



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

A G E N D A

DATE:	28 JUNE 2018
VENUE:	MAYORAL COMMITTEE ROOM, CIVIC CENTRE HERMANUS
TIME:	14:00

OVERSTRAND MUNICIPALITY

Office of the Municipal Manager
Civic Centre
HERMANUS
7200

11 June 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 **Thursday, 28 June 2018 at 14:00, Mayoral Committee Room, Civic Centre, Hermanus**, to consider the attached agenda.

You are kindly requested to submit any amendments/additions to Ms S Swart (sswart@overstrand.gov.za) on or before **15 June 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. Mr P Roux (Town Planner)
9. Secretariat

1. OPENING

2. APPLICATIONS FOR LEAVE OF ABSENCE

3. CONFIRMATION OF MINUTES

3.1 Minutes of a Municipal Planning Tribunal Meeting held on 30 May 2018

4. ITEMS FOR CONSIDERATION

4.1 REMAINDER ERF 2635, 127 SEVENTH STREET, VOëLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA : APPLICATION FOR REMOVAL OF A RESTRICTIVE TITLE DEED CONDITION AND DEPARTURES : MESSRS PLANACTIVE ON BEHALF OF THE IAN AND JANE JACKSON FAMILY TRUST

Report attached

4.2 PORTION 13 OF FARM SANDIES GLEN NO. 129, BREDASDORP DIVISION : PROPOSED CONSENT USES AND DEPARTURES : MESSRS PLAN ACTIVE ON BEHALF OF TORMAY CC

Report attached

4.1**REMAINDER ERF 2635, 127 SEVENTH STREET, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA : APPLICATION FOR REMOVAL OF A RESTRICTIVE TITLE DEED CONDITION AND DEPARTURES : MESSRS PLANACTIVE ON BEHALF OF THE IAN AND JANE JACKSON FAMILY TRUST****2635 HVK (3777)****SW van der Merwe****5 June 2018****(028) 313 8900****Hermanus Administration****1. EXECUTIVE SUMMARY**

An application has been received on 5 September 2017 from Messrs PlanActive on behalf of the Ian and Jane Jackson Family Trust applicable to Remainder Erf 2635, Hermanus (Voëlkliip) for the following:

- ❖ Removal of a restrictive title deed condition 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 condition D.(c) as contained in Title Deed T33061/2017 in order to accommodate the existing double storey dwelling unit and carport that encroach the 3,15m street building line (title deed building line) with 2,62m.
- ❖ Application for departure in terms of Section 16(2)(b) of the above By-Law comprising the following:
 - (a) the relaxation of the north western lateral building line from 2m to 0,89m, the rear building line from 2m to 0,95m, as well as the north eastern lateral building line from 2m to 1,172m in order to accommodate the existing single garage and second dwelling unit;
 - (b) the relaxation of the north western lateral building line from 2m to 0,98m and 1,04m, the north eastern lateral building line from 2m to 0,849m and 0,88m, as well as the 4m street building line to 0,53m, in order to accommodate the existing carport, wooden deck and two storey main dwelling unit with balcony;
 - (c) the relaxation of the permissible coverage from 50% to 61% in order to accommodate the existing structures on the property, and
 - (d) the relaxation of the permissible 3,5m height restriction applicable to outbuildings to 3,965m in order to accommodate the existing single garage.

A Locality Plan of the property concerned is attached as Annexure A. Motivation Report from the applicant in support of the proposal 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

The erf is zoned Residential Zone 1: Single Residential, measures 421m² in extent and is located in the residential area of Voëlklip in Seventh Street which is the main arterial road through Voëlklip.

The property is developed with a double storey dwelling with a first floor balcony, a carport underneath the dwelling and an outbuilding (second dwelling and single garage). The only approved building plans for the property are dated 23 May 1955. During 1994/1995 building plans were submitted for the approval for additions and alterations to the existing dwelling.

A departure application was approved to deviate from the maximum allowable coverage of 50% to 63% (copy of Overstrand Municipality's approval letter dated 29 June 1995 with motivation letter from the property owner at the time is attached as Annexure D). The departure of the 5m road building line was also recommended for approval to the District Roads Engineer.

The building plans dated January 1995 that were submitted (but not approved) shows the encroachments as the structures currently stands on the property. No new additions or alterations are proposed. It is therefore evident that attempts were made in the past to accommodate the existing structures and their associated land uses on site, but that the land use and building plan process for all the various applications were never followed through

The second dwelling was approved in 2009 for the exact same structure (portion of the outbuilding) currently proposed for use as second dwelling purposes. However, the land use rights for the second dwelling have since lapsed, because the conditions of approval were not met.

During 1964 a portion of Erf 2635 was subdivided for road widening purposes and as a result the existing dwelling is now only 0,5m from the street boundary. It is thus clear that the road widening significantly impacted upon the extent of the subject property. (Refer to Annexure E)

The current owners bought the subject property in June 2017. As part of the sale transaction, the existing encroachments on the property had to be addressed. The application serves the purposes of legalizing all the existing "as built" structures on the property.

4. SUMMARY OF APPLICANT'S MOTIVATION

The points of motivation are summarised as follows (the detailed report is attached as Annexure B):

- ❖ The building line and coverage relaxations are to accommodate existing structures ("as built");
- ❖ The existing structures are compatible with the character of the area and do not impact negatively on the rights of anyone else;
- ❖ No impact on the scale and usage of the existing available services is anticipated;
- ❖ The architectural style and design of the additions and alterations as well as the materials used promote the desirability of the proposed deviations;

- ❖ The proposed departures and removal of restrictive title deed conditions will not have a negative impact on the current character and land values of the surrounding erven;
- ❖ The proposed land use application will comply with the relevant spatial planning policies for the area;
- ❖ The application is fully compliant with the applicable planning principles described in LUPA (2014) and SPLUAMA (2013).

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	Yes	28/09/2017	03/11/2017
Gazette	Yes	29/09/2017	03/11/2017
Notices	Yes	26/09/2017	03/11/2017
Ward councillor	Yes	26/09/2017	03/11/2017
Total comments	ONE (1)		
Total letters of support	NONE		
Was public participation undertaken in accordance with Section 45 - 49 of the Proposed Draft By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly (if no, elaborate below):			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			Yes

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

Name	Date received	Summary of comments	Recommendation
Operational Services	28/09/2017	Supported.	Positive
Building Control	02/10/2017	Supported – building plans to be submitted in compliance with SANS10400.	Positive
Local Heritage	03/10/2017	Supported.	Positive
Electro Technical Services	23/10/2017	No comments since no existing services will be altered.	Positive
Department of Transport and Public Works	06/11/2017	Annexure I.	Positive
Engineering Services	13/11/2017	Attached as Annexure J.	Positive

Fire Department	17/11/2017	Attached as Annexure K.	Positive
Telkom	05/12/2017	Attached as Annexure L.	Positive

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Objection: PN Biden (“The Sea Trust”), Erf 2634, Hermanus (Voëlklip)

The objection (detailed objection is attached as Annexure G) could be summarised as follows

1. Objection is made to the encroachment of the north eastern building line with reference to the main dwelling, specifically the carport, wooden deck and balcony.
2. The objector states that the encroachment directly affects his property by being built too close to the boundary, being over bulk and being too high. His property loses the north- west light and privacy as a result of these transgressions.
3. No objection is made to the southern (road) side transgressions as these were occasioned by the road widening.
4. In the motivation it states: *“The impact on the adjacent property owners will be marginally higher than with the existing approved structures and current use thereof.”* No mention is made of the fact that it is over 1,1m closer to the objector’s boundary, is a massive concrete block and casts a shadow over his property.

“It is submitted that the existing structures are compatible with the character of the area, does not impact negatively on the rights of anyone else.” It totally impacts negative on his property and he submits that it is a matter of opinion that it is compatible with the character of the area. He does not believe that this is the case.

“The scale of the existing structures scale of the surrounding dwellings”. This is not the case as he owns an “old Hermanus” house that is dwarfed by this concrete block. He defies anyone to believe that the scale of the two (2) properties is similar.

The objector agrees with the comment: *“there is no conservation worthy elements in the existing structure”.* This however does not apply to his property.

“Further it proves to be efficient to keep the existing structures at the current positions to avoid additional impacts on the adjacent property owners”. As an adjacent property owner, he rejects this statement in its entirety. He would be exceedingly happy to have this building be altered so as to comply with the building regulations. A few months of noise and dust are easily traded for a lifetime of light and not being towered over illegally.

5. The Overstrand Municipality has a duty to protect all its citizens and condoning such gross indulgence which severely affects neighbours, cannot be accepted.
6. Should the application be approved, the objector will certainly consider court action to overturn this.
7. Accordingly, the objector's rights in the matter are reserved.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

The applicant's comments on the points of objection (attached as Annexure H) are summarized as follows:

1. One (1) objection was received from PN Biden on behalf of the Sea Trust, the owners of Erf 2634, Hermanus. It is noted that no trust resolution was attached to the objection from the Sea Trust, thus it is questioned if Mr Biden objects on behalf of the trust or if it is merely his individual objection.
2. There is an approved building plan for the original dwelling (single storey) dated 1942 at the Overstrand Municipality. The footprint of the approved dwelling is now the footprint of the existing ground floor level as depicted on the ground floor layout plan. The position of the existing dwelling therefore has the same position since the 1942 approval. The position of the dwelling on the 0,849m building line has remained unchanged. The additions to the dwelling were undertaken during 1995.
3. The current owner of Erf 2634, Hermanus bought the subject property in 2002. At the time when the objector bought Erf 2634, Hermanus all the "as built" structures (dwelling and outbuilding) were already present on the subject property. Only a wooden deck was added at the back of the house after 2002. The neighbours therefore bought their property knowing that the "as built" structures being referred to by the objector already existed on the subject property.
4. It should be noted that the outbuilding (second dwelling) only encroaches by 29cm onto the eastern lateral building line. An application for the second dwelling was approved in 2009 for the exact same structure (portion of the outbuilding) currently proposed for use as second dwelling purposes. However, the land use rights for the second dwelling have since lapsed, because the conditions of approval were not met. A second dwelling is now an additional land use right for single residential properties. Applicant is therefore not asking for more than what was already considered and approved in the past for the subject property.
5. A departure application was approved to deviate from the maximum allowable coverage of 50% to 63% (copy of Overstrand Municipality's approval letter dated 29 June 1995 with motivation letter from the property owner at the time was attached to the application). The owner at the time however failed to submit the building plans for approval once the land use approval (departure) was granted. Applicant is therefore not asking for more than what was already considered and approved in the past for the subject property. The merit of this application has not changed since the structures remained unchanged.

