013 and Overstrand Bylaw on Municipal Land Use Planning 2015 and will make application procedures more efficient and cost effective without compromising any public participation.</p>
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The following table quotes the clauses to be removed from the said title deed as well as the related provisions of the Overstrand Zoning Scheme Regulations 29 November 2013, the related provisions of the Overstrand By-Law on Municipal Land-Use Planning 2015 and a motivation for each clause to be removed.

Clause	Comment
(a) That this erf be used for residential purposes only.	<p>Clause 6.1 and 6.1.1. is applicable.</p> <p>The property is zoned in terms of the Overstrand Zoning Scheme Regulations 29 November 2013 and Overstrand Bylaw on Municipal Land Use Planning 2015 for Residential Zone1: Single Residential (SR1) This implies that the property may be used as a Primary use for a day care centre, dwelling house, guest rooms, home occupation, second dwelling unit.</p> <p>Subsequently, the title deed conditions restricts the property's zoning rights over the property to use its other primary rights namely for a day care centre, guest rooms, home occupation and a second dwelling.</p> <p>These are specific land uses which the local authority has included into the zoning to optimise the use of land in the Overstrand Municipal area. Therefore it is recommended that this condition be removed to allow the Overstrand Zoning Scheme to come to its full right of purpose.</p>
(b) That only one dwelling together with such outbuildings as are ordinarily required to be used therewith be erected on this erf.	<p>Clauses 6.1, 6.1.1 and 6.1.4 read with Clause 5.2.4 are applicable.</p> <p>As mentioned in the paragraph here-above, in terms of the Overstrand Zoning Scheme Regulations 29 November 2013 and Overstrand Bylaw on Municipal Land Use Planning 2015 the property is zoned for Residential Zone1: Single Residential (SR1) and may be used as a Primary use for a day care centre, dwelling house, guest rooms, home occupation, second dwelling unit.</p> <p>In addition to the above, Clause 6.1.4 states that in terms of the zoning the property may also be used for a second dwelling subject to the relevant conditions.</p> <p>Condition (b) of the subject title deed by implication restricts the mentioned additional mentioned primary uses as well as specific a second dwelling.</p> <p>These title conditions are conditions not aligned with the purpose and objective of the Overstrand Zoning Scheme Regulations 29 November 2013 and Overstrand Bylaw on Municipal Land Use Planning 2015 or the relevant policies of the Overstrand, with specific relevance to densification.</p> <p>Therefore it is recommended that Condition (b) of Title Deed T69108/2011. be removed.</p>
(c) That no more than half the area of this erf be built upon.	<p>Clauses 6.1.2 (a) of the Overstrand Zoning Scheme Regulations 29 November 2013 regulates the coverage of this property which allows a coverage in this instance of 50% given that the erf is greater than 400 m<sup>2</sup>.</p>

		Subsequently this condition B(c) is a duplication of the Overstrand Zoning Scheme Regulations 2013 and is therefore recommended to be removed.
	(d) That no building shall be erected within 4.72 meters of any street line which forms a boundary of this erf. No building shall be situated within 2.35 meters of the lateral boundary common to any adjoining erf.	<p>Clases 6.1.1, 6.1.1(b)(i), (ii) and (iii) read with Clause 16.1 are applicable.</p> <p>In terms of the property's zoning, Overstrand Zoning Scheme Regulations 29 November 2013 and Overstrand Bylaw on Municipal Land Use Planning 2015 for Residential Zone1: Single Residential (SR1) building lines are managed and controlled by the local authority. Building lines are also managed via the title deed, resulting to duplication in function. Local authorities are specifically authorised to manage land-use resulting that management of land-use (including building lines) are considered outdated.</p> <p>Therefore it is recommended that Condition B(d) be removed and that the building lines in terms of the Overstrand Zoning Scheme Regulations apply.</p>
AS being in favour of the Administrator:	(e) That this erf be not subdivided except with the consent in writing of the Administrator.	<p>Clases 6.1 and 6.1.3 read with the Overstrand Growth Management Strategy 2010 are applicable</p> <p>Subdivision applications are presently regulated in terms of Overstrand Bylaw on Municipal Land Use Planning 2015 and densities are prescribed in terms of the Overstrand Growth Management Strategy 2010. Therefore it is recommended that condition B(e) removed from the title deed and be managed in terms of the Overstrand Zoning Scheme Regulations 29 November 2013 and Overstrand Bylaw on Municipal Land Use Planning 2015.</p>
AS being in favour of the Municipality of Hermanus:	(f) That the owner of this erf shall be obliged to allow the drainage and the sewerage of any other erf or erven to be conveyed over this erf if deemed necessary by the Municipality and in such manner and in such position as may from time to time be reasonably required by the Municipality.	<p>This is a condition taken up in the recent implemented Overstrand By-Law on Municipal Land-Use Planning, 2015, Section 29 reading as follows:</p> <p>"29. Services arising from subdivision</p> <p>Subsequent to the granting of an application for subdivision in terms of this By-law the owner of any land unit originating from the subdivision must--</p> <p>(a) allow without compensation that the following be conveyed across his or her land unit in respect of other land units:</p> <p>(i) gas mains;  (ii) electricity cables;  (iii) telephone cables;  (iv) television cables;  (v) other electronic infrastructure;  (vi) main and other water pipes;  (vii) foul sewers;  (viii) storm water pipes; and  (ix) ditches and channels;</p>

	<p>(b) allow the following on his or her land unit if considered necessary and in the manner and position as may be reasonably required by the Municipality:</p> <p>(i) surface installations such as mini-substations;  (ii) meter kiosks; and  (iii) service pillars;</p> <p>(c) allow access to the land unit at any reasonable time for the purpose of constructing, altering, removing or inspecting any works referred to in paragraphs(a) and (b); and</p> <p>(d) receive material or permit excavation on the land unit as may be required to allow use of the full width of an abutting street and provide a safe and proper slope to its bank necessitated by differences between the level of the street as finally constructed and the level of the land unit, unless he or she elects to build retaining walls to the satisfaction of and within a period to be determined by the Municipality."</p> <p>Subsequently this condition in the said title deed is not necessary anymore and it is recommended that Condition B(f) be removed from the subject title deed.</p>
	<p>This application is therefore <i>inter alia</i> for the removal of clause B(a-f) from the Title Deed no T69108/2011.</p> <p><b>viii. The impact of the proposal on municipal engineering services</b></p> <p>No additional services will be required since the application is to allow for a garage. The proposed structure, following the subject anticipated application support, will have a minimal impact on the civil services in terms of water, sewerage, stormwater, electricity and/or roads.</p> <p><b>ix. Planning Principles</b></p> <p><b>Spatial justice:</b> The proposal is fully spatially justified in terms of the character and use of the land. The removal of title restrictions will result that all land-use matters be dealt with by the local authority and not through the title deed restrictions resulting that the justification of any application be placed under control of the competency of the local authority.</p> <p><b>Spatial sustainability:</b> The proposal will not have a negative effect on the sustainability of the erf or the general area and is therefore consistent with the sustainability criteria.</p> <p><b>Efficiency:</b> The proposed position of the garage is the most efficient place to put the garage since other alternatives will cost more and reduce usability of the property.</p> <p><b>Spatial resilience:</b> The proposal is for a garage and is consistent with the character of the area and market trends and is therefore consistent with the spatial resilience criteria. The proposal will also not cause any nuisance or restriction on any abutting property owners.</p> <p><b>Good administration:</b> The correct process is being followed in terms of the prescribed application procedures and requirements and therefore this application is consistent with the good administration criteria.</p>

## 5. Conclusion

The application as motivated in this report is regarded desirable within its local context and well integrated within the existing community land-use activities. It is therefore recommended that this application made in terms of Chapter IV, Section 16.2, of the Overstrand By-Law on Municipal Land Use Planning 2015 be approved as follows:

- the relaxation of the rear building line to 0m to allow for the proposed garage,
- the relaxation of the eastern side building line to 0m to allow for the proposed garage, &
- the removal of clauses B(a-f) from the Title Deed no T69108/2011.

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Eléne  
Groenewald

(021) 434 8875 STUART INGELYF  
Sulle 202 Waterkloof Gardens  
270 Main Street  
Brooklyn  
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Opgestel deur my

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TRANSPORTBESORGER  
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*R. 650.00*

0069108/2011

## TRANSPORTAKTE

HIERBY WORD BEKEND GEMAAK DAT

ELENE GROENEWALD

voor my verskyn het, REGISTRATEUR VAN AKTES te Kaapstad, hy die genoemde komparant synde behoorlik daartoe gemagtig deur 'n Volmag aan hom verleen deur

GOTTLIEB CHRISTIAN DANIEL CLAASSENS

Identiteitsnommer 300718 5028 08 7

en

HESTER WILHELMINA CLAASSENS

Identiteitsnommer 341005 0012 08 5

Getroud binne gemeenskap van goed met mekaar

DATA / CAPTURE  
2011-12-15  
NCAPAI LINDA

geleken te Pretoria op 23 Oktober 2011

DATA / VERIFY  
10 JAN 2011  
MASIU TAMARA

En genoemde Komparant het verklaar dat sy prinsipaal, op 18 September 2011, waarlik en wettig verkoop by Privaat ooreenkoms, en dat hy, in sy voorgenoemde hoedanigheid hierby sedgeer en transporteer aan en ten gunste van

**Die Trusteers vir die tyd en wyl van KAMMARIEB FAMILIETRUST  
IT2919/2008**

diese Opvolgers in Amp of Regverkrygendes, in volkome en vrye eiendom

ERF 238 HERMANUS IN DIE OVERSTRAND MUNISIPALITEIT  
AFDELING CALEDON, PROVINSIE VAN DIE WES-KAAP

GROOT 694 (SES HONDERD VIER EN NEGENTIG) Vierkante Meter

AANVANKLIK OORGEDRA kragtens Transportakte Nummer T 5611/1938 met  
kaart Nr. 7037/1937 wat daarop betrekking het en gehou kragtens Transportakte  
Nummer T10055/1983

A. ....

- B. ONDERHEWIG verder aan die volgende spesiale voorwaardes vervat in gemelde Transportakte Nr T 5611/1938 opgelê deur die Administrateur van die Kaapprovinsie by goedkeuring van Hermanus dorp uitbreiding Nr 2, kragtens die bepaling van Artikel 18(3) van Ordonansie 33 van 1934 synde ten gunste van die geregistreerde eienaar van enige erf en gemelde dorp, en onderhewig aan wysiging of verandering deur die Administrateur naamlik:

- (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 not more than half the area of this erf be build upon.
- (d) That no building shall be erected within 4.72 meters of any street line which forms a boundary of this erf. No building shall be situated within 2.35 meters of the lateral boundary common to any adjoining erf.

AS being in favour of the Administrator:

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

AS being in favour of the Municipality of Hermanus:

- (f) That the owner of this erf shall be obliged to allow the drainage and sewerage of any other erf or erven to be conveyed over this erf if deemed necessary by the Municipality and in such manner and in such position as may from time to time be reasonably required by the Municipality.\*

- C. NIE ONDERHEWIG aan voorwaarde A op Bladsy 2 van Titelskete Nommer T10056/1983 kragtens Artikel 53 van die Nynlidel Regte Registrasie Wysiging van Wet 24 van 2003.

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

**GOTTLIEB CHRISTIAN DANIEL CLAASSENS en HESTER WILHELMINA CLAASSENS, Getroud soos vermeld**

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

Die Trustees vir die tyd en wyl van **KAMMARIEB FAMILIETRUST IT2919/2008**

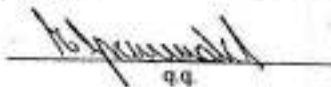
diese Opvolgers in lital of Regverkrygendes, tans en voortaan daartoe geregtig is, ooreenkomstig plaaslike gebruik, behoudens die regte van die Staat en ten slotte erken hulle dat die verkoopprijs die bedrag van R1 200 000,00 (Een Miljoen Twee Honderd Duisend Rand) beloop.

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

7 Desember

2011

  
g.g.

