

ERF 4781, 21 THIRTEENTH AVENUE, KLEINMOND: APPLICATION FOR SUBDIVISION: FUTURE PLAN TOWN AND REGIONAL PLANNERS ON BEHALF OF M MOLLENTZE

Notice is hereby given in terms of Section 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 that an application has been received for a Subdivision in terms of Section 16(2)(d) of the By-Law of Erf 4781, Kleinmond into 2 portions, namely Portion A (± 1467.975m²) and a Remainder (± 1218.391m²).

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, Paterson Street, Hermanus and at the Kleinmond Library, 5th Avenue, Kleinmond. Any written comments may be submitted in accordance with the provisions of Sections 51 and 52 of the said By-Law to the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / loretta@overstrand.gov.za) on or before 19 April 2024, quoting your name, address and contact details, interest in the application and reasons for comments. Telephonic enquiries can be made to the Town Planner, Ms. H van der Stoep at 028-313 8900. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comment.

ERF 4781, DERTIENDELAAN, KLEINMOND: AANSOEK OM ONDERVERDELING: FUTURE PLAN STADS- EN STREEKBEPLANNERS NAMENS M MOLLENTZE

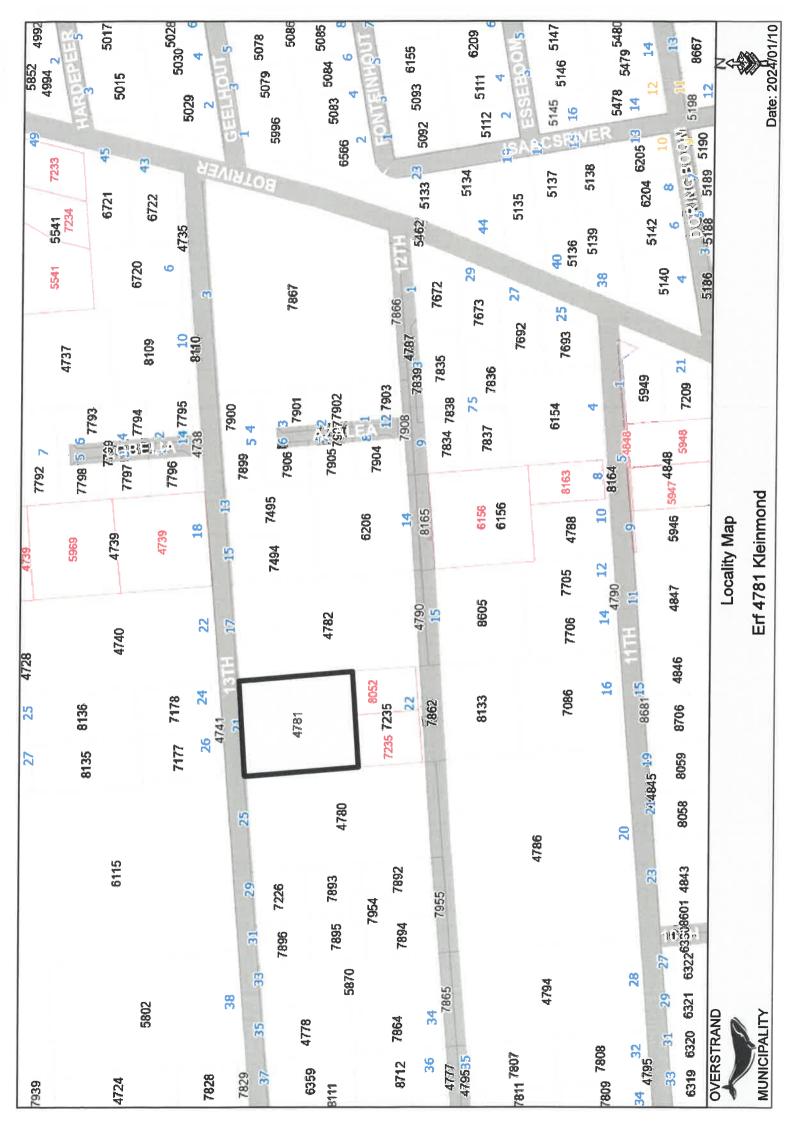
Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 dat 'n aansoek ontvang is vir 'n Onderverdeling ingevolge Artikel 16(2)(d) van die Verordening om Erf 4781, Kleinmond in 2 gedeeltes te onderverdeel, naamlik Gedeelte A (± 1467.975m²) en 'n Restant (± 1218.391m²).