6. Perhaps there is conservation worthy elements for the house on Erf 2634, Hermanus. The latter is however not relevant to the application on Erf 2635, Hermanus. It is noted that the back flat/outbuilding on Erf 2634, Hermanus is approximately the same distance from the back fence/wall than applicant's outbuilding/second dwelling structure is from the objector's fence. The height of the similar structure on Erf 2634, Hermanus also seems very similar in height to the proposed 3,965m height for the existing outbuilding/second dwelling on Erf 2635, Hermanus.
7. The height of the main dwelling is in line with the height requirements for single residential properties. It is in fact only 6,54m high versus the allowable 8m maximum height restriction allowed.
8. The existing dwelling on Erf 2634, Hermanus is positioned further east on the subject property. The existing driveway abuts the common boundary with Erf 2635, Hermanus. This, as well as the 6,54m height of the existing dwelling further mitigates the impact that the existing dwelling on Erf 2635, Hermanus has on the adjacent property.
9. It is also noted that it seems that the property owner does not reside on the property. It seems that the dwelling on Erf 2634, Hermanus is occupied by staff employed by Mr Biden at his guest house establishment in town.
10. It is worth noting that the previous Hermanus Zoning Scheme Regulations (the Scheme Regulations that applied to the property when the structures were constructed in 1995) allowed for 1,2m lateral building lines for erven with a frontage smaller than 18m (width of Erf 2635, Hermanus is 15,74m) and although building plans were not submitted in the past for the approval of all structures prior to construction, the deviations of the "as built" structures on the eastern and western boundaries from the 1,2m lateral building lines (applicable at the time) were minor. It was only with the new Zoning Scheme that 2m lateral building lines were promulgated.
11. The new property owners are saddened that there was allegedly a breakdown in relations with one of the previous owners of Erf 2635, Hermanus as they would very much appreciate having a positive, pleasant and neighbourly relationship with all working together in a spirit of mutual co-operation. The new owners merely want to legalize the existing structures on the subject property that have been in existence for the past 20+ years. It is unjust to take past transgressions out on the new property owners who now merely want to do right by the Municipality and the neighbours. The impact on Erf 2634, Hermanus remains unchanged as it has been for the last 20 years.
12. It is the opinion that the subject property allows for the deviations being applied for due to:
 - the existing structures positioned in relation to less restrictive building lines of the previous Zoning Scheme Regulations;
 - the extent of the property and how the road widening expropriation impacted thereon;
 - the materials used;
 - the scale of the surrounding built environment;
 - the position of the existing structures on Erf 2634, Hermanus in relation to the dwelling and outbuilding on Erf 2635, Hermanus;

- the low impact on the streetscape (dwellings situated to the east follows the same street building lines);
- the existence of the existing structures on the subject property for the past 20+ years; and
- the previous land use approvals granted and recommended for approval for the subject property (the merit for these applications considered in the past remains relevant since the structures and uses thereof remained unchanged).

9. MUNICIPAL ASSESSMENT OF COMMENTS

It should be noted that the objector does not object to a second dwelling unit and garage at the rear of the property or the height restriction of the garage that is being exceeded. He further has no objection to the street building line encroachment along the southern side of the property.

No records could be traced that the owner of Erf 2634 (objector) or previous owners of the property complained about the state of affairs on the application property, prior to the public participation process being conducted. It is strange that the objector now seeks the opportunity to object to circumstances that he obviously was aware of for years already and did not laid down any formal complaints in the past.

With regard to loss of north westerly light it should be noted that the main dwelling does not exceed the applicable height restriction. Most of the surrounding properties are developed onto or in close proximity of the former 1,2m building line. The encroachment in terms of the former applicable 1,2m building line with 0,45m would not be out of keeping with the character of the area and is not considered to significantly impact upon north westerly light received by the objector's property given the bulk of the remainder of the property. The encroachment of the current 2m lateral building line is therefore not considered to unacceptably detract from the enjoyment of the objector's property.

It should also be borne in mind that the objector's property has a 3,5m wide access adjacent the application property and with the dwelling situated in close proximity to the opposite (south eastern) of the lateral building line. The objector's house faces the application property and has a covered stoep that also takes away sun/daylight. The opinion is thus held that the objector failed to properly substantiate his objection in this regard.

The dwelling unit on the subject property only has two (2) windows at first floor level that face towards the objector's property. One (1) window is a secondary bedroom window and the other a bathroom window. As such, the opinion is held that the windows will not have a significant impact in terms of overlooking/loss of privacy. It is recommended that railings be provided on the balcony to prevent access beyond the lateral building line thereby mitigating overlooking.

Further to the above, the objector's statement that the building be altered to comply with building regulations, cannot be supported. The carport that actually forms an integral part of the dwelling being "underneath" the dwelling cannot be altered without excessive financial implications for the landowners given that it is a double storey building. It is further the opinion that the status quo of the development on the property has basically remained unchanged for more than two (2) decades already with no complaints received from surrounding property owners that could be traced on record.

The dwelling does not encroach the 8m height restriction and this point is therefore not further elaborated upon. The applicant must in any event submit "as built" building plans should the application be approved, which plans must conform to the applicable requirements, including the height restriction.

It is agreed with the objector that the development is bulky, but it has been so for a very long time already without any complaints and mainly as a result of the expropriation of a portion of the property that resulted in the coverage being exceeded.

Registered notices of the application were served on thirteen (13) surrounding property owners and no other objections were received. Should the application be approved, a condition must be imposed that no further structures or additions, except internal changes, will be allowed on the property in future that will increase the coverage on the property.

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

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 it will thus 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

Inconsistent with the Zoning Scheme, but consistent with the 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.

10.9 Additional Planning Motivation For Removal of Restrictive Condition

Due to the essence of the application, the aspects considering financial or other:

The financial or other value of the rights

The applicant will accrue financial benefit in as far as the removal of restrictive conditions will enable submission of building plans for consideration in accordance with the provisions of the land use approval, Scheme and Building Regulations.

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 siting of buildings and structures be more restrictive compared to that provided for within the Title Deed.

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 some of the rights relating to the siting of buildings and outbuildings on the property, in terms of the Title Deed. Should the application be approved, the applicant will still be restricted to the conditions of approval and development parameters in terms of the Overstrand Zoning Scheme.

11. THE DESIRABILITY OF THE PROPOSAL

The property formed part of the expropriation of portions of erven alongside Seventh Street for road widening purposes by the previous Department of Transport during the 1960's. The property is burdened with a restrictive condition in the Title Deed with regard to the distance of buildings (3,15m) and outbuildings (9,45m from the street and 6,3m from an avenue) from the street boundary.

Due to the road widening process that occurred in the 1960's, the structure inevitably encroached the title deed building line, the zoning scheme building line, as well as the new street boundary. The latter occurred prior to the Removal of Restrictions Act of 1967 (now repealed) came into being, thus no removal of the restrictive condition could be entertained at the time. The landowner at the time went so far to demolish that section of his dwelling in order to set the dwelling back to beyond the road widening line [see Diagram 7360/64 (attached as Annexure E)] indicating the section of the dwelling that encroached over the street boundary that was demolished. It is thus evident that the encroachment of the street building lines (Title Deed and Zoning Scheme) were not intended by the previous landowners, but directly as a result of the road widening.

It is also important to note that portions of all the erven in the block in which the subject property is situated formed part of the expropriation process (road widening – see Annexure M). As can be observed, the dwellings on Erven 2634, 2633, as well as Erf 2628 are all set forward the same as the dwelling on the subject property directly as a result of the road widening – see Annexure Q. The encroachment of the street boundary of the subject property is therefore not out of character with the immediate surrounding area. The removal of the said condition and the encroachment of the street building line are therefore supported.

The existing boundary walls in front of the property are indicated on draft building plans dated January 1995 (attached as Annexure N) that was submitted with the application. It is thus apparent that these walls have been in existence at its current position over the property boundary for decades already. Ample space still exists for pedestrians, thus no problems are foreseen with regard to pedestrian movement. However, these boundary walls are situated on Erf 5058 (expropriated portion) which is registered in the name of the Overstrand Municipality. The boundary walls cannot be set back to the street boundary of the subject property since it will leave the property in an unpractical and cramped state. In this regard the new landowners will therefore have to enter into a non-compensation agreement with the Municipality with regard to these boundary walls.

An approved site plan dated 23 May 1955 for a septic tank for the property was found (attached as Annexure O). The latter plan indicates that a dwelling unit and a garage existed on the property at that stage already, presumably the existing garage, but not at the exact same position. Unfortunately no plans with elevations could be traced indicating dimensions and what the structures appeared like at the time. It is obvious that the 1995 owner of the property added the structure (now the second dwelling unit) to the garage and also the alterations and additions to the dwelling unit (first floor, etc.) at the time since he applied to exceed the applicable 50% coverage with 13% during 1995. Approval was granted by the former Hermanus Municipality on 29 June 1995 to exceed the coverage subject thereto that the landowner had to act on the approval within two (2) years. He had building plans drawn up, but it seems that he never submitted it within the two (2) year validity period. It further seems that it may have been submitted to the Building Department after the two (2) year period lapsed, but it was not approved by the department probably due to non-compliance with the condition of approval. Together with the illegal additions and the portion of the property that was expropriated, the property decreased with 72m² in size that lead to the increase of the coverage. The current development of the property was done generally in accordance with the draft plans, but it was done illegally since no building plan approval was obtained. Besides some internal changes, the only addition to the property since the 1995 draft building plans that can be observed seems to be the timber deck between the outbuilding and the main dwelling unit. The latest calculations for the coverage on the property are 61% and not 63% as applied for during 1995.