In my teenwoordigheid

  
REGISTRATEUR VAN AKTES



**JORDAAN, DU TOIT &** Kie  
 ATTORNEYS & CONVEYANCERS Co  
 PROKUREURS & AKTEBESORERS

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Your Ref / U Verw:

Our Ref / Ons Verw: DGM

11 August 2017



TR A Thant  
 CH Olivier

The Municipal Manager  
 Overstrand Municipality

[loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

Dear Sir / Madam

**NOTICE OF OBJECTION TO REMOVAL OF RESTRICTIVE CONDITIONS  
 ERF 238 WESTCLIFF, HERMANUS**

I refer to the Notice in terms of Section 47 read with Sections 16(2)(f) and 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning 2015, dated 30 June 2017 as received from Interactive Town & Regional Planning and the application motivation as contained in paragraph 4 (i-ix) and 5 thereof.

I hereby give you notice in terms of Section 52 of the Overstrand Municipality By-Law on Municipal Land Use Planning 2015 that:

- I object to the removal of the restrictive conditions as contained in paragraph B(a) - (f) in Deed of Transfer T 69108/2011;
- I consent to the relaxation of the second part of the condition contained in paragraph B(b) in Deed of Transfer T69108/2011 specifically to allow "a departure to relax the rear building line with erf 237 from 2m to 0m and the eastern lateral building line with erf 235 from 2m to 0m to accommodate a proposed new triple garage".

In compliance with the requirements set out in Section 52(3) I state as follows:

- (3)(a) My full names are: David Gideon Jordaan, the co-owner of Erf 239 HERMANUS Westcliff (I am acting in my personal capacity and in my capacity as executor of the Estate of the late Esthe Margartha Jordaan)

PARTNERSKAPSWITTE-  
 DAVID JORDAAN B Proc, Pear Grad Dip Tax, B Coe (Finc) Trustee  
 ANITA DU TOIT BLC L&R

FILE NO:	EL 238
	Hermanus
SCAN NO:	
COLLABORATOR NO:	1064553

TR 1 - 2017 - 11

- (b) My contact details are as follows:  
 e-mail: david@jordan-duit.com  
 address for notice or service of documents  
 P O Box 5271  
 Cape Town  
 8000  
 Cell phone number : 0716821227
- (c) I am the co-owner of Erf 239 HERMANUS, Westcliff, the property situated next to the eastern border of the applicant's property.

Please note that in compliance with Section 52(4)(a)-(c) of the Overstrand Municipality By-Law on Municipal Land Use Planning 2015 the undermentioned paragraph A and B should be read as a whole:

- A. 1. In South African Property Law (see also Section 25 of the Constitution) the rights of property owners are protected by our Deeds Registries system whereby title deeds are registered in the name of the land owner containing apart from the relevant information regarding the owner, property description etc. also all the rights and encumbrances benefitting or burdening the land. Prædial or personal servitudes or other restrictive conditions are contained or newly imposed in the title deeds. These servitudes and conditions are contained in each successive transfer deed. In this instance restrictive title deed conditions are contained in Deed of Transfer T69108/2011 applicable to Erf 238 Westcliff.
2. The main argument as set out in the Notice and Motivation Application and which is repeated as the motivation for the removal of each listed condition is that "Clause B(e-f) on Title Deed T69108/2011 are inconsistent with the provisions of the Overstrand Zoning Scheme Regulations 2013 and the Overstrand Bylaw on Municipal Land Use Planning" (see page 14 of application) it is my submission that this argument and reasoning is flawed, which I will endeavour to show in the paragraphs that follow.
3. The only proposed development that is currently being applied for is the erection of a 48m<sup>2</sup> garage meant to accommodate three vehicles on the north-western corner of the erf. The application for the removal of all the other title deed restrictions as contained in paragraph B(a-f) of the said title deed (apart from clause(d)) is being applied for without the applicant stating what the proposed development on the property would be or what the applicant's application is intended for.
4. In the light of the above it is my respectful submission that the municipality is not in a position to consider or apply the criteria as set out in Section 35(4) of the Overstrand Municipality By-Law on Municipal Land Use Planning 2015, when considering the removal of restrictive conditions by reason of the applicant not stating what the intended

development on Erf 238 Westcliff at this stage would be. Accordingly, I am in the very difficult situation to try and envisage how possible developments in the future of which I have no detail or any information will impact on my property or myself and which I have to motivate in terms of Section 52(a)-(c) and Section 35 of the said By-Law: i.e. financially (in terms of clause 4(a) of the By-Law) as owner of the dominant tenement, clause 4(b) and (c) personal benefits which will accrue to me or to the applicant seeking the removal, the social benefit especially for the removal of the condition as stated in clause 4(e) (I have no information on what is intended or what the social benefit would be). Thus, I am not in a position to reply to the criteria as set out in Section 35 for this very reason.

5. The application is for a blanket removal of all the restrictive title conditions without the applicant disclosing what his intentions or proposals are.
6. I shall now deal with the restrictive conditions as contained in paragraph B (a-f) in Deed of Transfer T69108/2011:

The preamble reads as follows:

"B. ONDERHEWIG verder aan die volgende spesiale voorwaardes vervat in gemeelde Transportakte Nr T5611/1938 opgelê deur die Administrateur van die Kaapprovinsie by goedkeuring van Hermanus dorp uitbreiding Nr 2, kragtens die bepaling van Artikel 18(3) van Ordinaasie 33 v 1934 synde ten gunste van die geregistreerde menaar van enige erf en gemeelde dorp, en onderhewig aan wysiging of verandering deur die Administrateur...."

The preamble states clearly that the conditions are imposed in favour of the registered owners of all the erven in the township. Accordingly, the conditions are praedial in nature as they bind successors in title. Each erf is simultaneously a dominant and a servient tenement. If one has regard for the history of conveyancing practice and property law in South Africa and also consider case law it is trite law that title deed conditions have precedence over zoning regulations and that title deed conditions are the strongest safeguard for property owners to protect their property rights. Hence, historically and currently all the legislation and procedures prescribed in order to protect these conditions contained in deeds of transfer.

In his judgment of 29 March 2008 (under case number 144/07), Froneman J held the following in paragraph 21:

*"The title deed conditions are registered not only against the neighbouring property title, but also against the title deeds of a number of properties in the Summerstrand area. There is no dispute between the parties about their legal nature. They are praedial servitudes that ensue for the benefit of all other erven in the designated area. Each erf is simultaneously both a servient tenement and a dominant tenement. It is servient in the sense of being encumbered by the title deed condition in favour of all the other similar erven, and dominant in the sense of being favoured by the title deed condition in respect of the other similar erven."*

7. The Town Planner mistakenly motivates the application for the removal of the restrictive conditions on the basis that "Clause B (a-f) on title deed T69108/2011 are inconsistent with the provisions of the zoning Scheme and the planning bylaw." and "This will eliminate all inconsistencies between the title deed, Overstrand Zoning Scheme Regulations 29 November 2015 and Overstrand Bylaw on Municipal Land Use Planning 2015 and will make application procedures more efficient and cost effective without compromising any public participation(See page 14 of Notice and Application motivation).

In *Camps Bay Ratepayers and Residents Association and Others v Minister of Planning, Culture and Administration Western Cape, and Others*[2001(4)SA294] Griesel J had the following to say about branding title deed conditions as relics 'of the past' and abolishing them in favour of the applicable zoning scheme:

*'However, this is not the philosophy of the [Removal] Act and it was inappropriate and irregular for the Minister to have allowed himself to be swayed by this consideration. In my view the Ministers' approach in this regard is fundamentally unsound'.*

In *Van Rensburg NO and Another v MEC for Housing, Local Government and Traditional Affairs, Eastern Cape Province and Others* (3399/2010, 3498/2010) it was stated by the learned Judge that a zoning scheme as a matter of law does not override title deed restrictions.

8. Furthermore, if the restrictive conditions were imposed in favour of the owners in the Hermanus township, extension Nr 2, with reciprocal rights and obligations as owners of dominant and servient tenements surely application should be made for the removal of all the restrictive conditions from all the title deeds from all the owners of the erven in the said township that were referred to in the aforesaid preamble if the motivation is to bring title deeds to "allow the Overstrand Zoning Scheme to its full right of purpose" (page 15 of Notice and Application). All the erven in the said township have the benefit of the conditions. Why should the conditions be removed only from the applicant's property which would directly impact on my own property without me knowing what the applicant's intentions are? Whilst my own title still contain all the conditions which the applicant can still enforce against my property?
9. I am accordingly of the opinion that should the applicant wish to develop his property further in future which the said conditions might hinder or prohibit, application should be made to the local authority at that future time with a detailed proposal when it arises, with a detailed proposal and plans to enable the municipality to properly assess the application and to apply the criteria as set out in Section 35 (4) and which would enable me then as owner of Erf 239 Westcliff to properly assess the impact and motivate my consent or objection.

Please note that in order to comply with Section 35(4) of the abovementioned Overstrand Municipal By-Law which refer to the criteria that the municipality apply when considering the application, there is a reference to each subsection in the paragraphs that follow. However this should be read as a whole and in conjunction with paragraph A above and also in compliance with Section 52(4)(a)-(c).

B. Although It is my opinion that the Municipality is not in a position to evaluate the application in terms of the criteria set out in Section 35 (4) Overstrand Municipality By-Law on Municipal Land Use Planning 2015 and also Section 39(5) of the Land Use Planning Act 2014 (also Section 47 of Spatial Planning and Land Use Management Act 26 of 2013, I shall proceed to motivate my objection in terms thereof. (Please however be mindful of the fact that I cannot motivate my objections fully as I have no information whatsoever what the proposals in future would be)

**1. Restrictive condition - Clause B(a) in Deed of Transfer T69108/2011- "That this erf be used for residential purposes only."**

My property has been in our family for almost 40 years. My parents retired there and when they bought the property they wanted to live close to the sea in a quiet residential area. The property is located close to a green belt, near the footpaths to the new harbour. The unique character and setting appealed to them. It is my wish that the property will stay in our family for my 2 sons and I intend to live there permanently with my wife. It is my wish that the area would preserve the quiet residential character which was the reason it was purchased in the first place. It would severely impact on me financially should the amenity and character of the area right next to me is not protected, and furthermore the uncertainty of not knowing what is planned or having any detail or information. It would certainly devalue the property should the residential condition be removed. Future buyers would not purchase the property if they knew the said condition was removed from the title deed of the neighbouring property. Uncertainty of what would be proposed in the future would put prospective buyers off. (Financial value of the right- Section 35(4)(a))

**Section 35(4) criteria:**

- (With reference to the motivation relating to clause B(a)- I will experience financial and other value loss. The dwelling house of the applicant is built very close to the border of our property and is a double storey. We already have diminished privacy on the west side of our property due to the applicant's property being built so close to the border and being a double storey. My property value, quality of life and privacy will be impacted on if, for example, a day care centre is opened or guest rooms etc.
- The personal benefits of the restrictive condition is the peace, enjoyment, quality of life to know that I can live in a quiet residential area, enjoy the privacy that is left to enjoy on the property (see above) Personal benefits i.to restrictive condition -Section 35(4)(b)

- I am not able to assess the personal benefits that will accrue to the applicant should the restriction be removed as I do not know what the future developments will be. They will enjoy the knowledge that they may proceed with any application in future without any title deed restrictions. This is most worrisome as the title deeds in this township specifically protects registered owners with the restrictive reciprocal conditions. The applicant will still enjoy the benefit of the exact same conditions over my property. -Section 35(4)(c)
- The social benefit of the condition remaining is that the character of the residential coastal town area is preserved. The greenbelt area will keep its character close to the footpaths. It is an area frequented by tourists for the footpaths and the area will keep its appeal as being residential. It will benefit and protect the other residential owners and the larger town as a coastal destination where effort is made to preserve the character.-Section 35(4)(c)
- Title deed restrictions are for the reciprocal benefit of all the owners in a general township scheme- Section 35(4)(e)
- I submit this application is for a blanket removal of all the restrictive conditions contained in Deed of Transfer T69108/2011. (Section 35(4)(f).