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weeksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus en by die Kleinmond Biblioteek, 5de Laan, Kleinmond. Enige kommentaar op die voorstel moet skriftelik ingedien word in terme van Artikels 51 en 52 van die voorgeskrewe Verordening na die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / loretta@overstrand.gov.za) voor of op 19 April 2024, met die naam, adres en kontakbesonderhede, belang in die aansoek sowel as redes vir die kommentaar aangedui. Telefoniese navrae kan gerig word aan die Stadsbeplanner, Me. H van der Stoep by 028-313 8900. Die Munisipaliteit mag weier om die kommentaar te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

ISIZA 4781, 21 THIRTEENTH AVENUE, KLEINMOND: ISICELOSOLWAHLULWA-HLULO: ISICWANGCISO SEXA ELIZAYO SEDOLOPHU KUNYE NABACWANGCISI BENGINGQI EGAMENI LIKA-M MOLLENTZE

Isaziso sinikezelwa ngokwemiqathango yeCandelo 48 loMthetho kaMasipala oLungisiweyo woMasipala wase-Overstrand ongoCwangciso lokuSetyenziswa koMhlaba kaMasipala, 2020 sokuba isicelo sifunyenwe soLwahlulwa-hlulo ngokwemiqathango yeCandelo le-16(2)(d) loMthetho kaMasipala. LweSiza 4781, eKleinmond sibe zizahlulo ezi-2, ezizezi, iSahlulo A (± 1467.975m²)) kunye neNtsalela (± 1218.391m²).

linkcukacha ezipheleleyo malunga nesi sindululo ziyafumaneka ukuze zihlolwe ngeentsuku zokusebenza ngamaxesha okusebenza phakathi kwentsimbi ye-08:00 neye-16:30 kwiSebe: UCwangiso lweDolophu, ePaterson Street, eHermanus kunye neThala leeNcwadi laseKleinmond, 5th Avenue, eKleinmond. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokuhambelana nezibonelelo zeCandelo lama-51 kunye nelama-52 alo Mthetho kaMasipala oxeliweyo kuMasipala (16 Paterson Street, Hermanus / (f) 0283132093 / loretta@overstrand.gov.za) ngomhla okanye ngaphambi komhla wama-19 ku-Epreli 2024, uchaze igama lakho, idilesi kunye neenkcukacha zoqhagamshelwano, umdla kwisicelo kunye nezizathu zezimvo. Imibuzo ngomnxeba ingenziwa kuMcwangcisi weDolophu, UNksk. H van der Stoep kule nombolo yomnxeba 028-313 8900. UMasipala unokwala ukwamkela izimvo ezifunyenwe emva komhla wokuvalwa. Nabani na ongakwaziyo ukufunda okanye ukubhala angandwendwela iSebe loCwangciso lweDolophu apho igosa likamasipala liya kuthi limncedise ukuze abhale ngokusesikweni izimvo zakhe.







OVERSTRAND MUNISIPALITEIT

REKORDBEHEER

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DOCUMENT CONTROL

OVERSTRAND MUNICIPALITY

ERF 4781, KLEINMOND

APPLICATION IN TERMS OF SECTION 16 OF THE OVERSTRAND MUNICIPALITY AMENDMENT BY-LAW ON MUNICIPAL LAND USE PLANNING OF 2020 FOR:

- Section 16 (2) (d) Subdivision of land that is not exempted in terms of Section 26
 - Subdivision of land into two Portions namely Portion A and Remainder of Remainder of Erf 4781

Application prepared for:

Martin Mollentze & Overstrand Municipality

Application prepared by:

Future Plan Town and Regional Planners

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Submitted:

December 2023

SCAN NO.

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CONTENTS

1.	EXECUTIVE SUMMARY	.3
1.1.	Background Information	3
1.2.	Application Summary	3
2.	THE PROPOSAL	.4
2.1.	Subdivision of Land (Section 16 (2) (d))	4
3.	CHARACTER OF ENVIRONMENT	5
3.1.	Ownership Details	5
3.2.	Current Zoning and Utilisation	5
3.3.	Locality and Surrounding Land Uses	5
3.4.	Municipal Services, Access, and Parking	5
4.	NEED & DESIRABILITY	8
5.	LEGISLATION1	0
6.	CONCLUSION & RECOMMENDATION1	5

LIST OF PLANS & ANNEXURES

Plan 1:

Locality Plan

Plan 2:

Subdivision Plan

Plan 3:

Surveyor General Diagram

Annexure A:

Application Form

Annexure B:

Power of Attorney

Annexure C:

Title Deed

Annexure D:

Bondholder's Consent



1. EXECUTIVE SUMMARY

1.1. Background Information

Future Plan Town and Regional Planners (hereafter referred to as *this office*) was approached by the property owner to assist with the applicable town planning application as was deemed necessary. After lengthy consultation between this office, the draughtsman and the property owner, a decision was made to proceed with the application.