The various building line encroachments as applied for are also historic in nature as well as the height of the garage that is attached to the second dwelling. It is however the opinion that these encroachments do not have a mentionable effect or other impacts on the rest of the abutting landowners since they did not object to the application. These encroachments can therefore be supported.

The new landowners only recently during 2017 bought the property and it is thus obvious that they did not have any doing in the irregularities on the property. Due to the historic nature of the situation as described above and the structural implications of costly demolition works should the applicant be forced to maintain the 50% permissible coverage, the existing circumstances that occur on the property can be regarded as being extraordinary in nature and can thus be supported.

The landowner deviated from the western lateral and rear building lines as indicated on the said draft building plans. Although liveable structures over building lines are under normal circumstances not entertained, it is again reiterated that the situation has been in existence for decades already. Windows however occur in the wall of the second dwelling that faces the rear boundary as well as on both sides of the main dwelling unit. In terms of the Zoning Scheme openings in structures closer than 1m from boundaries are not allowed mainly for fire safety reasons. As this is regarded as more of a fire safety issue than a town planning issue per se, a condition is laid down that the requirements of the Fire Department and Building Department in this regard be adhered to.

In view of the above the opinion is held that the existing development on the property can be approved as applied for. The structures on the property are well maintained and will not detract from the character of the surrounding built environment and most probably do not have a mentionable impact on the privacy of surrounding property owners. The motivation of the applicant is further supported. The situation is further regarded as extraordinary in nature and will not necessarily lead to the creation of a precedent.

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 (By-Law) for the removal of condition D.(c) as contained in Title Deed T33061/2017 of Remainder Erf 2635, Hermanus in order to accommodate the existing double storey dwelling unit and carport that encroach the 3,15m street building line (title deed building line) with 2,62m, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16(2)(b) of the above By-Law for the following departures:
 - (a) the relaxation of the north western lateral building line from 2m to 0,89m, the rear building line from 2m to 0,95m, as well as the north eastern lateral building line from 2m to 1,172m in order to accommodate the existing single garage and second dwelling unit;
 - (b) the relaxation of the north western lateral building line from 2m to 0,98m and 1,04m, the north eastern lateral building line from 2m to 0,849m and 0,88m, as well as the 4m street building line to 0,53m, in order to accommodate the existing carport, wooden deck and two storey main dwelling unit with balcony;
 - (c) the relaxation of the permissible coverage from 50% to 61% in order to accommodate the existing structures on the property, and
 - (d) the relaxation of the permissible 3,5m height restriction applicable to outbuildings to 3,965m in order to accommodate the existing single garage

be approved in terms of the provisions of Section 61 of the By-Law;
3. that the approvals in 1. and 2. above be subject to the following conditions:
 - (a) that this approval is for the development as indicated on Plan No erf2653_FOURIE_A1/01-2017-AB dated March 2017 that was 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 (such plans must be submitted within thirty (30) days of the final decision of the application);
 - (c) that the requirements of the Building and Fire Departments be adhered to;

- (d) that the sides of the carport may not be enclosed whatsoever;
 - (e) that no further structures or additions, except internal changes, be allowed in future that will increase the coverage on the property;
 - (f) that the landowners immediately engage to enter into a Non-compensation Agreement with the Municipality with regard to the street boundary walls that encroach onto municipal property on final approval of the application;
 - (g) that balustrading be provided at the first floor balcony that prevents access beyond the 2m lateral building line.
 - (h) that all the conditions of the Engineering Services, Fire Services and Telkom respectively (attached as Annexure J, K and L), be complied with;
 - (i) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
 - (j) that all other applicable development parameters as prescribed in the relevant Zoning Scheme be complied with.
4. that the objector and the applicant 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.

12. REASONS FOR RECOMMENDATION

- ❖ The application has followed due procedure.
- ❖ None of the internal departments have any objection.
- ❖ The development is not out of keeping with the character of the area
- ❖ The development will not unacceptably detract from the amenity of adjoining properties in terms of loss of north westerly light or privacy.
- ❖ Is not regarded as being undesirable from a town planning point of view.
- ❖ The extent of the property combined with the impact of the road widening.
- ❖ Scale and siting of surrounding development.
- ❖ The existence of the existing structures for a number of years.
- ❖ The previous land use granted and recommended.

13. Annexures

- Annexure A: Locality Plan
- Annexure B: Motivation Report
- Annexure C: Site Development Plan
- Annexure D: Motivation and approval letter dated 29 June 1995
- Annexure E: Diagram 7360/1964
- Annexure F: Title Deed
- Annexure G: Objection
- Annexure H: Comment on objection
- Annexure I: Department of Transport and Public Works
- Annexure J: Services Report
- Annexure K: Fire Services

Annexure L: Telkom
Annexure M: Expropriated portions
Annexure N: Draft building plan dated 1995
Annexure O: Approved building plan dated 1955
Annexure P: Aerial Photograph indicating position of properties in relation to street boundary

SIGNATURES**REGISTERED PLANNER:**

Name : **S VAN DER MERWE**

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

Signature : _____

Date: _____



<p>PLAⁿ Active</p> <p>Stads- en Streeksbeplanners Town & Regional Planners</p>	<p>Property Description: ERF 2635 HERMANUS</p> <p>Scale: NTS Drawing Nr: herm26351.drw Date: JUNE 2017</p>
<p>All distances approximate and subject to survey.</p> <p>COPY RIGHT RESERVED</p>	
<p>Plan Description: LOCALITY MAP</p>	

**PROPOSED DEPARTURES & REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS:
REMAINDER ERF 2635 HERMANUS**

DIVISION: CALEDON

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

Plan Active Town & Regional Planners has been instructed by I.R. Jackson, on behalf of the Ian & Jane Jackson Family Trust, the owners of Remainder erf 2635 Hermanus, to apply for the departures and removal of restrictive title deed conditions of the subject property.

Remainder erf 2635 Hermanus is 421m² in extent and is held by title deed no. T33061/2017. The subject property was only registered in the new owners' name on 12 June 2017 and consequently a copy of title deed no. T33061/2017 is unavailable. A copy of the Windeed Report (confirmation of registration), previous title deed no. T42965/2008 and concept title deed are attached.

There is an existing double storey dwelling, carport and outbuilding (second dwelling and single garage) situated on the subject property. All of the aforementioned structures encroach the applicable lateral building lines. In addition the existing structures deviate from the requirements of the zoning scheme regulations and the existing carport and dwelling (ground and first floor) also deviates from the title deed street building lines. This application therefore intends to address the zoning scheme regulations' lateral and street building line encroachments, the deviations from the

provisions of the zoning scheme regulations and the encroachment of the title deed street building lines.

The coverage of the As Built structures also encroach the allowable coverage for Residential Zone I: Single Residential properties. Application is also made for the deviation from the allowable coverage to accommodate the existing structures on the subject property.

Application is also made for a deviation from the provisions of the Overstrand Zoning Scheme Regulations (2013) as stipulated in Chapter 16.1.1 b. (ii), (iii) and (iv) to accommodate the existing outbuilding (now second dwelling and single garage) on the subject property.

The only approved building plan for the subject property is dated 23 May 1955 (copy attached). In 1994/1995 building plans were submitted for the approval of additions and alterations to the existing dwelling. A departure application was approved to deviate from the maximum allowable coverage of 50% to 63% (copy of Overstrand Municipality's approval letter dated 29 June 1995 with motivation letter from the property owner at the time attached thereto). The proposed encroachment of the 5m road building line and the 4m statutory building line were also recommended to the District Roads Engineer for approval on 5 April 1994 (copy of the letter of recommendation attached). The owner at the time however failed to submit the building plans for approval once the land use approval (departure) was granted.

In addition an application for a second dwelling was approved in 2009 for the exact same structure (portion of the outbuilding) currently proposed for use as second dwelling purposes. However, the land use rights for the second dwelling have since lapsed because the conditions of approval were not met.

2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the departures (building lines,

coverage and deviations from the provisions of the Overstrand Zoning Scheme Regulations) of Remainder erf 2635 Hermanus;

- Chapter 4, Section 16(2)(f) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the removal of the restrictive title deed conditions of Remainder erf 2635 Hermanus.

3. GENERAL APPLICATION INFORMATION

3.1 PROPERTY DESCRIPTION

Remainder erf 2635 Hermanus is situated at 124 Seventh Street, Voëlklip, Hermanus. Refer to the locality plan attached. Remainder 2635 Hermanus is 421m² in extent and situated in a residential environment.

3.2 ZONING

The subject property is zoned Residential Zone I: Single Residential and is utilized as such.

Surrounding properties are zoned for Residential Zone I: Single Residential purposes.

3.3 LAND USE

There is an existing double storey dwelling, carport, second dwelling and single garage situated on the subject property. Consequently the subject property is used for single residential purposes only.

Land uses that surround Remainder erf 2635 Hermanus are dwellings and public roads.

3.4 PROPOSED DEVELOPMENT

- The departure (building lines, coverage and deviations from the provisions of the Overstrand Zoning Scheme Regulations, 2013) of Remainder erf 2635 Hermanus in terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, to:
 - relax the northern lateral building line from 2m to 0,95m to accommodate the existing single garage and second dwelling;
 - relax the eastern lateral building line from 2m to 1,712m to accommodate the existing second dwelling;
 - relax the western lateral building line from 2m to 0,89m to accommodate the existing single garage;
 - relax the eastern lateral building line from 2m to 0,849m and 0,88m respectively to accommodate the existing double storey dwelling;
 - relax the street building line from 4m to 0,53m to accommodate the existing double storey dwelling and carport;
 - relax the western lateral building line from 2m to 0,98m and 1,04m respectively to accommodate the existing double storey dwelling and carport;
 - deviate from the permissible coverage of 50% to 61% to accommodate the existing As Built structures;
 - deviate from the provisions of the Overstrand Zoning Scheme Regulations (2013) as stipulated in Chapter 16.1.1 b. (iii) to accommodate the existing second dwelling and single garage (one building) of longer than 9m within the northern lateral building lines;
 - deviate from the provisions of the Overstrand Zoning Scheme Regulations (2013) as stipulated in Chapter 16.1.1 b. (ii) to accommodate the existing single garage and second dwelling building with a height of 3,965m;
 - deviate from the provisions Overstrand Zoning Scheme Regulations (2013) as stipulated in Chapter 16.1.1 b. (iv) to accommodate the existing windows of the single garage and second dwelling structure

Pl n Town and Regional Planning
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Motivation report

on the 0,95m northern lateral building line;

- The removal of the restrictive title deed conditions in terms of Chapter 4, Section 16(2)(f) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, to accommodate:
 - the existing double storey dwelling and carport on Remainder erf 2635 Hermanus on the 0,53m street building line (Seventh Street).