**2. Restrictive condition - Clause B(b) - "That only one dwelling together with such outbuildings as are ordinarily required to be used therewith be erected on this erf.**

It is my submission that the condition is very important for the preservation of the character of the area as a single residential sea-side suburb. One asks oneself why was this condition imposed? My property currently has the protection of the restrictive condition in the neighbour's title deeds which was specifically imposed for the benefit of the owners of the township. If a second dwelling is allowed on this erf, it will severely impact on the enjoyment of my property and further impact on diminished privacy. It is my submission that the erf is not big enough at all with the erection of three garages for the erection of a second dwelling as well. It will be far too dense with too many people living on one erf in a township where there are specific title restrictions prohibiting a second dwelling.

**Section 35(4) criteria:**

- S35(4)(a)- it will financially impact on the value of my property (see above)
- S35(4)(b)- the personal benefits that accrue to myself and other neighbours are that the character of the area are preserved. The erven in Westcliff have been laid out as erven for permanent or holiday homes in a coastal town close to the sea. It would certainly spoil the feel and atmosphere of the area. I currently have a title deed condition protecting my rights in this regard.
- S35(4)(c)- allowing the removal of this condition will allow the applicant to erect a second dwelling which will impact severely on myself (for reasons stated above) but will also simultaneously impact on the rights of my and other properties for whose benefit that restriction was originally intended.

- S35(4)(d)- the social benefit of the condition staying in place is that the neighbourhood will preserve its character for everybody in the area to be enjoyed. Outdoor and tourist activities can continue in the area where a high density area in such close proximity to a green belt and tourist attractions can adversely affect the area and the bigger town.
- S35(4)(e)- it is my submission that there would be no social benefit other than the personal own interest of the applicant that is advanced if a second dwelling is allowed.
- S35(4)(f)- this is an application for the blanket removal of the restrictive conditions in the said Title deed T69108/2011. It amounts to the complete removal of all my rights whilst the applicant still enjoys the benefit of the restrictive conditions over my property.

3. **Restrictive condition - Clause B (c) --"That no more than half the area of this erf be built upon."**

The condition was imposed for the benefit of all the owners in the township in order to preserve the coastal town character close to the green belt to ensure that it is not too built up and to keep garden areas on the erf.

The argument by the town planner that the zoning regulations allow 50% coverage and that it is a duplication is a flawed as it would be to actually remove title deed conditions with the sole purpose to bring same in line with zoning regulations. Zoning regulations might be changed or altered in the future and then the protection of a title deed restriction which was imposed in all the title deeds of the said township for the benefit of all the owners in order to preserve the character and allow for adequate open spaces and gardens would be removed.

Furthermore, the argument by the town planner that the restrictive condition is a "duplication of the Overstrand Zoning Scheme Regulations" shows a complete disregard for the importance and nature of a title deed restriction which in this case is praedial in nature and binds future owners. I reiterate that the correct procedure would be for the applicant to bring an application for the removal hereof if and when there is a definite proposal for further development.

**Section 35(4) criteria:**

- although the restrictive condition is currently in line with the built upon percentage allowed by the Overstrand Municipality, it impacts on the financial value of my property should the zoning scheme allow a greater percentage to be built upon in future, and myself or future prospective owners will lose the protection of this clause. My property has a certain financial value due to the location, the character, the size of the erf in the vicinity, and all the restrictive conditions that have assisted in preserving the character and atmosphere of the township providing for adequate space for gardens and open areas. (S35(4)(a))
- the personal benefit for myself and my property as well as the neighbouring owners is that the restrictive condition provides for adequate open spaces and garden areas in the township and more specifically the erf next door. It preserves the character of the area close to a green belt in the coastal town. I will have the security of knowing the restrictive condition will prohibit more than 50% built upon in future.(S35(4)(b))

- the applicant would have the added benefit of not being limited to 50% built upon should the zoning regulations be amended in future by the title deed restriction. The applicant is as stated numerous times not disclosing what the proposals in future would be for. (S35(4)(c))
- the social benefit for the restrictive condition to be kept in the said title deed is that for the owners in the area the character of the township will be preserved which allows for the adequate green areas or gardens, especially if the zoning regulations would allow more than 50% in future. This right would be taken away by removing this condition. (S35(4)(d))
- the social benefit if the restrictive condition is removed cannot be ascertained whatsoever. The applicant is also not disclosing what his proposals in future would be. In the event that the zoning scheme regulations would be amended in the future to allow for more than 50% built upon, in the light of not knowing what the proposals are, the municipality cannot apply this criteria. (S35(4)(e))
- S35(4)(f)- this is an application for the blanket removal of the restrictive conditions in the said Title deed T69108/2011. It amounts to the complete removal of all my rights whilst the applicant still enjoys the benefit of the restrictive conditions over my property. This blanket removal should not be allowed in terms of Planning Law (See also Section 39(5) of Land Use Planning Act 3 of 2014 and Section 47 of the Spatial Planning and Land use Management Act 16 of 2013 as well as Section 25 of the Constitution)

**4. Restrictive condition -Clause "B(d) – That no building shall be erected d within 4,72 meters of any street line which forms a boundary of this erf. No building shall be situated within 2,35 metres of the lateral boundary common to any adjoining erf.**

The argument by the town planner is that this condition is "outdated" and that building lines of the zoning scheme regulations should be applied. Once again this argument shows a disregard for the nature of restrictive title deed conditions that have been imposed in deeds of transfer of property owners in South African Deeds Registries.

These conditions dealing with building lines were not only imposed in the applicant's title deed but all other deeds of erven in the township for inter alia the protection of the property owners. It is for the reciprocal benefit of all the owners in the general township scheme.

As stated before the applicant's dwelling is built in close proximity to my house. Furthermore, it is a double storey. Building lines and removal of restrictions in this regard (where I have been protected before by the condition) would directly impact on my property. The applicant also does not reveal future plans for development. Therefore, I am unable to fully assess the impact of the removal of this condition.

I object to the removal of clause B(d) as it reads in Deed of transfer T69108/2011.

However, I hereby consent to allowing a "departure to relax the rear building line with Erf 237 from 2m to 0 m and the eastern lateral building line with erf 235 from 2m to 0m to accommodate a proposed new triple garage"

**Section 35(4) criteria:**

- S35(4)(a)-Should the building lines of my structures be altered in future and be built closer to the boundary of my property it would further impact on my privacy and have an effect on the quality of life experienced on my property. (Please see statements above re proximity of the two dwellings situate on applicants Erf 238 Westcliff and my own Erf 239 Westcliff) If these conditions are removed the applicant could on application to the municipality apply to relax the building line on the lateral western boundary. This would result in a very negative outcome for my property. It would affect me financially and impact on the chances of reselling the property or preserving same for the benefit of my children. S35(4)(b)-The personal benefit that accrue to me in terms of this condition is that I have the certainty that the western boundary will not be built upon even closer to my home and that I can continue to enjoy some (although diminished privacy) and sunlight.
- S35(4)(c)-The personal benefit for the applicant is that they can apply in future for any departures of building lines without having the limitation of a restrictive title condition hindering their plans. This is an important condition of which the removal will impact very negatively on myself. One cannot fully ascertain the benefit as the applicants plans are not disclosed.
- S35(4)(d)- The social benefit of the condition is that the other owners in the township shall enjoy the protection of setback and boundary lines that were originally intended for the township. Which also preserves the character and feel of the township. It is in line with the practice of building on the other erven which have been mutually respected and adhered to by the other owners.
- S35(4)(e)- There is no social benefit whatsoever for the removal of the restriction save that it serves the sole interests of the applicant. There are no details of any proposals for development by the applicant.
- S35(4)(f)- this is an application for the blanket removal of the restrictive conditions in the said Title deed T69108/2011. It amounts to the complete removal of all my rights whilst the applicant still enjoys the benefit of the restrictive conditions over my property. This blanket removal should not be allowed in terms of Planning Law (See also Section 39(5) of Land Use Planning Act 3 of 2014 and Section 47 of the Spatial Planning and Land use Management Act 16 of 2013 as well as Section 25 of the Constitution)

**5. Restrictive condition - Clause B(e) – "That this erf be not subdivided except with the consent in writing of the Administrator"**

The registered owners in the township have a vested interest that erven would not be subdivided into smaller plots that would impact on the lay-out and character of the township. This is an important title condition especially if one has regard to the location of the township in such close proximity to the green belt and the sea. The title condition specifically prohibits the subdivision of the erf, except with the "consent in writing of the Administrator". This condition was imposed, although stated in

favour of the Administrator, also for the protection of the property owners that erven in this area would remain of similar size and be in keeping with the lay-out and character of the area.

It is my submission that the applicant should approach the local authority to apply for subdivision in future if there is a detailed proposal and plan to consider. To remove this title deed condition will have a clear impact on other parties in the area. There is an impact on the registered property rights of the owners and myself without the applicant submitting diagrams, plans or details or information.

In the event that the property would be subdivided, as already stated, my experience of my dwelling is that the applicants double storey next door already impacts on the enjoyment of my property.

Subdivision and the consequent erection of a further dwelling thereon would cause the density to be of such a nature that not only will it impact on the character of the area, but it would be untenable to have habitation of even more people on the said land.

**Section 35(4) criteria:**

- S35(4)(a)- It would affect the financial value of my property should Erf 237 be subdivided. The noise/ traffic/ density (double storey already close to boundary) would impact on privacy, enjoyment and the general character of houses in that street and in the larger township. It will impact severely on the marketability of the property.
- S35(4)(b)- the personal benefit of knowing that the current condition prohibits subdivision causes me to enjoy the property without the fear of a smaller plot next door which is completely not in line with the feel and character of that part of the coastal township. Once again, that area needs to be preserved as it is close to the sea and green belt. It would adversely affect property in that area and also the greater Hermanus if subdivision of traditionally larger erven in that area is allowed.
- S35(4)(c)- Once again the applicant would be able to approach the municipality for subdivision without any hindrances in the event that the restrictive condition that is registered against the title deed is removed.
- S35(4)(d)- the social benefit for the community and the larger area of Hermanus would be that the character and lay-out of the areas especially so close to the sea and green belt is preserved and that the town and its property owners as well as the owners of the Westcliff township can enjoy the coastal town lay-out as intended. It would bring security to know that property rights are protected and that approval of subdivision of erven are not granted easily in areas where this right was specifically protected by way of a registered title condition.
- S35(4)(e)- There are other areas in Hermanus, that are not so close to the sea and green belt that are better suited for densification.
- S35(4)(f)- S35(4)(f)- this is an application for the blanket removal of the restrictive conditions in the said Title deed T6910&2011. It amounts to the complete removal of all my rights whilst the applicant still enjoys the benefit of the restrictive conditions over my property. This blanket removal should not be allowed in terms of Planning Law (See also Section 39(5) of Land Use Planning Act 3 of 2014 and Section 47 of the Spatial Planning and Land use Management Act 16 of 2013 as well as Section 25 of the Constitution)

6. Restrictive condition - Clause B(f) "That the owner of this erf shall be obliged to allow the drainage and sewerage of any other erf or erven to be conveyed over this erf if deemed necessary by the Municipality and in such manner and in such position as may from time to time be reasonably required by the Municipality."

This is a condition that has also been imposed in all the transfer deeds of the township owners. Although it is stated that it is in favour of the Municipality, the land owners have the security of knowing that drainage and sewerage may be conveyed over a neighbouring erf if deemed necessary. The applicant is applying to have this condition removed whilst enjoying the benefit of the right over the servient tenement namely my property. This is a reciprocal condition and removal thereof will have a direct financial impact if I am not allowed to exercise this right.

The preamble of the condition that is being quoted by the town planner as motivation for the removal of this condition namely Section 29 of the Overstrand By-Law on Municipal Land-Use Planning 2015 reads as follows:

"29 Services arising from subdivision S35(4)(f)-

Subsequent to the granting of an application for subdivision in terms of this By-Law the owner of any land unit originating from the subdivision must :....."

It is clear that this section refers to an application for subdivision that was granted in terms of this by-law and only then would it be applicable. I fail to see how this section can be quoted as motivation for the removal of this condition. It is not applicable at all as we are not referring to an Erf that is being subdivided in terms of this By-law at all.

**Section 35(4) criteria:**

-S35(4)(a)- (f) There is no valid motivation for the removal of this condition by the applicant as the argument set forth by the town planner deals with conditions that would apply if the property was subdivided in terms of the By-law, which it was not.