1.2. Application Summary

Herewith a land use planning application is made in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning of 2020 (OMLUS) for:

• Section 16 (2) (d) - Subdivision of land that is not exempted in terms of Section 26

Please refer to the following attached Annexures:

Annexure A: Application Form

Annexure B: Power of Attorney

Annexure C: Title Deed



2. THE PROPOSAL

To reiterate Section 1 of this motivation report, an application is hereby made for the following:

2.1. Subdivision of Land (Section 16 (2) (d))

Application is made for the subdivision of land – Remainder of Erf 4781 into two portions, namely Portion A and Remainder of Remainder of Erf 4781. See herewith the breakdown of the proposed subdivision:

Portion A:

1 467.975m²

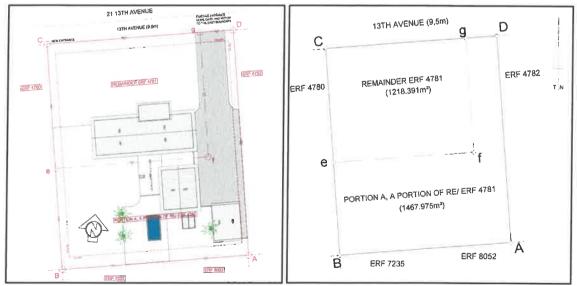
The Remainder of Remainder of Erf 4781:

1 218.391m²

The subdivision line is indicated by line e, f, and g on the proposed Subdivision Plan, attached hereto as **Plan 2: Subdivision Plan**. (Please note that this subdivision plan is only for the Land Use Planning Application and that the Professional Land Surveyor would, after approval, produce his own and professional SG Diagrams.) It is further proposed to utilise the existing entrance off Thirteenth Avenue, eliminating the need to create an additional entrance. The existing driveway will be widened to accommodate a 5m wide "panhandle" that will provide the Portion A with entry and egress off Thirteenth Avenue. Remainder of Remainder of Erf 4781 will subsequently utilise the same entry point. To clear this argument up, no servitude is required as each property will have access to the safe road, parallel to each other.

Upon the sale of the subdivided Remainder of Remainder of Erf 4781, measures will be implemented to clearly define the boundaries with a suitable measure deemed fit by all parties, which include Town Planning and Building Development Departments of the Overstrand Municipality.

Please refer to Figures 1 and 2 on the following below for a visual representation of the aforesaid.



Figures 1 and 2: Visual representation of the proposed subdivision of Remainder of Erf 4781, Kleinmond.



3. CHARACTER OF ENVIRONMENT

3.1. Ownership Details

A perusal of the title deed revealed that no restrictive conditions could prohibit the approval of this land use planning application. Below are the details of the subject title deed.

Property Description	Remainder of Erf 4781, Kleinmond in the Overstrand Municipality, Division Caledon, Western Cape Province
Ownership	Martin Mollentze
Extent	2 779m²
Title Deed Number	T52779/2012

3.2. Current Zoning and Utilisation

Erf 4781 is zoned as Single Residential Zone 1 (SR1) and used for residential purposes as intended by the zoning.

3.3. Locality and Surrounding Land Uses

The subject erf is located at 21 Thirteenth Avenue within Kleinmond, Overstrand Municipal districts. Erf 4781 is situated in a residential area northwest of Kleinmond Central Business District (CBD).

Please refer to the Figures on Pages 6 and 7.

3.4. Municipal Services, Access, and Parking

The application site is well-serviced in terms of municipal services. However, considering the proposal, additional service capacity will have to be created to accommodate the creation of additional service capacity. Please see the availability of the current services below:

Electricity:

The application site currently enjoys a single-phase Eskom electrical connection. An additional connection to the electrical network will be established upon approval of this application.

Solid Waste/Refuse Removal:

Refuse is currently removed from the application site by the Overstrand Municipality. Refuse generated from the additional erf will also be removed by the same establishment.



Water:

Sufficient water is available to support the proposed subdivision. The necessary applications will be submitted promptly or after approval of this application.