There is an existing double storey dwelling, carport, second dwelling and single garage situated on the subject property. The existing owners bought the subject property in June 2017. As part of the sale transaction the existing encroachments on Remainder erf 2635 Hermanus have to be addressed. This application serves the purposes of legalizing all the existing As Built structures on the subject property.

In 1994/1995 building plans were submitted for the approval of additions and alterations to the existing dwelling. A departure application was approved to deviate from the maximum allowable coverage of 50% to 63% (copy of Overstrand Municipality's approval letter dated 29 June 1995 with motivation letter from the property owner at the time, Mr Gerhard van Wyk, attached thereto). Mr Gerhard van Wyk however failed to submit the building plans for approval once the land use approval (departure) was granted. It is however evident that the merit of the encroachments submitted in 1994/1995 was favourably considered and that not only the coverage was evaluated and approved, but also the building line encroachments (since the one could not have been evaluated without the other). The proposed encroachment of the 5m road building line and the 4m statutory street building line were also recommended by the Hermanus Municipality to the District Roads Engineer for approval on 5 April 1994. The building plans dated January 1995 that were submitted (but not approved) shows the encroachments as the structures currently stands on the subject property. No new additions or alterations are proposed with this application.

In addition an application for a second dwelling was approved in 2009 for the exact same structure (portion of the outbuilding) currently proposed for use as second dwelling purposes. However, the land use rights for the second dwelling have since lapsed because the conditions of approval were not met. This does however proof that the existence of the structures as it stood in 2009 (and still unchanged up to date) was already favourably considered in the past. The position (building line encroachments) and coverage of the structures with the land use application in 2009

were neither questioned nor did it impact on the merit of the second dwelling (last mentioned was approved).

It is therefore evident that attempts were made in the past to accommodate the existing structures and their associated land uses on site but that the land use and building plan process for all the various applications were never followed through.

Here follows the detail of the proposed application for consideration:

1. Single garage and second dwelling

The existing single garage and second dwelling building is 86,1m² in extent. Although a second dwelling is a primary land use right for a SR1 zoned property, the aforementioned structure is positioned within the northern, eastern and western lateral building lines and this has to be addressed. The Overstrand Zoning Scheme Regulations (2013) stipulate that 2m lateral building lines apply to Residential Zone 1: Single Residential properties larger than 400m² in extent.

Application is therefore made for a permanent departure to:

- relax the northern lateral building line from 2m to 0,95m to accommodate the existing single garage and second dwelling;
- relax the eastern lateral building line from 2m to 1,712m to accommodate the existing second dwelling;
- relax the western lateral building line from 2m to 0,89m to accommodate the existing single garage.

The existing garage and second dwelling structure is 7,46m and 5,46m wide on the respective sides and 13,138m long. The length of the existing structure exceeds the maximum length of 9m on the 15,74m northern boundary. Application is therefore made for a departure from the Overstrand Zoning Scheme Regulations (2013) to accommodate the existing single garage and second dwelling within the northern lateral building line.

The existing single garage and second dwelling building also exceeds the maximum height of 3,5m as specified in the Overstrand Zoning Scheme Regulations (height is 3,965m). Application is also made for a deviation to allow the building line relaxation of an existing structure that exceeds the maximum allowable height of 3,5m.

It is proposed to keep the existing garage and second dwelling as built. As previously mentioned the same portion of the existing outbuilding was approved for second dwelling purposes in 2009. The owner however failed to adhere to the conditions of approval and consequently the second dwelling right lapsed. It is submitted that the position and size of the second dwelling remains unchanged (approved versus proposed application) and consequently the application for the deviations to accommodate the second dwelling can be favourably considered for approval again.

There are existing windows placed on the 0,95m northern lateral building line. Consequently application is made for the deviation from the provisions Overstrand Zoning Scheme Regulations (2013) as stipulated in Chapter 16.1.1 b. (iv) to accommodate the existing windows of the garage and second dwelling structure on the 0,95m northern lateral building line.

Refer to the proposed site plan, floor plans, elevations and sections plans attached.

Although building plans were submitted for the additions on the subject property in 1995, the plans were never approved by the building department as mentioned earlier in the report. A departure to deviate from the maximum permissible coverage was however previously approved ($\pm 63\%$ coverage – refer to the letter of approval from Hermanus Municipality dated 29 June 1995). We are therefore not asking for more than what was already considered and in some cases approved in the past for the subject property.

2. Dwelling and carport

There is an approved building plan for the original dwelling (single storey) dated 1942 at the Overstrand Municipality. The footprint of the approved dwelling is now the footprint of the existing ground floor level as depicted on the ground floor layout plan. The position of the existing dwelling therefore has the same position since the 1942 approval. In 1964 a portion of erf 2635 Hermanus was subdivided for road widening purposes (refer to diagram no. 7360/1964) and as a result the existing dwelling is now only 0,5m from the new southern erf boundary. The road widening expropriation (subdivision of erf 2365 Hermanus) therefore impacted on the extent of the subject property as well as the applicable street building lines.

Since then the previous owners added to the existing structures. The single storey dwelling was converted to a double storey dwelling with a balcony and a carport was added west of the existing dwelling (on the same 0,5m street building line). Although building plans were submitted for the additions and a departure application was granted to deviate from the permissible coverage (from 50% to 63%) the plans were never re-submitted for approval to the building department.

The existing dwelling, carport and balcony have a footprint of 171m². The Overstrand Zoning Scheme Regulations (2013) stipulate that 2m lateral building lines and 4m street building lines apply to Residential Zone 1: Single Residential properties larger than 400m² in extent.

The existing dwelling, carport and balcony encroaches the relevant zoning scheme regulations' lateral and street building lines. Application is therefore made for a permanent departure to:

- relax the eastern lateral building line from 2m to 0,849m and 0,88m respectively to accommodate the existing double storey dwelling (inclusive of balcony);
- relax the street building line from 4m to 0,53m to accommodate the existing double storey dwelling (inclusive of balcony) and carport;
- relax the western lateral building line from 2m to 0,98m and 1,04m respectively to accommodate the existing double storey dwelling (inclusive of balcony) and carport;

The existing dwelling and carport are also positioned within the 5m National Roads building line. Application is therefore made to the District Roads Engineer to relax the 5m roads building line to 0,53m to accommodate the existing dwelling with balcony and carport on the 0,53m street building line.

The proposed encroachment of the 5m road building line and the 4m statutory street building line was recommended by the Hermanus Municipality to the District Roads Engineer for approval on 5 April 1994 (letter of recommendation attached). We are therefore not asking for more than what was already considered and recommended for approval in the past for the subject property.

The title deed of Remainder erf 2635 Hermanus has restrictive title deed conditions with regards to the street building lines that have to be relaxed to accommodate the

proposed departure applications. Title deed no. T42965/2008 (latest title deed no. T33061/2017 not available yet) stipulates that a 3,15m street building line applies to all buildings on the subject property. In addition the title deed also stipulates that a 9,45m street building line applies to all outbuildings on the subject property. As previously mentioned the existing double storey dwelling (inclusive of balcony) and carport are situated on the 0,53m street building line. It is therefore proposed to remove the following restriction in the title deed to accommodate the existing carport and double storey dwelling (inclusive of balcony) on the subject property:

Title deed T33061/2017, Page 3, paragraph D. (c):

D. ONDERHEWIG VERDER aan die spesiale verkoopsvoorwaardes opgelê deur Mossel River Estate Company Limited in Transportakte Nr. T2911/1934 en vervat in aanhangsel "A" daartoe:-

(c) That all buildings shall stand back at least three comma one five metres from the line of the street or avenue on which the Lot or Lots hereinmentioned may front, that all outbuildings shall stand back at least nine comma four five metres from any street or six comma three nought metres from any avenue on which the lot or lots herein mentioned may front.

3. General

The existing structures on the subject property do not create an infringement to any passing traffic or public activity. Currently there are small windows in the existing garage and second dwelling structure positioned within the northern and eastern lateral building lines. These windows are similar to the windows typically placed in outbuildings. It is motivated that the impact on adjacent property owners would be the same if the structures were used for garage and servant's quarter's purposes. There are no windows on the western side (garage wall) of the aforementioned building. Although the existing garage and second dwelling structure encroach the 3,5m maximum height, the structure is still only one storey and consequently the impact on the views and privacy of the neighbouring properties are kept to a minimum.

Except for the deviations mentioned above the second dwelling unit is in line with the definition of a second dwelling unit and meets all the land use parameters applicable to second dwelling units (with regards to size, placement of the unit, architectural style, etc.).

The subject property is limited in size. Most of the structures have been on the property for the past ± 20 years and no additions to the existing structures are proposed. The position of the original dwelling would have encroached the street building line because of the road widening expropriation that impacted the extent and length of the subject property - regardless of the additions made later to the subject property. It is worth noting that the previous Hermanus Zoning Scheme Regulations allowed for 1,2m lateral building lines for erven with a frontage smaller than 18m (width of erf 2635 Hermanus is 15,74m) and although building plans were not submitted in the past for the approval of all structures prior to construction, the deviations of the As Built structures on the eastern and western boundaries from the 1,2m lateral building lines (applicable at the time) were minor. The height of the existing dwelling does not exceed the maximum height of 8m for SR1 zoned properties.