**In conclusion:**

- The Applicant's application for a blanket removal of the restrictions is based mainly on the argument that these conditions are "outdated" and that the property should be "managed" in terms of the Overstrand Zoning Scheme Regulations 29 of 2013 and Overstrand Bylaw on Municipal Land use Planning 2015.

This argument shows a complete disregard for conveyancing practice and property law in general and case law dealing with the history of servitudes, restrictive conditions whether praedial or personal in South Africa.

- I hereby request that the applicant's application for the blanket removal of the restrictive conditions set out in Paragraph B(e)-(f) of deed of Transfer 69108/2011 be dismissed.
- I object to the removal of clause B(d) as it reads in Deed of Transfer T69108/2011.

## ANNEXURE E 12/31

However, I hereby consent to allowing a "departure to relax the rear building line with erf 237 from 2m to 0 m and the eastern lateral building line with erf 235 from 2m to 0m to accommodate a proposed new triple garage".

Yours faithfully

**JORDAAN, DU TOIT & CO**



David Jordaan

ANNEXURE E 13/31

**JORDAAN, DU TOIT & Kie Co**  
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Your Ref / U Verw:

Our Ref / Ons Verw: DGI/ FELTRE HOLDINGS

11 August 2017

The Municipal Manager  
 Overstrand Municipality



[loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

Dear Sir / Madam

**NOTICE OF OBJECTION TO REMOVAL OF RESTRICTIVE CONDITIONS  
 ERF 238 WESTCLIFF, HERMANUS**

I act on behalf of Feltre Holdings (Pty) Ltd, Registration number 1973/001459/07, and more specifically, its Director, Mr Aldo Elisio Rech, who requested me to submit this objection on its behalf.

I refer to the Notice in terms of Section 47 read with Sections 16(2)(f) and 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning 2015, dated 30 June 2017 as received from Interactive Town & Regional Planning and the application motivation as contained in paragraph 4 (i-ix) and 5 thereof.

I hereby give you notice in terms of Section 52 of the Overstrand Municipality By-Law on Municipal Land Use Planning 2015 that:

- My client objects to the removal of the restrictive conditions as contained in paragraph B(a) – (f) in Deed of Transfer T 69108/2011;
- My client consents to the relaxation of the second part of the condition contained in paragraph B(h) in Deed of Transfer T69108/2011 specifically to allow "a departure to relax the rear building line with erf 237 from 2m to 0m and the eastern lateral building line with erf 235 from 2m to 0m to accommodate a proposed new triple garage".

PARTNER/VENNEDIG:  
 DAVID JORDAAN, B Proc, Post Grad Dip Tax, B Com (Hons) Taxation  
 ANITA DU TOIT BLC, LLB

FILE NO:	EL 238
	Hermanus WC ✓
SCAN NO:	
COLLABORATOR NO:	1064539

TR 1: 2017.11.17

In terms of the requirements set out in Section 52(3), my client's details are follows:

1. Felbro Holdings (Pty)Ltd, Registration number 1973/001459/07, the registered owner of ERF 240 HERMANUS
2. e-mail: [aldo@joubertmay.co.za](mailto:aldo@joubertmay.co.za)  
tel. 051-307 3660 (Mr Aldo Redtz)
3. address for notice or service of documents  
P O Box 5271  
Cape Town  
8000

Please note that in compliance with Section 52(4)(a)-(c) of the Overstrand Municipality By-Law on Municipal Land Use Planning 2015 the undermentioned paragraph A and B should be read as a whole:

- A.
1. In South African Property Law (see also Section 25 of the Constitution) the rights of property owners are protected by our Deeds Registries system whereby title deeds are registered in the name of the land owner containing apart from the relevant information regarding the owner, property description etc. also all the rights and encumbrances benefitting or burdening the land. Praedial or personal servitudes or other restrictive conditions are contained or newly imposed in the title deeds. These servitudes and conditions are contained in each successive transfer deed. In this instance restrictive title deed conditions are contained in Deed of Transfer T69108/2011 applicable to Erf 238 Westcliff.
  2. The main argument as set out in the Notice and Motivation Application and which is repeated as the motivation for the removal of each listed condition is that "Clause B(a-f) on Title Deed T69108/2011 are inconsistent with the provisions of the Overstrand Zoning Scheme Regulations 2013 and the Overstrand Bylaw on Municipal Land Use Planning" (see page 14 of application) It is my submission that this argument and reasoning is flawed, which I will endeavour to show in the paragraphs that follow.
  3. The only proposed development that is currently being applied for is the erection of a 48m<sup>2</sup> garage meant to accommodate three vehicles on the north-western corner of the erf. The application for the removal of all the other title deed restrictions as contained in paragraph B(a-f) of the said title deed [apart from clause(d)] is being applied for without the applicant stating what the proposed development on the property would be or what the applicant's application is intended for.

4. In the light of the above it is my client's respectful submission that the municipality is not in a position to consider or apply the criteria as set out in Section 35(4) of the Overstrand Municipality By-Law on Municipal Land Use Planning 2015, when considering the removal of restrictive conditions by reason of the applicant not stating what the intended development on Erf 238 Hermannus, Westcliff at this stage would be. Accordingly, my client is in the very difficult situation to try and envisage how possible developments in the future of which it has no detail will impact on its property.
5. The application is for a blanket removal of all the restrictive title conditions without the applicant disclosing what his intentions or proposals are.
6. I shall now deal with the restrictive conditions as contained in paragraph B (a-f) in Deed of Transfer T69108/2011:

The preamble reads as follows:

"B. ONDERHEWIG verder aan die volgende spesiale voorwaardes vervat in gemelde Transportakte Nr T5611/1938 opgedel deur die Administrateur van die Kaapprovinsie by goedkeuring van Hermannus dorp uitbreiding Nr 2, kragtens die bepalings van Artikel 18(3) van Ordinasie 33 v 1934 synde tes gunste van die geregistreerde eienaar van enige erf en gemelde dorp, en onderhewig aan wysiging of verandering deur die Administrateur: ..."

The preamble states clearly that the conditions are imposed in favour of the registered owners of all the erven in the township. Accordingly, the conditions are praedial in nature as they bind successors in title. Each erf is simultaneously a dominant and a servient tenement. If one has regard for the history of conveyancing practice and property law in South Africa and also consider case law it is trite law that title deed conditions have precedence over zoning regulations and that title deed conditions are the strongest safeguard for property owners to protect their property rights. Hence, historically and currently all the legislation and procedures prescribed in order to protect these conditions contained in deeds of transfer.

In his judgment of 29 March 2008 (under case number 1440/07), Froneman J held the following in paragraph 21:

*"The title deed conditions are registered not only against the neighbouring property title, but also against the title deeds of a number of properties in the Summerstrand area. There is no dispute between the parties about their legal nature. They are praedial servitudes that exist for the benefit of all other erven in the designated area. Each erf is simultaneously both a servient tenement and a dominant tenement. It is servient in the sense of being encumbered by the title deed condition in favour of all the other similar erven, and dominant in the sense of being favoured by the title deed condition in respect of the other similar erven."*

7. The Town Planner mistakenly motivates the application for the removal of the restrictive conditions on the basis that "Clause B (a-f) on title deed T69108/2011 are inconsistent with the provisions of the zoning Scheme and the planning bylaw." and "This will eliminate all inconsistencies between the title deed, Overstrand Zoning Scheme Regulations 29 November 2013 and Overstrand Bylaw on Municipal Land Use Planning 2015 and will make application procedures more efficient and cost effective without compromising any public participation(See page 14 of Notice and Application motivation).

In *Camps Bay Ratepayers and Residents Association and Others v Minister of Planning, Culture and Administration Western Cape, and Others* [2001(4)SA294] Griesel J had the following to say about branding title deed conditions as relics 'of the past' and abolishing them in favour of the applicable zoning scheme:

*'However, this is not the philosophy of the [Removal] Act and it was inappropriate and irregular for the Minister to have allowed himself to be swayed by this consideration. In my view the Minister's approach in this regard is fundamentally unsound'.*

In *Van Rensburg NO and Another v MEC for Housing, Local Government and Traditional Affairs, Eastern Cape Province and Others* (3399/2010, 3498/2010) it was stated by the learned Judge that a zoning scheme as a matter of law does not override title deed restrictions.

8. Furthermore, if the restrictive conditions were imposed in favour of the owners in the Hermanus township, extension Nr 2, with reciprocal rights and obligations as owners of dominant and servient tenements surely application should be made for the removal of all the restrictive conditions from all the title deeds from all the owners of the erven in the said township that were referred to in the aforesaid preamble if the motivation is to bring title deeds to "allow the Overstrand Zoning Scheme to its full right of purpose" (page 15 of Notice and Application). All the erven in the said township have the benefit of the conditions. Why should the conditions be removed only from the applicant's property which would directly impact on my client's property without my client knowing what the applicant's intentions are? Whilst my client's own title still contains all the conditions which the applicant can still enforce against my client's property?
9. My client is of the view that should the applicant wish to develop his property further in future which the said conditions might hinder or prohibit, application should be made to the local authority at that future time with a detailed proposal when it arises, with a detailed proposal and plans to enable the municipality to properly assess the application and to apply the criteria as set out in Section 35 (4) and which would enable my client then as owner of Erf 240 Westcliff to properly assess the impact and motivate it's consent or objection.

Please note that in order to comply with Section 35(4) of the abovementioned Overstrand Municipal By-Law which refer to the criteria that the municipality apply when considering the application, there is a reference to each subsection in the paragraphs that follow. However this should be read as a whole and in conjunction with paragraph A above and also in compliance with Section 52(4)(a)-(c).

B. Although it is my opinion that the Municipality is not in a position to evaluate the application in terms of the criteria set out in Section 35 (4) Overstrand Municipality By-Law on Municipal Land Use Planning 2015 and also Section 39(5) of the Land Use Planning Act 2014 (also Section 47 of Spatial Planning and Land Use Management Act 26 of 2013, I shall proceed to motivate my client's objection in terms thereof:

1. **Restrictive condition - Clause B(a) in Deed of Transfer T69108/2011- "That this erf be used for residential purposes only."**

The property is located close to a green belt, near the footpaths to the new harbour. The unique character and setting appealed to my client. It is my client's wish that the area would preserve the quiet residential character which was the reason it was purchased in the first place. It would severely impact on my client financially should the amenity and character of the area is not protected, and furthermore the uncertainty of not knowing what is planned or having any detail or information. It would certainly devalue the property should the residential condition be removed. Future buyers would not purchase the property if they know the said condition was removed from the title deed of a neighbouring property. Uncertainty of what would be proposed in the future would put prospective buyers off. (Financial value of the right- Section 35(4)(a))

**Section 35(4) criteria:**

- My client's property value, quality of life and privacy will be impacted on if, for example, a day care centre is opened or guest rooms etc.
- The personal benefits of the restrictive condition is the peace, enjoyment, quality of life to know that my client can live in a quiet residential area, enjoy the privacy on the property. (see above) Personal benefits i.t.o restrictive condition –Section 35(4)(b)
- My client is not able to assess the personal benefits that will accrue to the applicant should the restriction be removed as it does not know what the future developments will be. They will enjoy the knowledge that they may proceed with any application in future without any title deed restrictions. This is most worrisome as the title deeds in this township specifically protects registered owners with the restrictive reciprocal conditions. The applicant will still enjoy the benefit of the exact same conditions over my client's property. –Section 35(4)(c)
- The social benefit of the condition remaining is that the character of the residential coastal town area is preserved. The greenbelt area will keep its character close to the footpaths. It is an area frequented by tourists for the footpaths and the area will keep its appeal as being residential. It will benefit and protect the other residential owners and the larger town as a coastal destination where effort is made to preserve the character. –Section 35(4)(d)

- Title deed restrictions are for the reciprocal benefit of all the owners in a general township scheme- Section 35(4)(e)
- I submit this application is for a blanket removal of all the restrictive conditions contained in Deed of Transfer T69108/2011. (Section 35(4)(f).