Sewerage:

An existing sewerage connection (installed by the Overstrand Municipality) is available to the proposed subdivided erf. There is, therefore, no need to install a septic tank system.

Access (Road Infrastructure):

As stated earlier in this motivation report, the existing entrance will be utilised to provide access to both of the portions created. There is thus no need to create an additional entrance to Thirteenth Avenue.



Figure 2: Application site in relation to the Kleinmond CBD.



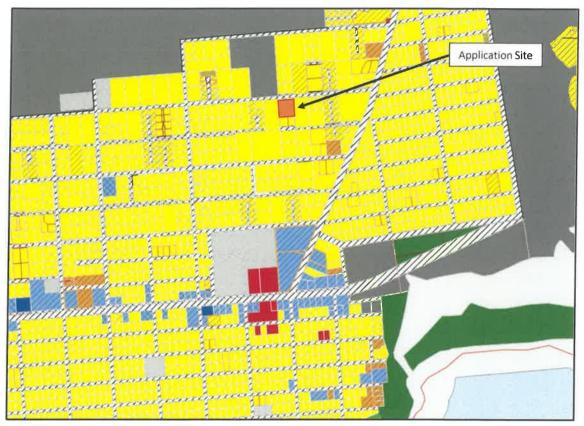


Figure 3: Predominately residential use of surrounding erven.



4. NEED & DESIRABILITY

For an informed decision by the Authorised Official, it is crucial to address the need and desirability of an application. Therefore, this office has summarised a few site-specific key aspects that should be considered before a decision is made. Herewith is the need for the proposal:

- The proposed subdivision is earmarked towards densification.
- The optimal usage of land within the urban edges of towns are not emphasised properly and which can be addressed by the proposal.

The proposal is deemed desirable due to the following reasons:

- Residential land within Kleinmond has become increasingly scarce in the last couple of years.
- The proposal will not detract from the abutting neighbours regarding privacy.
- Densification within the urban edge is promoted through this application.
- The proposed subdivision aligns with the character of the immediate surrounding area.
- · Similar forms of subdivision were approved in the past.
- The proposal will not impact negatively on the character of the surrounding area, nor impact negatively on the health and safety of the surrounding community.

The following aspects are also crucial to take into consideration when determining the desirability of an application:

Section 66 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning of 2020:

- When the Authorised Official or Municipal Planning Tribunal considers an application, it must have regard to the following:
 - o the application submitted in terms of this By-law;
 - o the procedure followed in processing the application;
 - the desirability of the proposed utilisation of land and any guidelines issued by the Provincial Minister regarding proposed land uses;
 - the comments in response to the notice of the application and the comments received from organs of state and internal departments;
 - o the response by the applicant to the comments referred to in paragraph (d);
 - investigations carried out in terms of other laws which are relevant to the consideration of the application;
 - a registered planner, or a planner eligible for registration, written assessment, which includes:
 - an amendment of a Spatial Development Framework or land use scheme
 - an approval of an overlay zone contemplated in the land use scheme
 - a phasing, amendment or cancellation of a subdivision plan or part thereof
 - a determination of a zoning
 - a rezoning
 - the integrated development plan and Municipal Spatial Development Framework;
 - o the applicable Local Spatial Development Frameworks adopted by the Municipality;
 - o the applicable policies of the Municipality that guide decision-making;
 - o the Provincial Spatial Development Framework;
 - where applicable, the regional spatial development framework;



- o the policies, principles, planning and development norms and criteria set by the national and provincial government;
- o the matters referred to in Section 42 of the Spatial Planning and Land Use Management Act;
- o the principles referred to in Chapter VI of the Land Use Planning Act; and
- o the relevant provisions of the land use scheme.
- An Authorised Official or Municipal Planning Tribunal must approve a site development plan submitted to the Municipality for approval in terms of applicable development parameters or conditions of approval if the site development plan-
 - is consistent with the development parameters of the zoning;
 - o is consistent with the development parameters of the overlay zone;
 - o complies with the conditions of approval; and
 - o complies with this By-law.
- When a site development plan is required in terms of development parameters or conditions of approval—
 - the Municipality may not approve a building plan if the site development plan has not been approved;
 - o the Municipality may not approve a building plan that is inconsistent with the approved site development plan.

The application, site development plan, and subsequent attachments conform to the regulations listed above. The application in its current state can thus be accepted. The application shall thus be motivated and assessed in terms of its merits and desirability.