The zoning of Remainder erf 2635 Hermanus will remain unchanged (Residential Zone I: Single Residential). All buildings as indicated on the site development plan already exist and the application addresses existing structures only. Consequently the proposed departures and removal of restrictive title deed conditions will not have a greater impact on the surrounding properties.

The proposed departures and removal of restrictive title deed conditions of Remainder erf 2635 Hermanus are not in contrast to the existing land uses tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

It is noteworthy that the existing double storey dwelling is visible from the street and the neighbouring properties. It is however submitted that the massing and height of the existing building will remain unchanged. The impact on the adjacent property owners and the passers by will therefore be marginally higher than with the existing approved structures and current use thereof.

The area schedule and coverage for the subject property is as follows:

- Second dwelling and garage: 86,1m²;
- Main dwelling: 131,8m²;
- Additions: 20,5m²;
- Balcony: 39,1m²;

Total footprint: 257m²

Coverage: 61%.

The total footprint of all the As Built structures exceeds the maximum allowable footprint of 50% for SR1 zoned properties. An application is therefore submitted to deviate from the permissible coverage of 50% to 61% to accommodate the existing As Built structures on Remainder erf 2635 Hermanus.

The existing southern boundary wall is not positioned on the southern erf (street) boundary. Its current position is $\pm 2.82\text{m}$ from the boundary line. The existing boundary wall will remain since this is a historic situation – the boundary walls' encroachment can be seen on SG diagram no. 7360/1964. In addition it is motivated that the boundary wall cannot be moved to the southern erf boundary since there are windows placed in the existing dwelling positioned on the 0,53m street building line. The space available between the existing dwelling and southern erf boundary is not large enough to allow the boundary wall to be relocated.

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

When considering the proposed departures and removal of restrictive title deed conditions application, the point of departure is the need to discourage the phenomenon of urban sprawl and to encourage densification and more compact towns and cities, all of which relates to more responsible resource use or sustainable development.

The proposed departures and removal of restrictive title deed conditions of Remainder erf 2635 Hermanus are not in contrast to the existing land use tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

3.5 CHARACTER OF THE ENVIRONMENT

It is not proposed to change the land use or structures of the subject property. The impact on the character of the area will therefore remain unchanged. The surrounding properties are developed with single and double storey dwellings and the use of the surrounding properties are for permanent residences and holiday houses. In addition the subject properties situated to the east of Remainder erf 2635 Hermanus is also positioned in close proximity to Seventh Street and within the applicable 4m street building lines (also because of the road widening process). The placement of all the exiting dwellings next to this part of Seventh Avenue follows the same line and consequently the impact on the streetscape is minimal. The scale of the existing structures merges well with the scale of the surrounding dwellings in the immediate area. In addition to keep the existing structures ("As Built") will contribute towards the value of the subject property and consequently have a positive impact on the area as a whole. It is therefore submitted that the proposed encroachments are compatible with the character of the area and does not impact negatively on the rights of anyone else.

Furthermore the departures and removal of restrictive title deed conditions to accommodate the existing structures will not have a greater impact on the privacy of neighbours since the structures have been on the subject property for the past ±20 years.

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

The subject property's zoning and land use will remain unchanged. The location of the subject property within a single residential area allows the property to be developed (in future) for low impact land uses only such as a Bed-and-Breakfast, guesthouse, home occupation, etc. The proposed departures will not hinder any future land use applications on Remainder erf 2635 Hermanus.

The subject property allows for the deviations being applied for due to the existing structures positioned in relation to less restrictive building lines of the previous zoning scheme regulations, the extent of the property and how the road widening expropriation impacted thereon, the materials used, the scale of the surrounding built environment, the low impact on the streetscape (dwellings situated to the east follows the same street building lines), the previous land use approvals granted and recommended for approval for the subject property, etc. In addition a portion of the subject property was subdivided in 1964 for road widening purposes (erf 5058 Hermanus of 68,69m² in extent). The expropriation shrunk the existing erf of 491m² to 421m². If the expropriation did not take place the coverage of the existing structures would have been only 52% (instead of 61%) and a street building line of 5,25m would have applied to the subject property. Last mentioned cannot be ignored when considering the potential of the subject property to accommodate the existing structures' extent and positions.

3.7 IMPACT ON EXTERNAL ENGINEERING SERVICES

3.7.1 PROVISION OF SERVICES

All services on the subject property already exist. No additional loading of the existing civil infrastructure is anticipated.

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

3.7.2 TRAFFIC IMPACT, PARKING AND ACCESS

Access to Remainder erf 2635 Hermanus will remain unchanged and will be from Seventh Street. No new access points are proposed. Refer to the site development plan for the position of the access point.

The Overstrand Zoning Scheme Regulations (2013) stipulate that a minimum of two parking bays are required for single dwellings and an additional parking bay for a

second dwelling unit. Provision is made for three parking bays (single garage and two tandem parking bays under the carport) on Remainder erf 2635 Hermanus as indicated on the site development plan. The distance from the carport to the road kerb is 5,25m. The dwelling house and second dwelling unit on Remainder erf 2635 Hermanus therefore comply with the minimum parking requirements.

The subject property will still be used for single residential purposes only and therefore the impact on the traffic flow in the area will remain unchanged.

3.8 TITLE DEED

The title deed of Remainder erf 2635 Hermanus has restrictive title deed conditions with regards to the street building lines that have to be relaxed to accommodate the proposed departure applications. Title deed no. T42965/2008 (latest title deed no. T33061/2017 not available yet) stipulates that a 3,15m street building line applies to all buildings on the subject property. In addition the title deed also stipulates that a 9,45m street building line applies to all outbuildings on the subject property. As previously mentioned the existing double storey dwelling (inclusive of balcony) and carport are situated on the 0,53m street building line. It is therefore proposed to remove the following restriction in the title deed to accommodate the existing carport and double storey dwelling (inclusive of balcony) on the subject property:

Title deed T33061/2017, Page 3, paragraph D. (c):

E. ONDERHEWIG VERDER aan die spesiale verkoopsvoorwaardes opgelê deur Mossel River Estate Company Limited in Transportakte Nr. T2911/1934 en vervat in aanhangsel "A" daartoe:-

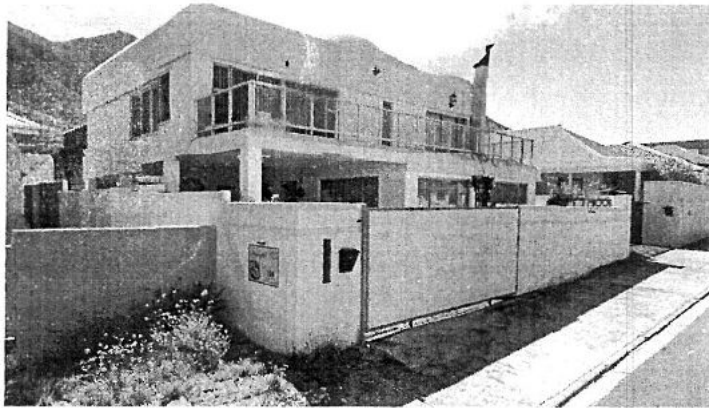
(c) That all buildings shall stand back at least three comma one five metres from the line of the street or avenue on which the Lot or Lots hereinmentioned may front, that all outbuildings shall stand back at least nine comma four five metres from any street or six comma three nought metres from any avenue on which the lot or lots herein mentioned may front.

Refer to a copy of the conveyancers certificate compiled by Hennie van Zyl at VZK Attorneys dated 12 June 2017. There is a bond registered against Remainder erf 2635 Hermanus. The bondholder's consent dated 28 August 2017 is attached.

3.9 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

3.9.1 HERITAGE VALUE

Remainder erf 2635 Hermanus is not situated within the Heritage Overlay Zone as determined by the Overstrand Heritage Report (2009). Although the original portion of the dwelling is older than 60 years, the subject property is not earmarked for heritage conservation purposes with reference to the Overstrand Municipal Growth Management Strategy (2010) or the Overstrand Heritage Report (2009). It should also be noted that although the original portion of the dwelling is older than 60 years, there are no conservation worthy elements in the existing structure due to the additions to the dwelling throughout the years. Refer to the photograph below:



The existing As Built structures will remain unchanged. No additions are proposed.

In the light of the abovementioned it is evident that the proposed departures and removal of restrictive title deed conditions will not have a negative impact on the heritage value of the Voëlklip or Greater Hermanus area.

3.9.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed departures 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).

3.10 FORWARD PLANNING AND LAND USE DOCUMENTS

The *Overstrand Spatial Development Framework (2006)* earmarks the area where erf 2635 Hermanus is situated, for residential purposes. Refer to the Spatial Development Framework Plan (2006) attached. The zoning of the subject property will remain unchanged (Residential Zone I: Single Residential) and therefore the proposed application falls within the existing planning for the Greater Hermanus area.

The *Overstrand Municipal Growth Management Strategy (OMGMS, 2010)* specifies that Remainder erf 2635 Hermanus forms part of Planning Unit no. 7. Planning unit no. 7 is indicated as a higher density development corridor that promotes intensification in this area. This application proposes to keep the existing second dwelling on the subject property. The density of the applicable planning unit will therefore increase and consequently the proposal is in line with the spatial planning policies for Planning Unit no. 7. It is submitted that deviations can be considered for erven adjacent to Seventh Street and specifically in this corridor to promote intensification and densification in this corridor if the impact on the adjacent property owners is kept to a minimum. Since the structures on the subject property has been present on the subject property for a few years, the impact will remain unchanged and this form of densification (and the departures to meet the goal of densification) can be evaluated for favourable consideration

From the above it is evident that the proposed departures and removal of restrictive title deed conditions adhere to the spatial planning policies for the Hermanus area and consequently falls within the existing planning for the Greater Hermanus area.

3.11 PLANNING PRINCIPLES

The planning principles of spatial justice and spatial resilience do not apply to this application.