2. **Restrictive condition - Clause B(b) – “That only one dwelling together with such outbuildings as are ordinarily required to be used therewith be erected on this erf.**

It is my submission that the condition is very important for the preservation of the character of the area as a single residential sea-side suburb. One asks oneself why was this condition imposed? My client's property currently has the protection of the restrictive condition in the neighbour's title deeds which was specifically imposed for the benefit of the owners of the township. If a second dwelling is allowed on this erf, it will severely impact on the enjoyment of my client's property and further impact on diminished privacy. It is my submission that the erf is not big enough at all with the erection of three garages for the erection of a second dwelling as well. It will be far too dense with too many people living on one erf in a township where there are specific title restrictions prohibiting a second dwelling.

**Section 35(4) criteria:**

- S35(4)(a)- it will financially impact on the value of my client's property (see above)
  - S35(4)(b)-the personal benefits that accrue to my client and other neighbours are that the character of the area are preserved. The erven in Westcliff have been laid out as erven for permanent or holiday homes in a coastal town close to the sea. It would certainly spoil the feel and atmosphere of the area.
  - S35(4)(c)- allowing the removal of this condition will allow the applicant to erect a second dwelling which will impact negatively on my client (for reasons stated above) but will also simultaneously impact on the rights of other properties for whose benefit that restriction was originally intended.
  - S35(4)(d)- the social benefit of the condition staying in place is that the neighbourhood will preserve its character for everybody in the area to be enjoyed. Outdoor and tourist activities can continue in the area where a high density area in such close proximity to a green belt and tourist attractions can adversely affect the area and the bigger town.
  - S35(4)(e)- it is my submission that there would be no social benefit other than the personal own interest of the applicant that is advanced if a second dwelling is allowed.
  - S35(4)(f)- this is an application for the blanket removal of the restrictive conditions in the said Title deed T69108/2011. It amounts to the complete removal of all my client's rights whilst the applicant still enjoys the benefit of the restrictive conditions over my client's property.
3. **Restrictive condition - Clause B (c) – “That no more than half the area of this erf be built upon.”**

The condition was imposed for the benefit of all the owners in the township in order to preserve the coastal town character close to the green belt to ensure that it is not too built up and to keep garden areas on the erven.

The argument by the town planner that the zoning regulations allow 50% coverage and that it is a duplication is a flawed as it would be to actually remove title deed conditions with the sole purpose to bring same in line with zoning regulations. Zoning regulations might be changed or altered in the future and then the protection of a title deed restriction which was imposed in all the title deeds of the said township for the benefit of all the owners in order to preserve the character and allow for adequate open spaces and gardens would be removed.

Furthermore, the argument by the town planner that the restrictive condition is a "duplication of the Overstrand Zoning Scheme Regulations" shows a complete disregard for the importance and nature of a title deed restriction which in this case is praedial in nature and binds future owners. I reiterate that the correct procedure would be for the applicant to bring an application for the removal hereof if and when there is a definite proposal for further development.

**Section 35(4) criteria:**

- although the restrictive condition is currently in line with the built upon percentage allowed by the Overstrand Municipality, it impacts on the financial value of my property should the zoning scheme allow a greater percentage to be built upon in future, and myself or future prospective owners will lose the protection of this clause. My client's property has a certain financial value due to the location, the character, the size of the erven in the vicinity, and all the restrictive conditions that have assisted in preserving the character and atmosphere of the township providing for adequate space for gardens and open areas. (S35(4)(a))
- the personal benefit for my client property as well as the neighbouring owners is that the restrictive condition provides for adequate open spaces and garden areas in the township. It preserves the character of the area close to a green belt in the coastal town. My client will have the security of knowing the restrictive condition will prohibit more than 50% built upon in future.(S35(4)(b))
- the applicant would have the added benefit of not being limited to 50% built upon should the zoning regulations be amended in future by the title deed restriction. The applicant is as stated before not disclosing what the proposals in future would be for. (S35(4)(c))
- the social benefit for the restrictive condition to be kept in the said title deed is that for the owners in the area the character of the township will be preserved which allows for the adequate green areas or gardens, especially if the zoning regulations would allow more than 50% in future. This right would be taken away by removing this condition. (S35(4)(d))
- the social benefit if the restrictive condition is removed cannot be ascertained whatsoever. The applicant is not disclosing what his proposals in future would be. In the event that the zoning scheme regulations would be amended in the future to allow for more than 50% built upon, in the light of not knowing what the proposals are, the municipality cannot apply this criteria. (S35(4)(e))
- S35(4)(f)- this is an application for the blanket removal of the restrictive conditions in the said Title deed T69108/2011. It amounts to the complete removal of all my client's rights whilst the applicant still enjoys the benefit of the restrictive conditions over my client's property. This blanket removal should not be allowed in terms of Planning Law (See also

Section 39(5) of Land Use Planning Act 3 of 2014 and Section 47 of the Spatial Planning and Land use Management Act 16 of 2013 as well as Section 25 of the Constitution)

4. Restrictive condition -Clause "B(d) – That no building shall be erected d within 4,72 meters of any street line which forms a boundary of this erf. No building shall be situated within 2,35 metres of the lateral boundary common to any adjoining erf.

The argument by the town planner is that this condition is "outdated" and that building lines of the zoning scheme regulations should be applied. This argument shows a disregard for the nature of restrictive title deed conditions that have been imposed in deeds of transfer of property owners in South African Deeds Registries.

These conditions dealing with building lines were not only imposed in the applicant's title deed but all other deeds of even in the township for inter alia the protection of the property owners. It is for the reciprocal benefit of all the owners in the general township scheme.

My client objects to the removal of clause B(d) as it reads in Deed of transfer T69108/2011.

However, my client consents to allowing a "departure to relax the rear building line with Erf 237 from 2m to 0 m and the eastern lateral building line with erf 235 from 2m to 0m to accommodate a proposed new triple garage"

**Section 35(4) criteria:**

- S35(4)(c)-The personal benefit for the applicant is that they can apply in future for any departures of building lines without having the limitation of a restrictive title condition hindering their plans. This is an important condition of which the removal will impact very negatively on my client. One cannot fully ascertain the benefit as the applicants plans are not disclosed.
- S35(4)(d)- The social benefit of the condition is that the other owners in the township shall enjoy the protection of setback and boundary lines that were originally intended for the township. Which also preserves the character and feel of the township. It is in line with the practice of building on the other erven which have been mutually respected and adhered to by the other owners.
- S35(4)(e)- There is no social benefit whatsoever for the removal of the restriction save that it serves the sole interests of the applicant. There are no details of any proposals for development by the applicant.
- S35(4)(f)- this is an application for the blanket removal of the restrictive conditions in the said Title deed T69108/2011. It amounts to the complete removal of all my client's rights whilst the applicant still enjoys the benefit of the restrictive conditions over my client's property. This blanket removal should not be allowed in terms of Planning Law (See also Section 39(5) of Land Use Planning Act 3 of 2014 and Section 47 of the Spatial Planning and Land use Management Act 16 of 2013 as well as Section 25 of the Constitution)

5. Restrictive condition - Class B(c) - "That this erf be not subdivided except with the consent in writing of the Administrator"

The registered owners in the township have a vested interest that erven would not be subdivided into smaller plots that would impact on the lay-out and character of the townships. This is an important title condition especially if one has regard to the location of the township in such close proximity to the green belt and the sea. The title condition specifically prohibits the subdivision of the erf, except with the "consent in writing of the Administrator". This condition was imposed, although stated in favour of the Administrator, also for the protection of the property owners that erven in this area would remain of similar size and be in keeping with the lay-out and character of the area.

It is my submission that the applicant should approach the local authority to apply for subdivision in future if there is a detailed proposal and plan to consider. To remove this title deed condition will have a clear impact on other parties in the area. There is an impact on the registered property rights of the owners and my client without the applicant submitting diagrams, plans or details or information.

Subdivision and the consequent erection of a further dwelling thereon would cause the density to be of such a nature that not only will negatively impact on the character of the area.

Section 35(4) criteria:

- S35(4)(a)- It would affect the financial value of my client's property should Erf 237 be subdivided. The noise/ traffic/ density would impact on privacy, enjoyment and the general character of houses in the area and in the larger township. It will impact negatively on the marketability of my client's the property.
- S35(4)(b)- the personal benefit of knowing that the current condition prohibits subdivision causes my client to enjoy the property without the fear of a smaller plots in the area which is not in line with the feel and character of that part of the coastal township. Once again, that area needs to be preserved as it is close to the sea and green belt. It would adversely affect property in that area and also the greater Hermanus if subdivision of traditionally larger erven in that area is allowed.
- S35(4)(c)- Once again the applicant would be able to approach the municipality for subdivision without any hindrances in the event that the restrictive condition that is registered against the title deed is removed.
- S35(4)(d)- the social benefit for the community and the larger area of Hermanus would be that the character and lay-out of the areas especially so close to the sea and green belt is preserved and that the town and its property owners as well as the owners of the Westcliff township can enjoy the coastal town lay -out as intended. It would bring security to know that property rights are protected and that approval of subdivision of erven are not granted easily in areas where this right was specifically protected by way of a registered title condition.
- S35(4)(e)- There are other areas in Hermanus, that are not so close to the sea and green belt that are better suited for densification.
- S35(4)(f)- S35(4)(f)- this is an application for the blanket removal of the restrictive conditions in the said Title deed T69108/2011. It amounts to the complete removal of all my client's rights whilst the applicant still enjoys the benefit of the restrictive conditions over my property. This

blanket removal should not be allowed in terms of Planning Law (See also Section 39(5) of Land Use Planning Act 3 of 2014 and Section 47 of the Spatial Planning and Land use Management Act 16 of 2013 as well as Section 25 of the Constitution)

In conclusion:

- The Applicant's application for a blanket removal of the restrictions is based mainly on the argument that these conditions are "outdated" and that the property should be "managed" in terms of the Overstrand Zoning Scheme Regulations 29 of 2013 and Overstrand Bylaw on Municipal Land use Planning 2015.  
This argument shows a complete disregard for conveyancing practice and property law in general and case law dealing with the history of servitudes, restrictive conditions whether praedial or personal in South Africa.
- I hereby request on behalf of my client, that the applicant's application for the blanket removal of the restrictive conditions set out in Paragraph B(a)-(f) of deed of Transfer 69108/2011 be dismissed.
- My client objects to the removal of clause B(d) as it reads in Deed of Transfer T69108/2011.

However, my client hereby consents to allowing a "departure to relax the rear building line with Erf 237 from 2m to 0 m and the eastern lateral building line with erf 235 from 2m to 0m to accommodate a proposed new triple garage".

Yours faithfully

**JORDAAN, DU TOIT & CO**



David Jonhson

TP- A Theart  
CH Olivier



**OBJECTION AGAINST APPLICATION FOR BUILDING LINE DEPARTURE AND  
REMOVAL OF TITLE DEED RESTRICTIONS: ERF 238, WESTCLIFF, HERMANUS**

I, the undersigned,

**LIESL HAWKINS**

Declare as follows.

1. I am an adult female and South African citizen with identity number 8311120084085. I can be contacted on 084 619 7942.
2. I reside at 292 Beach Road, Rapallo, Sea Point, and consider the Western Cape as my permanent residence.
3. I am the registered owner of Erf 235, situated adjacent to Erf 238, Westcliff, Hermanus.
4. I have read the application by the owner of Erf 238 for the building line departure and removal of restrictive title restrictions and wish to object to the approval thereof. My objection is based on the following grounds of law and or objective facts.
  - 4.1 The access gate to the proposed garages on Erf 238 is located on my property, Erf 235. The grey bricks in annexure "LH1-3" reflect my property and confirms this.