Section 49 of the Western Cape Land Use Planning Act of 2014:

When a municipality considers and decides on a land use application, the municipality must have regard to at least-

- the applicable spatial development frameworks;
- the applicable structure plans;
- the principles referred to in Chapter VI;
- the desirability of the proposed land use, and
- guidelines that may be issued by the Provincial Minister regarding the desirability of proposed land use.

It is the opinion of this office that the proposed application is well motivated in terms of the legislation as provided for in this motivation report and is not deemed to impose an unusual risk to the surrounding community due to the following reasons:

- No negative visual impact on the abutting neighbours.
- The proposal will not detract from the existing tourist walkways near the application site.
- Vistas and other rights, such as privacy, remain intact.
- No threat to the health and safety of the surrounding community is envisaged.
- The proposal and current land use are not out of character for the surrounding area.

Thus, this office believes that the proposal can be deemed desirable, as explained earlier under Section 4 of this motivation report.



LEGISLATION

Overstrand Municipality Spatial Development Framework (May 2020)

The Municipal Spatial Development Framework is a sectoral component of the IDP that, in terms of the Municipal Systems Act, 2000 (Act No. 32 of 2000), is aimed at providing general direction to guide decisionmaking on an ongoing basis, aiming at the creation of integrated, sustainable, and habitable regions, cities, towns and residential areas.

The key statutory requirements of the SDF are as follows:

- give effect to the principles, norms, and standards.
- Include a written and spatial representation of the Municipality's five-year spatial development plan.
- Include a longer spatial development vision statement.
- · Identify current and future structuring elements of the Municipal spatial form (i.e., development corridors, activity spines, economic nodes, etc.).
- Include population growth estimates for the next five years.
- Include estimates for the demand for housing units and the planned location and density of future housing developments.
- Include estimates of economic activity, employment trends, and locations in the Municipality for the next five years.
- · Identify, quantify, and provide location requirements for the next five years of engineering infrastructure
- Identify the designated areas where a national or provincial inclusionary housing policy may be applicable.
- Include a strategic assessment of the environmental pressures.
- · Create opportunities (incl. spatial location of environmental sensitivities, high potential agricultural land, and coastal strips).
- Identify areas where more detailed local plans must be developed and shortened land use procedures may be applicable.
- Provide spatial expression of integration of municipal sectoral policies.
- · Determine a capital expenditure framework for the Municipal development programmes depicted spatially.
- Include an implementation.

The proposal is not deemed to be in contravention of the Overstrand SDF as it does not contradict the abovementioned statutory requirements of the SDF. Further to those described above, the application site is

Page 11 of 15



in an urban development area within the urban edge of Kleinmond. The proposal is thus not in contravention of the SDF.

Overstrand Integrated Development Plan (May 2020)

The Overstrand Municipality Integrated Development Plan (IDP) aims to address our communities' development needs with clearly defined strategic objectives and performance indicators. These strategic objectives are as follows:

- The provision of democratic, accountable, and ethical governance
- The provision and maintenance of municipal services
- The encouragement of structured community participation in the matters of the municipality
- · The creation and maintenance of a safe and healthy environment
- The promotion of tourism and economic and social development.

The IDP is crucial to take into consideration in any planning-related application. It is the opinion of this office that the proposal promotes social development and creates a safe and healthy environment, not only for the property owner but also for the surrounding residents of the area.

Overstrand Municipal Growth Management Strategy (2010)

The Growth Management Strategy supports the general densification of this area, typically referred to as Planning Unit 9. Planning Unit 9 constitutes the largest area in Kleinmond. The Growth Management Strategy advises that the drainage of a site be investigated to ensure that the area of construction is suitable for such purposes. Other than the aforementioned, no condition would prohibit the subdivision of Erf 4781.

The Growth Management Strategy refers to the maximum allowable dwelling units per hectare, which should not exceed 12.3 dwelling units per hectare (12.3 du/h). This office is of the opinion that the aforesaid figure has not yet been exceeded.