Spatial sustainability: It is submitted that the existing structures are compatible with the character of the area and do not impact negatively on the rights of anyone else. The proposal promotes land development that is spatially compact as motivated in terms of the relevant spatial planning policies. No impact on the biophysical environment or the heritage value of the site and area is anticipated. Furthermore the position of the existing structures, the extent of the subject property, the materials used, the scale of the surrounding built environment, the low impact on the streetscape, etc. allows for the consideration and approval of the proposed deviations without having an adverse impact on the spatial sustainability of the area. To keep the existing structures "as built" will promote land development in a location that is sustainable. The existing structures are to an improved erf within an established residential area and therefore will not impact on urban sprawl or upon a sensitive environment.

Efficiency: The subject property is easily accessible and conveniently located close to the Hermanus CBD area and Hermanus beaches.

It is motivated that to keep the existing as built structures proof to be efficient as it discourages the phenomenon of urban sprawl, encourages densification and more compact towns and cities, all of which relates to more responsible resource and infrastructure use and sustainable development. Furthermore the proposal is efficient in that it optimizes existing resources and infrastructure and continues the existing suburban development typology.

It proofs to be efficient to keep the existing structures at the current positions to avoid additional impacts on the adjacent property owners.

The proposed new use of a portion of the existing outbuilding for second dwelling purposes is efficient since the existing structures will remain and only the use thereof

was converted. The position of the original dwelling as well as the massing and height of the existing dwelling and balcony that fronts onto the street and the neighbouring properties will remain unchanged. It proves to be resourceful to enable the development of the second dwelling (which is a primary right for SR1 zoned properties) within the existing structures instead of demolishing same and constructing a new unit on the limited space available on the subject property.

Good administration: Our company is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016.

4. RECOMMENDATION

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

- The building line and coverage relaxations are to accommodate existing structures ("As Built");
- The existing structures are compatible with the character of the area and do not impact negatively on the rights of anyone else;
- No impact on the scale and usage of the existing available services is anticipated;
- The architectural style and design of the additions and alterations as well as the materials used promote the desirability of the proposed deviations;
- The proposed departures and removal of restrictive title deed conditions will not have a negative impact on the current character and land values of the surrounding erven;
- The proposed land use application will comply with the relevant spatial planning policies for the area;

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Motivation report

- The application is fully compliant with the applicable planning principles described in the LUPA (2014) and SPLUMA (2013).

With regards to the above mentioned it would be appreciated if the delegated authority / the municipal planning tribunal would approve the departures and removal of restrictive title deed conditions of Remainder erf 2635 Hermanus.

ANNEXURE D 1/2

15/3/2/2-5/95
DTS(A)

Mr G van WYK
71 7th Street Voelklip
HERMANUS
7201

The TOWN PLANNING DEPARTMENT
HERMANUS MUNICIPALITY

RELAXATION OF 50% COVERAGE RESTRICTION - ERF 2635, 124 7th street VOELKLIP

I, as owner of the above property kindly request the relaxation of the 50% **COVERAGE RESTRICTION** for the following reasons.

- a) The coverage of the proposed building together with the existing outbuildings will total 53% therefore being only 3% more than the allowed limit. This is the case, the ERF being 496 square meters.
The Cape Provincial Administration however requires 4,730m of my property resulting in a reduction of 74 square meters in my ERF size. This increases the problem to the extent that coverage of the property would thus be 63%
I dont feel that I should be penalised thus and be forced to apply for a 13% waiver as opposed to a 3% waiver as it was compulsory for me to decrease the size of my ERF by 74 squares.
- b) The existing house which is to be altered is already over the street building line and falls within the CPA property. To accommodate them, I have broken down a considerable portion of my dwelling and set the house back to beyond the road-widening line.
- c) The accommodation that I require in order for the house to be suitably market orientated for the ERF is such as shown on the attached plan and I would not like to decrease the size of the house as this would negatively influence the value of my property.
- d) Taking into consideration the fact that most Voelklip plots are quite small (496 square meters) and my ERF size reduced by 74 square meters required for future road-widening, the waiver that I apply for is 3% on the 50% coverage regulation, remembering to compare my ERF to a similar Voelklip ERF of 496 square meters.

I trust that you will consider my application in the best interests of all parties involved.

Yours Faithfully


GERHARD VAN WYK

REATER
ROTER

HERMANUS

MUNICIPALITY
MUNISIPALITEIT

POST BOX 20
HERMANUS 7200



TELEPHONE (0283) 700 300
TELEFOON
FAX (0283) 21894
FAKS
DATE 29 June 1995
DATUM
OUR REF. 15/3/2/2-5/95
ONS VERW.
YOUR REF.
U VERW.
ENQUIRIES
NAVRAE Mrs Burman

Mr G van Wyk
71 7th Street
VOëlKLIP
7203

Dear Sir

EF 2635
ZONING SCHEME: APPLICATION FOR DEPARTURE: ELF-2365, 124 SEVENTH STREET

I wish to confirm that the Council, at its last meeting, approved your application to exceed the 50% coverage limit laid down for dwellings in the Single Residential Zone as indicated on Building Plan no. 95051.

This approval must be acted on within two years of date hereof, failing which it will lapse.

Yours faithfully

M M B VAN ROOYEN
TOWN CLERK

/lt

COPY: TOWN ENGINEER

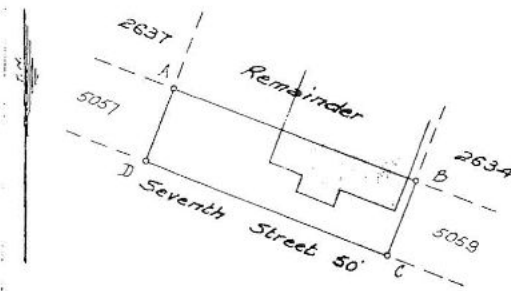
7 3 6 0 / 6 4

ANNEXURE E 1/1

SIDES Cape Feet	DIRECTIONS	SYSTEM L' 19° CO-ORDINATES		Off. Desig.	
		y	x		
		Constant	- 70000	+ 12090000	
AB	50.00	291° 48' 30"	A -12001.81	+ 6302.33	
BC	15.00	21 48 30	B -12648.23	+ 6320.90	
CD	50.00	111 48 30	C -12642.66	+ 6334.83	
DA	15.00	201 48 30	D -12596.24	+ 6316.26	

Approved

J. K. ...
Surveyor-General.
3.11.1964



BEACONS.

A, B - 1/2" x 18" iron peg.
C, D - not beacons.

Scale 1: 300

The figure A B C D

represents 750 sq. ft.

of land being:

ERF 5058, A PORTION OF ERF 2635, HERMANUS

situate in the Municipality of Hermanus,

Administrative District of Caledon,

Province of Cape of Good Hope.

Surveyed in May 1963 - by me
Aug. 1964

Land Surveyor.

C

This diagram is annexed to

D.T. No. 788A/64

dated

i.o.

Registrar of Deeds.

The original diagram is

No. 1254/1934.

D./T. 1934.56.2011.

S. G. File No. 7 2 4 7 7

S. R. No. E. 13 2 4 7 7

Comp. AI-3DA/X23

№ M 3780

ANNEXURE F 1/4

185

MALAN LOURENS VILJOEN ING.
PICKLESTRAAT 12
STRAND
7140

Opgestel deur my

TRANSPORTBESORGER
MATTHYS GERHARDUS LOURENS

TRANSPORTAKTE

HIERBY WORD BEKEND GEMAAK DAT

voor my verskyn het, REGISTRATEUR VAN AKTES te KAAPSTAD, hy die genoemde komparant synde behoorlik daartoe gemagtig kragtens 'n Volmag aan hom verleen deur

JACOBUS CHRISTOFFEL FOURIE
Identity Number 521107 5144 087
Unmarried

geteken te Strand op 16 Maart 2017

En genoemde Komparant het verklaar dat sy prinsipaal, op 10 Februarie 2017, waarlik en wettiglik verkoop by Privaat ooreenkoms, en dat hy, in sy voorgenoemde hoedanigheid hierby sedeer en transporteer aan en ten gunste van

**Die Trustees intertyd van die
IAN AND JANE JACKSON FAMILY TRUST
Registrasienommer IT 12042/1999**

diese Opvolgers in Amp of Regverkrygendes, in volkome en vrye eiendom

RESTANT ERF 2635 HERMANUS
Overstrand Munisipaliteit
Afdeling Caledon
Provinsie Wes-Kaap

Groot: 421 (Vier Honderd Een en Twintig) Vierkante Meter

EERSTE GETRANSPORTEER kragtens Transportakte Nr. T2911/1934 met n kaart wat daarop betrekking het en gehou kragtens Transportakte Nr. T42965/2008

- A. ONDERHEWIG aan die voorwaardes waarna verwys word in gemelde Transportakte Nr. T9630/1981.
- B. ONDERHEWIG VERDER aan die volgende voorwaardes genoem in Gewysigde Akte van Toekenning kragtens Wet 9 van 1879 gedateer 22 November 1904 (Caledon Erfpagte Boekdeel 10 Nr.19):-
- "This land thus granted being further subject to all such duties and regulations as either are already or shall in future be established respecting lands granted on siliar tenure."
- C. ONDERHEWIG VERDER aan en met die voordeel van die terme van sekere serwituut, n verwysing waarna geendosseer is op genoemde Gewysigde Akte van Toekenning (Caledon Erfpagte Boekdeel 10 Nr.10) wat betrekking het op verdeling van water in terme van n Hofbevel van die Waterhof (Waterhof Distrik Nr.1) gedateer 5 April 1922 n afskrif waarvan geheg is aan genoemde Gewysigde Akte van Toekenning.
- D. ONDERHEWIG VERDER aan die spesiale verkoopsvoorwaardes opgele Mossel River Estate Company Limited in Transportakte Nr. T2911/1934 en vervat in aanhangsel "A" daartoe:-
- (a) The Seller reserves to himself the sole right to all Hotels and Liquor Licences and no purchasers of erven or their successors in title shall erect any Hotel or hold any Liquor licence without the written consent of the Seller first had and obtained. Unless specially stipulated to the contrary herein, no owner of the property hereby purchased shall be entitled to carry on or to erect any building for the purpose of carrying on the said property any Retail or Wholesale dealers business or business of any trade or industry, or the business of Cape Proprietor, Dairyman or any other similar occupation.