FILE NO:	E2 238
SCAN NO:	Hermanus
COLLABORATOR NO:	1064003

TP

L. Hawkins

- 4.2 Since taking ownership of Erf 235, my husband has made various attempts to enter into negotiations with the owner of Erf 238 to lease alternatively buy the portion of our Erf, which gives him access to his proposed garages, without success.
- 4.3 He can therefore only access his property and proposed garages through my property and the existing gate, which is partly illegally erected and located on my property. See annexure "LH2". Access to his proposed garages without using a portion of my property, can only be achieved once he removes the illegal gate anchor pillar and gate and erects an access gate, exclusively on his property.
- 4.4 I anticipate that the owner of Erf 238 might allege that a right of way has vested giving him access to the proposed garages, due the alleged continuous use of the portion of the driveway, situated on my property, over a certain period of time and by virtue of alleged oral consent by my predecessors in title.
- 4.5 I dispute that a servitudal right or right of ownership has vested with the owner of Erf 238. The mere allegation that he has allegedly used or possessed that portion of my property for a certain period of time does not per se mean that he has acquired a prescriptive title to ownership or a servitudal right over my Erf.
- 4.6 I wish to point out that no such right has been registered over my property nor has my title deed been endorsed to make provision for such a right by the owner of Erf 238.
- 4.7 Even if he is able prove that he has used or possessed that portion

of my property for an uninterrupted period of 30 years, which I dispute, there are other requirements in law which I submit, he has not met.

- 4.8 In previous correspondence he has stated that his alleged right of way or possession, stems from oral consent from my predecessors in title. It is common cause that I was not a party to any agreement, if any, between my predecessors in title and the Owner of Erf 238 nor can I see how such agreements can be binding on me.
- 4.9 The law is clear, occupation or use of the property should not stem from a contract or legal relationship which, in essence, recognizes the ownership of another.
- 4.10 It follows that either express or tacit consent by any of my predecessors in title would mean that he did not act as if he was entitled to exercise the servitudal right.

**See: PEZULA PRIVATE ESTATE (PTY) LTD V NEIL METELERKAMP AND ANOTHER (SCA) – (149/2013) [2013] ZASCA 188 (29 November 2013)**

- 4.11 The Municipality recently approved plans for the renovations of my property, which included the erecting of a wall on the boundary line. By virtue of the approval thereof, the Municipality has confirmed my ownership in title and should the Applicant be ordered to remove the illegal structure on my property to enable me to erect the said boundary wall.
- 4.12 It is therefore abundantly clear that no servitudal right or right of

way has vested in the owner of Erf 238 and on that basis alone, should his Application fail.

5. In addition, we submit that the proposed garages, located on the building lines will negatively affect my property due to the fact that it will cut off sunlight to the existing house, located close to the boundary line, including windows which faces the proposed garages.
6. The proposed removal of title deed restrictions will also negatively affect my property rights and our privacy due to the fact that:
  - 6.1 The proposed garages will cut off sunlight.
  - 6.2 It will impact on our privacy due to the positioning of the proposed garages on the boundary line.
  - 6.3 All indications are that the Applicant wants to add dwellings on his, nearly fully built property, which practically can only be done on top of his proposed garages, which will have an even more negative affect on our property rights. Due to the zoning scheme, the Applicant will acquire a primary right and therefore we will have no opportunity to comment on such negative implication.
7. Considerations in terms of the principles of the extent of desirability, as contained in the relevant Municipal Planning Law, it is evident that:
  - 7.1 The proposed departure and removal of restrictive title conditions will not be compatible with the surrounding land uses.
  - 7.2 It will have a negative impact on the safety, health and wellbeing

of the surrounding community and specifically on my property.

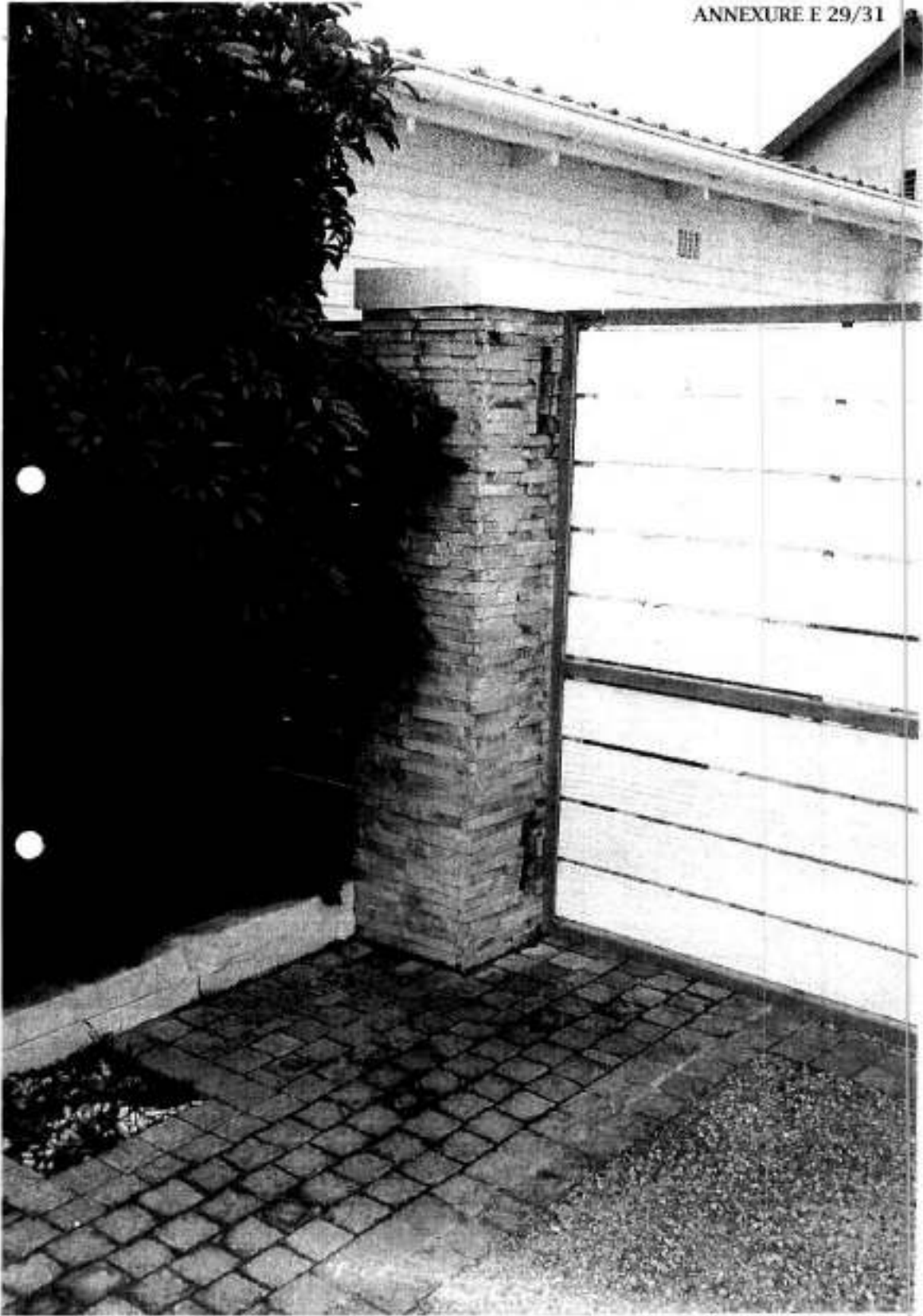
- 7.3 The objectives of restrictive title deed restrictions and zoning scheme parameters, imposed by the competent authorities, are to protect the adjacent and surrounding property rights as well as the safety, health and wellbeing of the surrounding community and will this application have a severe negative affect on my property.
- 7.4 The applicant's access gate is illegally located on my property.
- 7.5 The existing buildings on his property are located in such a position that he will not be able to access the proposed garages by way of access on his property.
- 7.6 The Applicant's use of our property to access his, is not only illegal but has and will continue to have a negative effect on our property rights.
- 7.7 The Applicant had the opportunity to make provision for the erecting of a garage and access thereto, within the building lines when he renovated his property in 2012, but elected not to do so.
8. We, therefore, request that the Overstrand Municipality, as the competent Authority, who is obliged to maintain the well-being of its community and protect the property rights of owners, to reject this application in totality for the reasons as stated above.

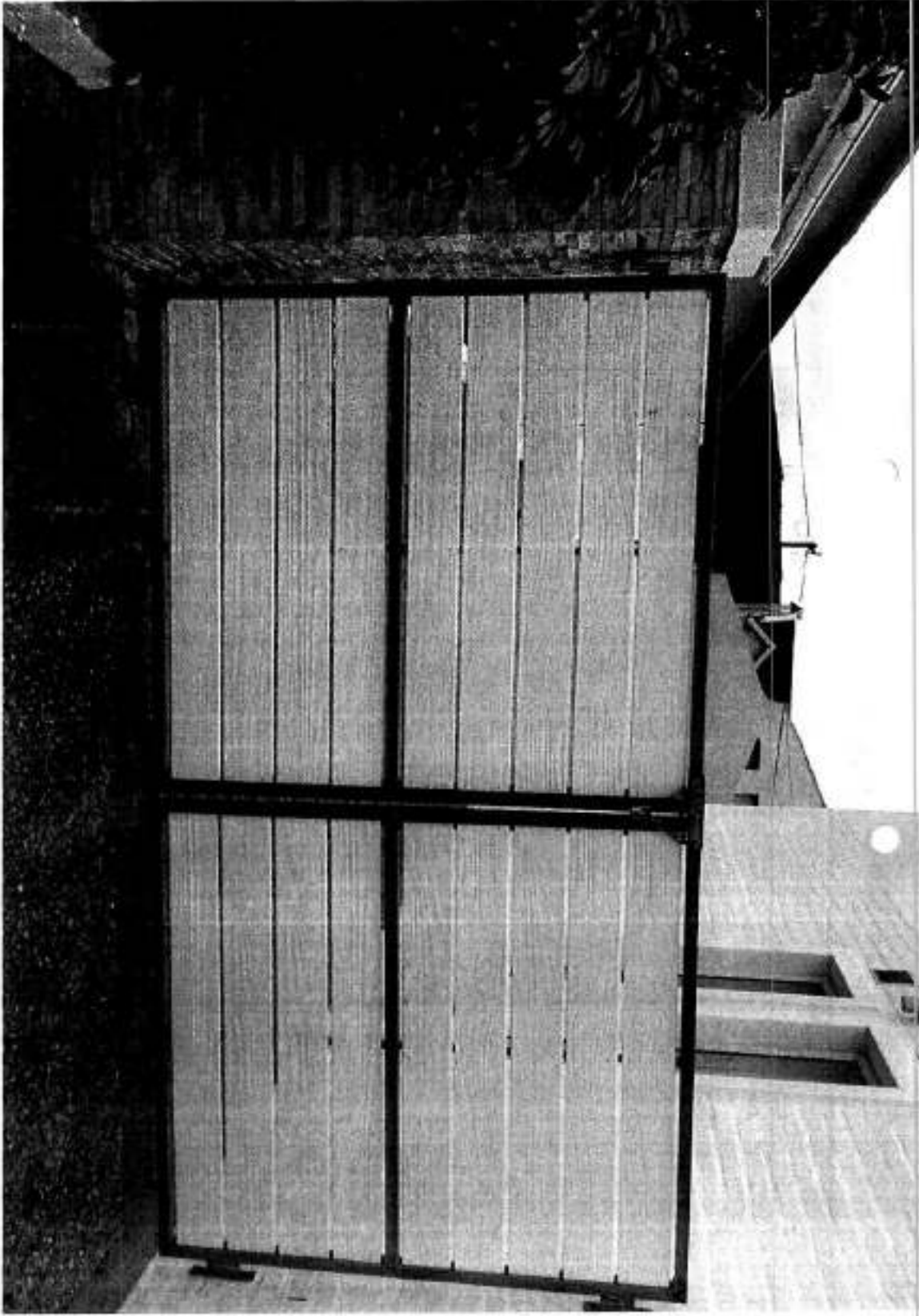
Signed at Sea Point on this 8<sup>th</sup> day of August 2017.