Overstrand Municipality Amended By-Law on Municipal Land Use Planning (2020)

It is essential to consider Section 66 of the Overstrand Municipality Amended By-Law on Municipal Land Use Planning in terms of the "General criteria for consideration of applications":

- When the Authorised Official or Municipal Planning Tribunal considers an application, it must have regard to the following:
 - o the application submitted in terms of this By-law;
 - o the procedure followed in processing the application;





- the desirability of the proposed utilisation of land and any guidelines issued by the Provincial Minister regarding proposed land uses;
- the comments in response to the notice of the application and the comments received from organs of state and internal departments;
- o the response by the applicant to the comments referred to in paragraph (d);
- investigations carried out in terms of other laws which are relevant to the consideration of the application;
- o a registered planner, or a planner eligible for registration, written assessment, which includes:
 - an amendment of a Spatial Development Framework or land use scheme
 - an approval of an overlay zone contemplated in the land use scheme
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 - a rezoning
- o the integrated development plan and Municipal Spatial Development Framework;
- o the applicable Local Spatial Development Frameworks adopted by the Municipality;
- o the applicable policies of the Municipality that guide decision-making;
- o the Provincial Spatial Development Framework;
- o where applicable, the regional spatial development framework;
- the policies, principles, planning and development norms and criteria set by the national and provincial government;
- o the matters referred to in Section 42 of the Spatial Planning and Land Use Management Act;
- o the principles referred to in Chapter VI of the Land Use Planning Act; and
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 - o is consistent with the development parameters of the zoning;
 - o is consistent with the development parameters of the overlay zone;
 - complies with the conditions of approval; and
 - complies with this By-law.
- When a site development plan is required in terms of development parameters or conditions of approval—
 - the Municipality may not approve a building plan if the site development plan has not been approved;
 and





 The Municipality may not approve a building plan that is inconsistent with the approved site development plan.

The proposal is not considered a deviation from the requirements above; however, it is substantially in accordance with any residential neighbourhood and is not deemed to pose a significant threat to the surrounding community. The proposal is for densification purposes and will, therefore, be for the benefit of the surrounding community and the Local Authority.

Planning Principles

The proposed development supports the principles of Chapter VI (Article 59) of the Land Use Planning Act (LUPA), Act 3 of 2014, and Chapter 2 (Article 7) of the Spatial Planning and Land Use Management Act (SPLUMA), Act 16 of 2013, as follows:

Spatial Justice

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 proposed application will not contribute to perpetuating past apartheid spatial development imbalances and will also provide all with access to land that was previously unavailable before the proposed subdivision.

Spatial Sustainability

A spatially sustainable settlement will have an equitable land market while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity-rich areas, scenic and cultural landscapes, and ultimately limiting urban sprawl.

The proposal will not negatively impact valuable agricultural land, environmentally sensitive areas, or scenic landscapes and ultimately not contribute to urban sprawl.

Efficiency

Efficiency refers to the need to create settlements that optimise the use of space, energy, infrastructure, resources, and land.

The proposed development will optimally harness the potential that sustainably exists on the subject property, as is evident in the proposed SDP.



Spatial Resilience

spatial resilience in the context of land use planning refers to spatial plans, policies and land use management systems that should enable the communities to be able to resist, absorb and accommodate economic and environmental shocks and to recover from these shocks in a timely and efficient manner.

The proposed development is well aligned with the spatial plans and policies, enabling the subject property to resist, absorb and accommodate environmental and economic shocks and recover from shocks in a timely and efficient manner.

Good Administration

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.

The proposed development will promote consultative planning as the Municipality will advertise the proposal to the public to allow their comments to be taken into consideration. In addition, Future Plan Town and Regional Planners will also respond to the public's comments and consider the comments in the project's planning.

This section outlines how the proposed development aligns with the core planning principles outlined in SPLUMA and LUPA. The proposal can, therefore, encompass and promote all planning principles.



CONCLUSION & RECOMMENDATION

The motivation report has provided a clear and complete analysis of the land use proposal. It was proven that the application is desirable and will not adversely impact the existing landscape. It was also demonstrated that the proposal is well aligned with the spatial planning initiatives for the area in which it is located.

The following factors should also be considered when evaluating the feasibility of the proposed application:

- The proposal will not negatively impact the abutting neighbours regarding privacy.
- It can be argued that the proposal will not negatively impact the health and safety of the surrounding community.
- The proposal is consistent with any residential property and subsequent neighbourhood.
- The proposal will not contribute to urban sprawl.
- The proposal will contribute to densification while still maintaining the character of the surrounding area.
- Similar subdivisions have been approved in the past and would not constitute a principle that is out of the norm for the surrounding area.

Considering the above, it is recommended that the following applications:

- Section 16 (2) (d) Subdivision of land that is not exempted in terms of Section 26,
 - Subdivision of land into two Portions

be approved in terms of Section 16 of the OMLUS.

ONLY FOR USE OF LAND USE PLANNING APPLICATION

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