(b)

(c) That all buildings shall stand back at least three comma one five metres from the line of the street or avenue on which the Lot or Lots hereinmentioned may front, that all outbuildings shall stand back at least nine comma four five metres from any street or six comma three nought metres from any avenue on which the lot or lots herein mentioned may front.

(d) 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 any land within the Township by means of wells or boreholes sunk on such land."

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

JACOBUS CHRISTOFFEL FOURIE , Ongetroud

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

**Die Trustees indertyd van IAN AND JANE JACKSON FAMILY TRUST
Registration Number IT 12042/1999**

diese Opvolgers in titel of Regverkrygendes, tans en voortaan daartoe geregtig is, ooreenkomstig plaaslike gebruik, behoudens die regte van die Staat en ten slotte erken hulle dat die verkoopprijs die bedrag van R2 100 000,00 (TWEË MILJOEN EEN 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 hede die

q.q.

In my teenwoordigheid

REGISTRATEUR VAN AKTES

Printed: 2017/06/28 08:48

Deeds Office Property

windeed
 A Leading Real Estate Company

HERMANUS, 2635, 0 (REMAINING EXTENT) (CAPE TOWN)

GENERAL INFORMATION

Deeds Office CAPE TOWN
 Date Requested 2017/06/28 08:48
 Information Source DEEDS OFFICE
 Reference MERIKE

PROPERTY INFORMATION

Property Type ERF
 Erf Number 2635
 Portion Number 0 (REMAINING EXTENT)
 Township HERMANUS
 Local Authority HERMANUS MUN
 Registration Division CALEDON RD
 Province WESTERN CAPE
 Diagram Deed T2911/1934
 Extent 421.0000SQM
 Previous Description -
 LPI Code C01300130000263500000

OWNER INFORMATION

Owner 1 of 1
 Company Type TRUST
 Name IAN & JANE JACKSON FAMILY TRUST
 Registration Number 12042/99
 Title Deed T33061/2017
 Registration Date 2017/06/12
 Purchase Price (R) 2,100,000
 Purchase Date 2017/02/10
 Share
 Microfilm Reference
 Multiple Properties NO
 Multiple Owners NO

ENDORSEMENTS (1)

#	Document	Institution	Amount (R)	Microfilm
1	B14946/2017	NEDBANK LTD	1,700,000	

HISTORIC DOCUMENTS (8)

#	Document	Owner	Amount (R)	Microfilm
1	B74158/2002		UNKNOWN	2005 2258 1235
2	B41251/2005		UNKNOWN	2008 0711 5667
3	T42965/2008	FOURIE JACOBUS CHRISTOFFEL	1,975,000	2008 0711 5648
4	T9630/1981	W H ANDRAG TRUST NR 1 1/2	UNKNOWN	1991 1862 0869
5	T9630/1981	W H ANDRAG TRUST NR 2 1/2	UNKNOWN	1991 1862 0869
6	T69728/1991	WYK GERHARDUS P & DINA VAN M/I	143,000	1995 0728 3796
7	T60692/1995	WYK GERHARDUS PETRUS VAN	ESTATE	1997 0844 2999
8	T107136/1997	WET JACOBUS PETRUS DE	530,000	2008 0711 5661

DISCLAIMER

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ANNEXURE G 1/2

THE SEA TRUST
C/O BIRKENHEAD HOUSE
P O BOX 1582
HERMANUS



TRATheart
C. Holivier

10 October 2017

The Municipal Manager
OVERSTRAND MUNICIPALITY
Hermanus Administrative

FILE NO:	EL 2635
SCAN NO:	Hermanus
COLLABORATOR NO:	1090524

Attention: Mr H Boshoff

Dear Sir

APPLICATION FOR DEPARTURES AND REMOVAL OF TITLE DEED RESTRICTION ON ERF 2635 HERMANUS

The Sea Trust owns Erf 2634 on the eastern side of Erf 2635. I wish to object to the departures with respect to the carport, wooden deck, dwelling unit and balcony, in particular to the relaxation of the north eastern lateral building line from 2.0m to 0.849m; relaxation of the coverage from 50% to 61% and the relaxation of the height restriction to 3,965m.

The above 3 items directly affect my property by being built too close to the boundary, being over bulk and being too high. My property loses the north west light and privacy of a result of these transgressions.

I have no objection to the Southern (Road) side transgressions as these were occasioned by the road widening.

In the motivation report it states:

"The impact on the adjacent property owners ... will be marginally higher than with the existing approved structures and current use thereof". No mention is made of the fact that it is over 1,100mm closer to my boundary, is a massive concrete block and casts a shadow over my property.

"It is submitted that the existing structures are compatible with the character of the area, does not impact negatively on the rights of anyone else ...". It totally impacts negatively on my property and I submit that it

16 Oct 2017

is a matter of opinion that it is compatible with the character of the area. I do not believe that this is the case.

"The scale of the existing structures merges well with the scale of the surrounding dwellings". This is not the case. I own an "old Hermanus" house that is dwarfed by this concrete block. I defy anyone to believe that the scale of our 2 properties are similar.

I agree with the comment "there are no conservation worthy elements in the existing structure". This however does not apply to my property.

"Further it proves to be efficient to keep the existing structures at the current positions to avoid additional impacts on the adjacent property owners". As an adjacent property owner, I reject this statement in its entirety. I would be exceedingly happy to have this building be altered so as to comply with the building regulations. A few months of noise and dust are easily traded for a lifetime of light and not being towered over illegally.

The Overstrand Municipality has a duty to protect all its citizens and condoning such gross indulgence which severely negatively effects on neighbours cannot be accepted.

Should the application be approved I will certainly consider court action to overturn this.

Accordingly, my rights in this matter are reserved.

Yours faithfully



PN BIDEN

TRUSTEE

ANNEXURE H 1/4

PLAN Town & Regional Planners
Stads-en Streeksbeplanners
Active

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



Our reference: PA17043/ML
Your reference: 2635 HVK (3777)

24 NOVEMBER 2017

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

FOR ATTENTION: Mr H BOSHOFF

Sir

**PROPOSED DEPARTURES & REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS:
REMAINDER OF ERF 2635 HERMANUS**

- **IAN AND JANE JACKSON FAMILY TRUST**

Reference is made to our application dated 5 September 2017 and your letter dated 10 November 2017.

One objection was received from PN Biden on behalf of The Sea Trust, the owners of erf 2634 Hermanus. It is noted that no trust resolution was attached to the objection from The Sea Trust, thus it is questioned if Mr Biden objects on behalf of the trust or if this is merely his individual objection.

Here follows our response to the objection:

- ***The relaxation of the north-eastern lateral building line from 2m to 0,849m, the relaxation of the coverage from 50% to 61% and the relaxation of the height restriction to 3,965m will affect erf 2634 Hermanus (structure too close to the boundary, over the bulk and too high). The massive concrete block and casts shadow over the property and negatively impacts on the rights of the property owner.***

There is an approved building plan for the original dwelling (single storey) dated 1942 at the Overstrand Municipality. The footprint of the approved dwelling is now the footprint of the existing ground floor level as depicted on the ground floor layout plan. The position of the existing dwelling therefore has the same position since the 1942 approval. The position of the dwelling on the 0,849m building line has remained unchanged. The additions to the dwelling were undertaken in 1995.

In addition the current owner of erf 2634 Hermanus bought the subject property in 2002. At the time

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

John Mc Lachlan: Ndip (Town Planning) Tech Witwatersrand: MSAPI
Pauline Spronk: B (Soc Sc) US, BA Hon (UNISA)
Meriké Lerm: B. Art et Scien Cum Laude (Town Planning) UNW: SACTRP

TP-A Theart
C H Boshoff

FILE NO:	EZ 2635
	Hermanus ✓
SCAN NO:	
COLLABORATOR NO:	1105585

when the objector bought erf 2634 Hermanus all the As Built structures (dwelling and outbuilding) were already present on the subject property. Only a wooden deck was added at the back of the house after 2002. The neighbours therefore bought their property knowing that the As Built Structures being referred to by the objector already existed on the subject property.

It should be noted that the outbuilding (second dwelling) only encroaches by 29cm onto the eastern lateral building line. An application for the second dwelling was approved in 2009 for the exact same structure (portion of the outbuilding) currently proposed for use as second dwelling purposes. However, the land use rights for the second dwelling have since lapsed because the conditions of approval were not met. A second dwelling is now an additional land use right for SR1 zoned properties. We are therefore not asking for more than what was already considered and approved in the past for the subject property.

A departure application was approved to deviate from the maximum allowable coverage of 50% to 63% (copy of Overstrand Municipality's approval letter dated 29 June 1995 with motivation letter from the property owner at the time was attached to the application). The owner at the time however failed to submit the building plans for approval once the land use approval (departure) was granted. We are therefore not asking for more than what was already considered and approved in the past for the subject property. The merit of this application has not changed since the structures remained unchanged.

- ***The scale of the existing structures does not merge well with the older house on erf 2634 Hermanus (the latter is much smaller). The latter also has conservation worthy elements.***

Perhaps there are conservation worthy elements for the house on erf 2634 Hermanus. The latter is however not relevant to the application on erf 2635 Hermanus. It is noted that the back flat / outbuilding on erf 2634 Hermanus is approximately the same distance from the back fence / wall than our client's outbuilding / second dwelling structure is from the objector's fence. The height of the similar structure on erf 2364 Hermanus also seems very similar in height to the proposed 3,965m height for the existing outbuilding / second dwelling on erf 2635 Hermanus.

The height of the main dwelling is in line with the height requirements for SR1 zoned properties. It is in fact only 6,54m high versus the allowable 8m maximum height restriction allowed.

Furthermore the existing dwelling on erf 2634 Hermanus is positioned further east on the subject property. The existing driveway abuts the common boundary with erf 2635 Hermanus. This as well as the 6,54m height of the existing dwelling further mitigates the impact that the existing dwelling on erf 2635 Hermanus has on the adjacent property. Refer to the photograph below:



It is also noted that it seems that the property owner does not reside on the subject property. It seems that the dwelling on erf 2634 Hermanus is occupied by staff employed by Mr Biden at his guest house establishment in town.