  
Lesli Hawkins



ANNEXURE E 29/31





Overstrand Municipality  
 16 Paterson Street / P O Box 20  
 7200 HERMANUS  
 For attention: Senior Town Planner: Ms H van der Stoep  
 cc: [loretta@overstrand.gov.za](mailto:loretta@overstrand.gov.za)

TR A Theun  
 (H Olivier)



11 August 2017

Dear Sir/Madam

OVERSTRAND MUNICIPALITY: ERF 238, 4 ROCKLANDS ROAD, WESTCLIFF, HERMANUS – PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND DEPARTURE (A. Wiehahn, Interactive Town & Regional Planning, on behalf of KAMMARBIEB FAMILY TRUST) MUNICIPAL NOTICE No. 77/2017

I am not sure why I received a copy of the above application and notice, as I am not an immediate neighbour of Erf 238 (4 Rocklands Rd), Westcliff, Hermanus, and my rights are not directly impacted by the building of the proposed new triple garage on the rear and eastern lateral boundary line of said erf, or by the removal of restrictive conditions contained in Title Deed T69108/2011.

However, since the application has been circulated to me for comment, as a resident and owner of property in Westcliff I wish to comment as follows:

- (1) I am opposed *in principle* to the relaxation, to 0 m, of the 2,35 m title deed building line and the 2 m zoning scheme building line along the rear and eastern lateral boundaries of Erf 238, in order to accommodate the proposed new garage, for the reason that the departure/relaxation limits the development options available to the present and future owners of the adjacent erven, Erf 235 and Erf 237. The relaxation/departure confers an unfair advantage on the owners of Erf 238 whilst being prejudicial to the owners of Erf 235 and 237. (If the garage were instead attached to the back of the house, where there is an existing garden structure, there would be no need to build right onto any boundary.)
- (2) From the diagram/building plan attached to the application, it is apparent that there is a second dwelling *already in existence* on erf 238. Two kitchens are shown on the plan, although only one is identified as such. (Only the ground-floor plan accompanies the application; it is entirely possible there could be a third or even fourth dwelling on the upper storey, of which no plan is provided . . .) The application for the removal of Clauses B(a)-(f) from Title Deed T69108/2011 is aimed at making the title deed conform to the facts on the ground, that is, at retrospectively 'legitimising' an existing second dwelling built on the property. I would have thought that an application to remove the restrictive title deed conditions should have been submitted and approved *before* a second dwelling was built on the erf?

Yours faithfully

Desirée Walker  
 31 Canterbury Street  
 7200 Hermanus  
 Tel. 028 313 2337

FILE NO:	EL 238
	WC Hartmanns
SCAN NO:	
COLLABORATOR NO:	1064560

TR : 2017-11-17

TP- A. Theerit  
(H van der Stoep)



InterActive Town & Regional Planning  
PO Box 980  
Hermanus  
7200



Date: 27 September 2017

FILE NO:	EL 238 HWC
SCAN NO:	
COLLABORATOR NO:	1083401

**ERF 238 ROCKLANDS ROAD, WESTCLIFF HERMANUS: RESPONSE TO OBJECTIONS**

The letter 238 HWC (3621) dated 5 September 2017 requesting written reply / response to the objections received from the following two parties refers:

1. D Walker
2. Jordaen, Du Toit & Co Attorneys and Conveyancers on behalf of Feltre Holdings (Pty) Ltd
3. D&G Jordan (Jordaen, Du Toit & Co Attorneys and Conveyancers ) and
4. L Hawkins

The location of the objector's properties is illustrated shown in the adjacent sketch. It is evident from the sketch that the three of the objectors are abutting owners whilst Messrs D Walker's property is located approximately 500m away from the application site.



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The methodology used to respond to these objections consists of a summary of the application proposal, a summary of the objections followed by a point by point response to the objector's objections and lastly a conclusion of the objections are provided.

#### A. Summary of the application

Application in summary can be described as an application to remove the following six (6) title deed conditions:

- a. Property only to be used for residential purposes only
- b. Only one dwelling to be used on the property
- c. Not more than half the property are allowed to be built on
- d. Building lines restrictions, 4.72 from any street and 2.35 from lateral boundaries
- e. The property may not be subdivided
- f. Drainage and sewerage of any adjacent erf conveyed over the subject erf

and following the removal of the above conditions an application for a departure of the building lines from the Overstrand Zoning Scheme, 2013 from 2m to 0m to accommodate a garage in the north-western corner of the application site.

#### B. Summary of objections

A summary of the four objectors are provided in the following section of this response.

1. The objections / comments of Messrs Jordaan, Du Toit & Company as co-owner of Erf 239 Westcliff Hermanus and on behalf of Feltre Holdings (Pty) Ltd owner of Erf 240 Westcliff Hermanus are summarised as follows:

The objector consent to the proposed garage, but objects to the removal of the six (6) conditions being applied for to remove: Conditions B(a) – (f).

Messrs Jordaan arguments / motivation for the two properties he represent are in principle the same.

His arguments are based generally on the following points of objections:

- Title deed conditions take dominance over that of the zoning scheme regulations and are considered the strongest safeguard to protect property rights.
- That each erf's conditions within the township is simultaneous dominant and servient tenement in his first part of his objection.
- That the applicant's motivation is flawed following the applicant's statement that title deed conditions are inconsistent with that of the zoning scheme and that the applicant does not indicated what is proposed apart from the garage.
- His second part of his objection is based on the criteria of Section 35(4) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 where the objector provides his view on the impact of the removal of the six restrictive title conditions in terms of (1) financially, (2) personally and from a (3) social point of view. He indicated that he will be negatively impacted from all three these points of view and subsequently result to the change of the character of the area.
- The objector makes a recommendation that an application should actually be made to remove these restrictive conditions of all erven in the subject township that all the erven in the township have the same benefit.
- The objector also incorrectly argues that services can't be conveyed over existing properties as they do not form part of subdivided properties.
- Lastly the objector emphasis that the application is an illegal blanket application for the removal of restrictive title conditions.

**2. The objection Me Liesl Hawkins of Erf 235 Westcliff Hermanus can be summarized as follows:**

The objector argues that the access to the subject property is illegal and too narrow and the owner uses illegally a portion of her property for access purposes and that an official dispute has already been declared in this regard. She further argues as part of her objection that the removal of the restrictive title conditions will negatively affect her property rights especially

from a sun, privacy point of view. She also argues that the removal of the restrictive conditions will be undesirable from a safety, health and wellbeing point of view, but does not provide any reason for this argument.

3. The objection of Ms Desirée Walker

The objector is located more than 500m from the application site and admits that she is not directly impacted by the proposed addition of the garage, but indicates that she is opposed in principle to the relaxation of the building line as it will limit the development options of the adjacent properties and makes a suggestion of where the owner should build his garage.

She further objects that falsely that the owner has a second dwelling on the property and makes the application to legalise the second dwelling.

C. Point by point discussion of the objections with a response to each of these points of objections

The objections / comments of Messrs Jarduan, Du Toit & Company as co-owner of Erf 239 Westcliff Herminus and on behalf of Felthe Holdings (Pty) Ltd owner of Erf 240 Westcliff Herminus		
Reference	Objection Summary	Applicant's Response
Introduction pt	The objector objects to the removal of Conditions B(a) - (f) in Deed of Transfer T69108/2011 but consents to the relaxation Condition B(h) to allow for the building line departure as applied for by the applicant.	The intension of the objector is clear, namely that he supports the proposed garage in the north-western corner of the application site within the building lines, however this "consent" is as a matter of fact is ultra-vires given that if the title deed condition remains within the title deed, the development cannot be legally accommodated.  In the light of the above it is clear that the restrictive condition need to be removed to accommodate any structure within the building line in terms of the title deed.

<p>Paragraph A.1. to A.5.</p>	<p>The objector base his objection on the following:</p> <ul style="list-style-type: none"> <li>In the South African Property Law and Constitution property owners' rights are protected by the Deeds Registries system in their title deeds.</li> </ul>	<p>The Deeds Registry system is fully supported and respected, however as mentioned in the application, the function of title deeds and zoning schemes have become fused over time resulting that both title deeds and zoning schemes controls land-use rights.</p> <p>Even though the South African Law considers title deeds dominant over zoning scheme conditions in general, the Overstrand Zoning Scheme is a more recent and dynamic tool to manage land-use than a title deed.</p> <p>This objection is unfounded and unsubstantiated.</p> <p>As per the previous paragraph and indicated in the motivation report the restrictive title deed being applied for to be removed are in principle duplicated and also not fully aligned with that of the land-use regulations of the zoning scheme, and therefore they are inconsistent.</p> <p>In the light of the above, the decision making authority is requested to reject this point of objection.</p>
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<p>Paragraphs A.8., A.9. and B.1.</p>	<ul style="list-style-type: none"> <li>• Apart from the garage being applied for, <u>no</u> development proposal is made on the remainder of the property to justify the removal of any of the restrictive conditions being applied for.</li> <li>• Given the above, read with Section 35(4) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015, the municipality is <u>not in a position to consider the removal of restrictive conditions</u> without any development proposal on the remainder of the property thus consider it as a blanket removal of title conditions.</li> <li>• The applicant should apply according to <u>his timeous need with the required detail of what is intended</u> to the local authority whereby they can assess the application based on the prescribed criteria.</li> </ul>	<p>It is evident that the objector is not familiar with land-use planning procedures. His view is considered to be short sighted and impractical.</p> <p>Even <u>with or without</u> the restrictive title conditions of the subject erf /erven, future unknown development proposals / developments will be relevant and applicable.</p> <p>Relating to my previous point of dynamic zoning schemes: cognisance must be taken that zoning schemes are lately drawn up in such a way to actually provide more flexibility in collaboration with structuring / guidance plans, resulting to less prescriptive development proposals but still within certain development guidelines. The reason for this is to encourage optimal sound and harmonious development of a scarce resource.</p> <p>Furthermore it must be taken into consideration that the conditions being applied for to be removed are already contained (with slight variations) in principle in the Overstrand Zoning Scheme and Municipal By-Law for Planning.</p> <p>Following the above these points of objection should be rejected.</p>
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<p>Paragraphs A.6. and A.8.,</p>	<ul style="list-style-type: none"> <li>• The restrictive conditions are applicable to all erven in Hermanus Extension Number 2 (being a portion of Westcliff).</li> <li>• Each erf is simultaneously a dominant and servient tenement based on the judgement of 29 March 2008 (under case number 1440/07).</li> <li>• Title Deed Conditions have precedence over zoning regulations and the strongest safeguard for property owners to protect their property rights.-</li> </ul>	<p>These arguments used by the objector is acknowledged and respected. However the objective of this removal of the restrictive title conditions application is to make future applications from this property <u>more efficient and cost effective, if required.</u></p> <p>To put the above point into perspective, the cost of the application process for the removal of this restrictive title conditions application is estimated at approximately 30% to 40% of the actual construction cost of the proposed garage. The time relevant to this application is approximately 9 - 10 months. The work, time and cost are considered excessive with such applications.</p> <p>Several on-going work are in process to streamline land-use processes with the aim of stimulating the economy of the country.</p> <p>The motivation provided by the objector that each erf is simultaneously dominant and servient tenement will not change if these conditions are removed, given that these conditions are already contained in principle in the zoning scheme and municipal planning by-law (duplicated as illustrated in the motivation report). <b>It should furthermore be noticed that any departure from these conditions is subjected to a public participated application process.</b></p>
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<p>Thus, all the conditions applied for to be removed contained in the title deed conditions of the erven within Hermanus Extension 2 (with the exception of those properties which have already been approved to remove the subject conditions) are also contained in the Overstrand By-Law on Municipal Land Use Planning, 2015 and the Overstrand Zoning Scheme.</p> <p>The fact that title deed conditions have precedence over zoning regulations is acknowledged and surely retains the character of areas / suburbs; however, it should also be realised that these unchangeable conditions restrict progressive and modern land-use development in accordance with regular reviewed town planning regulations based on new development trends and activities. Without saying, changes to the town planning schemes are also subjected to public participation processes.</p>	
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<p>Paragraphs A.6, A.7, and A.8.</p>	<ul style="list-style-type: none"> <li>The applicant mistakenly motivates that the restrictive title conditions are inconsistent with the zoning scheme and planning by-law and base it on the judgement of Campsbay Ratepayers and Resident Association and Others v Minister of Planning, Culture and Administration, Western Cape and Other [2001(4)SA294] Griesel J had to say about branding title deed conditions as relics of the past and abolishing in favour of the applicable zoning scheme and stated that "this is not the philosophy of the [Removal] Act" and case Van Rensburg NO and Another v MEC for Housing, Local Government and Traditional Affairs, Eastern Cape Province and Others (3399/2010, 3498/2010) "that a zoning scheme as a matter of law does not override title deed restrictions."</li> <li>Application should actually then be made for the removal of all the restrictive conditions from all the title deeds of all erven within the affected township in order that all the erven in the said township will have the benefit of the removal of the conditions, i.e. "Why should the conditions be removed only from the applicant's property..."</li> </ul>	<p>The cases highlighted by the objector is taken out of context with regards to this application.</p> <p>In the same case of the Campsbay Ratepayers and Resident Association and Others v Minister of Planning, Culture and Administration, Western Cape and Other [2001(4)SA294] Griesel J it is also stated that "if it were in the interest of the public or the interest of all properties to be subject to zoning restrictions, the legislature would have abolished all restrictive conditions by Statute. Instead, it has laid down a procedure, in the Removal Act, whereby such conditions can be removed if it were in the public interest to do so." This does not happen in practise and with due respect is considered not practical.</p> <p>In accordance with the above advised procedure, application is made for the removal of the restrictive title conditions of Erf 238 Westcliff Hermanus which will be considered on merit and clearly determining the impact on the adjacent properties. Each individual owner or collectively all owners of the township can on their own do the same.</p> <p>In contradiction with the objector's argument he makes the statement as part of his objecting motivation that "Application should actually then be made for the removal of all the restrictive conditions from all the title deeds of all erven within the</p>
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<p>affected township in order that all the erven in the said township will have the benefit of the removal of the conditions, i.e. "Why should the conditions be removed only from the applicant's property...?"</p> <p>The objector by implication states that he has no objection to the removal of the conditions, subject thereto that these conditions be removed for all properties in the subject township.</p> <p>In the light of the above, this point of objection is obsolete and should subsequently be ignored.</p>	<p>The objector lays great emphasis on the general character of the area as the reason for not removing the restricted title deed conditions.</p> <p>It is evident that the objector is not familiar with the planning processes especially highlighted in Paragraph 6 of his objection where he states that only services cannot be conveyed over neighbouring properties "as we are not referring to an Erf that is being subdivided in terms of this By-law at all" This is completely wrong.</p> <p>Furthermore the objector provides no proof at all that the removal of the applied for restrictive title conditions will impact financially, personally and socially on him and the party he represents. He only</p>
<p>Paragraph B 1. - B.6.</p> <p>The second part of the objections is based on the criteria of Section 35(4) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the municipality to take regard when considering the application. In essence the objector motivated repeating why there will be no benefit for him from these following guided viewpoints:</p> <ol style="list-style-type: none"> <li>1. 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;</li> <li>2. the personal benefits which accrue to the holder of rights in terms of the restrictive condition;</li> <li>3. the personal benefits which will accrue to the</li> </ol>	<p>affected township in order that all the erven in the said township will have the benefit of the removal of the conditions, i.e. "Why should the conditions be removed only from the applicant's property...?"</p> <p>The objector by implication states that he has no objection to the removal of the conditions, subject thereto that these conditions be removed for all properties in the subject township.</p> <p>In the light of the above, this point of objection is obsolete and should subsequently be ignored.</p>

	<p>person seeking the removal of the restrictive condition, if it is removed;</p> <p>4. the social benefit of the restrictive condition remaining in place in its existing form;</p> <p>5. the social benefit of the removal or amendment of the restrictive condition; and 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.</p> <p>Based on the above six points of consideration the objectors motivated each of the restrictive title conditions.</p> <p>As part of the introduction the objector emphasises the preservation of character of the area.</p> <p>He also makes the point that title deeds cannot be changed but zonings schemes can and subsequently accuses the applicant of disregarding the importance and nature of a title deed. He makes the statement that a subdivision can take place without residents knowing.</p> <p>He further recommends that application for specific developments should be made only when a definite development proposal exist.</p> <p>The objector makes the incorrect assumption that</p>	<p>provides general reasons like the removal of the restrictive conditions will change the character of the area, will diminish the enjoyment that he enjoys from his property and reduce his privacy, create uncertainty of future development on the application property without providing any concrete proof or evidence or even examples.</p> <p>In addition to the above, notice should be taken that the application area is inter alia identified as an area of densification as shown in the following extract from the Overstrand Growth Management Strategy, 2010:</p> <div data-bbox="758 376 1204 896"> <p>3. Overstrand Municipality Growth Management Strategy - 2010              In terms of the Overstrand Growth Management Strategy, this application area falls within a Land Use Zoning Code for medium-density residential use as illustrated in the following extract of the said document.</p> <p>Figure 6: Growth Management Strategy 2010 extract</p> <p>No change in zoning, density or form is proposed and is consistent with the said zoning document.</p> </div>
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<p>services may only be conveyed over adjacent erven where subdivisions take place.</p> <p>He also states that only the applicant benefits whilst the adjacent properties suffer from the applicants benefit.</p> <p>Based on the above the objector motivates that the properties within the township will financially impacted detrimentally if the applied for restrictive title conditions are removed as the character of the suburb is considered special given located close to green belt, near footpaths to new harbour and wants the suburb to preserve its quiet residential character.</p> <p>From a personal point of view the objector argues that should the conditions remain property owners will retain his enjoyment of the property and privacy and provide the security of knowing that what can be expected in future.</p> <p>Should the conditions be removed the objector cannot comment as he cannot foresee what developed is foreseen. The removal of the title conditions according to the objectors can imply that application can be made without hindrance / difficulty / obstructions.</p> <p>In terms of social, the objector argues that the retaining of the restrictive title conditions will preserve the character of the area and the nearby greenbelt through ensuring continued outdoor and tourist activities in the</p>	<p>In order to do densification of the application area, title deed restrictions are reality. Thus the resistance of the removal of restrictive title conditions with specific reference to the condition B.(e) of Title Deed T69108/2011 referring that the property may not be subdivided is misaligned with this policy of the Overstrand Municipality.</p> <p>The objection is subsequently not considered of value and should be rejected by the decision-making authorities.</p>
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<p>area. The objector recommends that the conditions be retained in order that densification is better to take place not so close to the sea and green belt.</p> <p>The objector emphasis also that the application is a blanket application for the removal of restrictive title conditions amounting to the removal of the erven in the township's rights whilst the applicant still enjoys the benefit of additional rights.</p>	
<p><b>Objection of Leal Hawkins</b></p> <p>The objections are based on the following grounds:</p> <p>The access gate to the proposed garage is located partly on the objector's property and various attempts were made to negotiate to an agreement of lease or purchase without any success and a dispute has vested regarding the ownership and use of a section of the objector's property.</p> <p>The portion within the boundaries of Erf 238 Westcliff is too narrow to provide access to the proposed garage.</p>	
<p>The access to the property and to the back of the property is wide enough to accommodate the applicant's vehicles to the proposed garage; however it is relatively narrow and a wider access is more ideal. Subsequently arrangements were made in the past with the previous owner to use a portion of his property for such a wider and more convenient width access driveway to the back of the property which the previous owners agreed to.</p> <p>However, the objector's point of objection has no bearing on the application and considered irrelevant. <b>This is a personal dispute between the owners and now being used to object to the application.</b></p> <p>This point of objection should subsequently be omitted.</p>	

	<p>The proposed removal of conditions will negatively affect the objectors property rights and privacy due to the position of the proposed garage within the building line that will:</p> <ul style="list-style-type: none"> <li>• Cut of the sunlight</li> <li>• Impact on privacy</li> <li>• A additional dwelling on top of the garage is proposed and as a result of the zoning scheme the objector will not be able to comment on the proposal.</li> </ul>	<p>The objector makes a general statement without providing any proof or evidence of her property will be affected by the proposed garage.</p> <p>The following photograph, taken from the application motivation report, clearly indicates that none of the objector's building faces the garage or any living areas being affected by the proposed garage.</p> <p>Objector's property reflecting an existing garage adjacent to the proposed position of the garage</p>  <p>Given this unfounded point of objection it is requested that this objection be ignored.</p>
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<p>In terms of desirability the proposed departure and removal the restrictive title conditions</p> <ul style="list-style-type: none"> <li>• will not be compatible with the surrounding land-uses</li> <li>• Will have a negative impact on the safety, health and wellbeing of the surrounding community and specifically on the objectors property</li> </ul>	<p>The objector provides another point of unfounded and incorrect assumption. The proposed land-use, namely a garage to accommodate the owner's vehicles, is a use on the property which is present on most erven in the area.</p> <p>The removal of the restrictive title conditions will also not be detrimentally on the objector's property as these conditions remains in principle applicable through the Overstrand Zoning Scheme and By-Law on Municipal Land Use Planning, 2015</p> <p>Subsequently this objection should also be rejected.</p>
<p><b>The objection of Desire Walker</b></p> <p>The objector states that her rights are not directly impacted by the building of the proposed garage or by the removal of the restrictive conditions contained in Title Deed T69108/2011, however she indicates that she is opposed in principle to the proposed relaxation to accommodate the proposed garage.</p> <p>For the reason that the relaxation / departure limits the development options to the present and future owners of the adjacent erven and could rather have been built directly attached to the back of the house.</p> <p>From the diagram / building plan, it is apparent that a second dwelling is already in existence and thus legitimising the second dwelling by the application removal</p>	<p>The objector's declaration that she will not be affected by the proposed garage, is acknowledged.</p> <p>The objection against the removal of the restrictive title conditions is considered unjustified given that no fundamental reasons are provided.</p> <p>The objector's comment that the applicant should rather have built attached to the house takes no regard to the layout of the property and is considered undesirable given the existing development and layout of the erf as is explained in the motivation report.</p> <p>The objector makes a blatant incorrect and false</p>

<p>assumption that a second dwelling is already in existence on the property. It appears as if the objector tries to harm the image of the applicant.</p> <p>This objection is strongly rejected.</p>	
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#### D. Conclusion:

The objection from Messrs Jordaon, Du Toit & Company on behalf of Erven the owners of 239 and 240 Westcliff Hermanus is not convincing which is especially evident as the objector contradicts himself by objecting to the removal of the restrictive conditions on the one hand, but on the other hand recommends that the whole suburbs restrictive title conditions should be removed.

A further point of conflict is also evident as the objector supports the proposed garage but does not agree to the removal of the subject restrictive title condition. Such proposal is ultra vires as it is not legal to have a development within the subject building line without removing the said condition.

The objector also does not provide any fundamental proof the owners of representing properties will be affected negatively from a financial, personal and social point of view.

The objection from Me Liezl Hawkins is clearly the result of a dispute between her and the applicant about a portion of land currently being used by the applicant for the purposes of convenient access. The reasons of her objections are subsequently considered unrelated to the application and without substantiating reason respectively.

The objection of Me Desirée Walker is also considered unjustified without any fundamental reasons with incorrect assumption that a second dwelling exist at the property.

It can further be concluded that the removal of the restrictive title conditions to accommodate the proposed garage and also within the limits and restrictions of the Overstrand Zoning Scheme and the Overstrand Municipality By-Law on Municipal Land Use, 2015 for

future uses will have a financial impact for the land owner, since the removal of the restrictive clauses will ensure that the rights on the property will be in line with the applicable zoning scheme land uses that are more favourable than the existing restrictions in the title deed and would also cost less for any departure from the applicable land-use management legislation. The applicant is also foreseen to be the sole beneficiary in terms of personal benefits. The removal of the restrictive title conditions are not foreseen to have any social benefit to the owner.

In the light of the above it is requested that the decision-making authority support this application favourably.

Regards



Andre Wiehahn P/ Pln A/927/1996

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**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR REMOVAL OF RESTRICTIVE CONDITIONS &  
DEPARTURE: ERF 238, WESTCLIFF (3621)**

Electricity	:	In order
Water	:	In order
Sewer	:	In order
Stormwater	:	In order
Roads and traffic	:	In order

**Conditions:**

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the owner's cost;
1. 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 Area Manager: Hermanus for written approval;
3. that stormwater be allowed to discharge through Erf 238, Westcliff, unobstructed;
4. that no on-street parking be allowed.

  
 DENNIS HENDRIKS  
 SENIOR MANAGER:  
 ENGINEERING SERVICES

15/8/2017  
 DATE