- ***The objector would rather see the existing structures be demolished and rebuild rather than keeping the structures As Built.***

It is worth noting that the previous Hermanus Zoning Scheme Regulations (the scheme regulations that applied to the property when the structures were constructed in 1995) allowed for 1,2m lateral building lines for erven with a frontage smaller than 18m (width of erf 2635 Hermanus is 15,74m) and although building plans were not submitted in the past for the approval of all structures prior to construction, the deviations of the As Built structures on the eastern and western boundaries from the 1,2m lateral building lines (applicable at the time) were minor. It was only with the new Overstrand Zoning Scheme Regulations of 2013 that 2m lateral building lines were promulgated.

The new property owners are saddened that there was allegedly a breakdown in relations with one of the previous owners of erf 2635 Hermanus as they would very much appreciate having a positive, pleasant, neighbourly relationship with all working together in a spirit of mutual co-operation. The new owners merely want to legalize the existing structures on the subject property that have been in existence for the past 20+ years. It is unjust to take past transgressions out on the new property owners who now merely want to do right by the municipality and the neighbours. The impact on erf 2634 Hermanus remains unchanged as it has been for the last 20 years.

It is our opinion that the subject property allows for the deviations being applied for due to:

- The existing structures positioned in relation to less restrictive building lines of the previous zoning scheme regulations;
- The extent of the property and how the road widening expropriation impacted thereon;
- The materials used;
- The scale of the surrounding built environment;

- The position of the existing structures on erf 2634 Hermanus in relation to the dwelling and outbuilding on erf 2635 Hermanus;
- The low impact on the streetscape (dwellings situated to the east follows the same street building lines);
- The existence of the existing structures on the subject property for the past 20+ years;
- The previous land use approvals granted and recommended for approval for the subject property (the merit for these applications considered in the past remains relevant since the structures and uses thereof remained unchanged).

We trust that you find the above in order.

Yours faithfully



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

ANNEXURE I 1/1



ROAD NETWORK MANAGEMENT

Grace.Swanepoel@westerncape.gov.za
tel: +27 21 483 4669
Rm 335, 9 Darp Street, Cape Town, 8001
PO Box 2603, Cape Town, 8000

REFERENCE: 16/9/6/4-21/50 (Job 25383)

ENQUIRIES: Ms GD Swanepoel

DATE: 27 October 2017

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200

FILE NO:	EL 2635
SCAN NO:	
COLLABORATOR NO:	1095745

Attention: H. Boshoff

Dear Sir

ERF 2635, SEVENTH STREET, HERMANUS (VOËLKLIJ), OVERSTRAND MUNICIPAL AREA: MAIN ROAD 28: PROPOSED DEPARTURE AND REMOVAL OF RESRICTIVE TITLE DEED CONDITIONS

1. Your letter 2635HVK dated 28 September 2017 refers.
2. Erf 2635 is located in Hermanus and takes access off Main Road 28.
3. It is understood that the existing building constructed in 1955 does not have the necessary approvals in place.
4. The new owners are applying for various departures and removal of title deed conditions in order to address the illegal aspects of the building.
5. This Branch, in terms of Section 17 of the Road Ordinance, 1976 (Ordinance 19 of 1976), approves the relaxation of the 5m building line to 0.53 m in order to accommodate the existing structure.

Yours faithfully

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

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR DEPARTURE & REMOVAL OF RESTRICTIVE
CONDITIONS: ERF 2635, VOELKLIP (3777)**

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;
3. 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;
4. that stormwater be allowed to discharge through Erf 2635, Voelklip, unobstructed;
5. that no on-street parking be allowed.



**DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES**

13/11/2017.

DATE



To : Helgaardt Boshoff (Town Planner)

Cc :

Ref : J.Schoeman

Date : 17 November 2017

Subject : **Town Planning Application Erf 2635 Voelklip Appl. Number: 3777**

Dear Helgardt

Please find herewith comments regarding Fire Safety requirements for the above application:

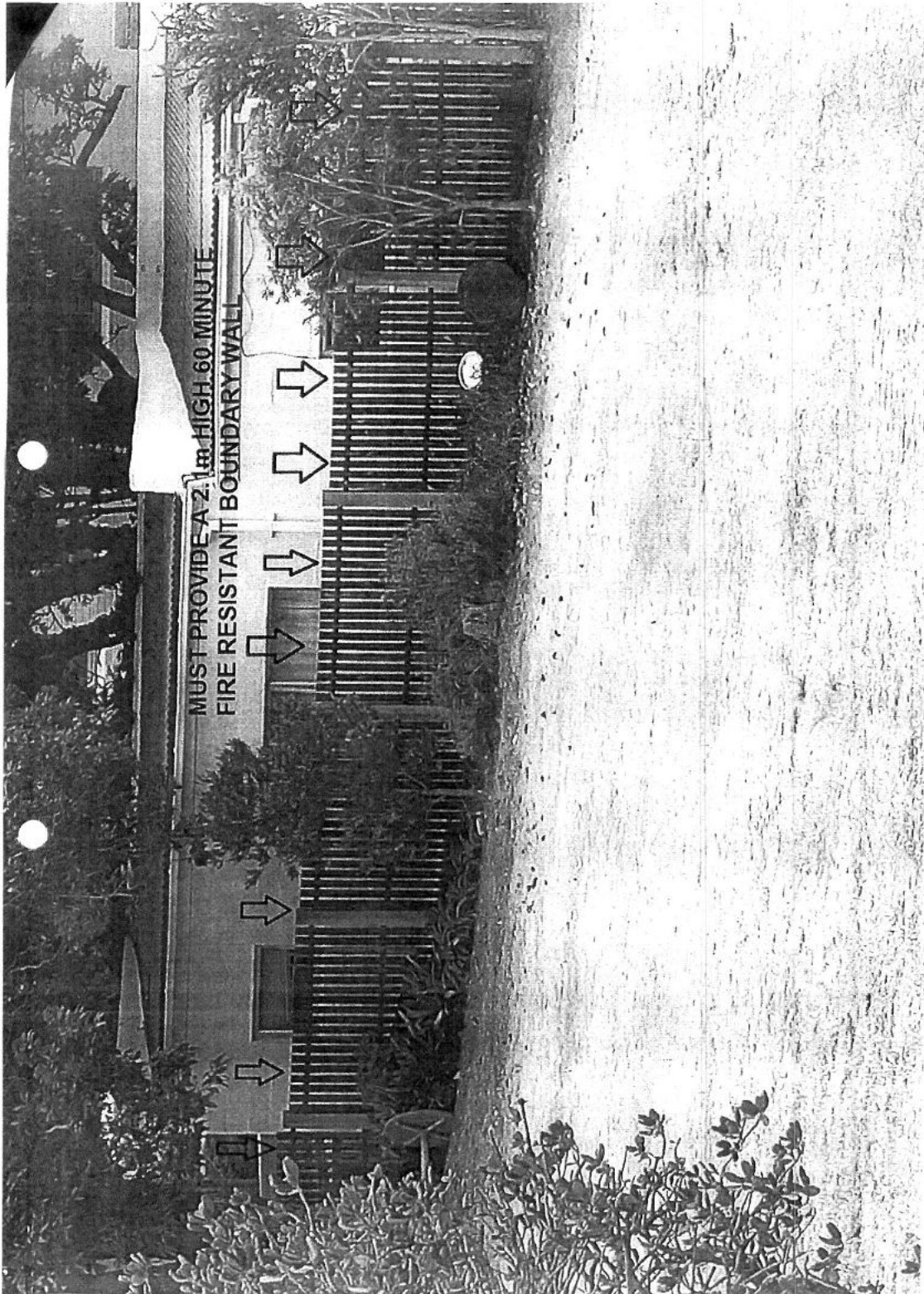
- There is no objection to the encroachment of the street building line
- There is no objection to the encroachment of north western & north eastern building lines respectively as the 1st floor windows will have minimum effect on the neighbouring properties in the event of a fire provided the structures remain at single storey level.
- There is no objection to the building line encroachments caused by the erection of the existing carport, timber deck, dwelling and balcony.
- It is required that a 2.1m high rear boundary wall to be erected in order to compensate for the encroachment of the rear elevation of the 2nd dwelling in which the total sum of openings does not comply with the maximum permitted size in terms of Table 2 of SANS10400T:2011 National Fire Protection Regulations.

Kind regards



J Schoeman
 Assistant Chief – Head: Fire Safety Division.







Division of Telkom SA SOC Ltd

10 Jan Smuts Drive
Pinelands
7404

5 December 2017

Attention: S Muller

Overstrand Municipality
HERMANUS



ANNEXURE L1/4
TR A Theat
CH Olivier

REF NO:	EL 2635
SCAN NO:	Voelklip
ERF 2635	Herm
COLLABORATOR NO:	1109604

Candice Spammer

Tel: 021 414 5582

Fax: 086 480 0617

Email: spammec1@telkom.co.za

Our Ref.: WWIP_WVKL4025_17

Your Ref.: 2635 HVK 3777

PLANT AFFECTED:

PROPOSED DEPARTURE AND REMOVAL OF RESTRICTIVE CONDITIONS: ERF 2635, 124 SEVENTH STREET, VOELKLIP

With reference to your application received **October 2017**.

As important COPPER cables are affected, please contact our representative Frederik Swart at telephone number 028 514 1199 / 081 363 7815 / FrederikS@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 X881, Pretoria, Gauteng, 0001



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.

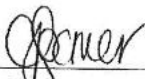
Please notify this office within 21 working days from this letter of acceptance and if any alternative proposal is available or if a recoverable work should commence.

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

pp 

Selwyn Bowers
Operations Manager
Wayleave Management: Western Region

PLANT AFFECTED : COPPER

This wayleave, Reference Number **WWIP WVKL4025 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 existance 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: 2017/12/05

By: C Spammer
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)	

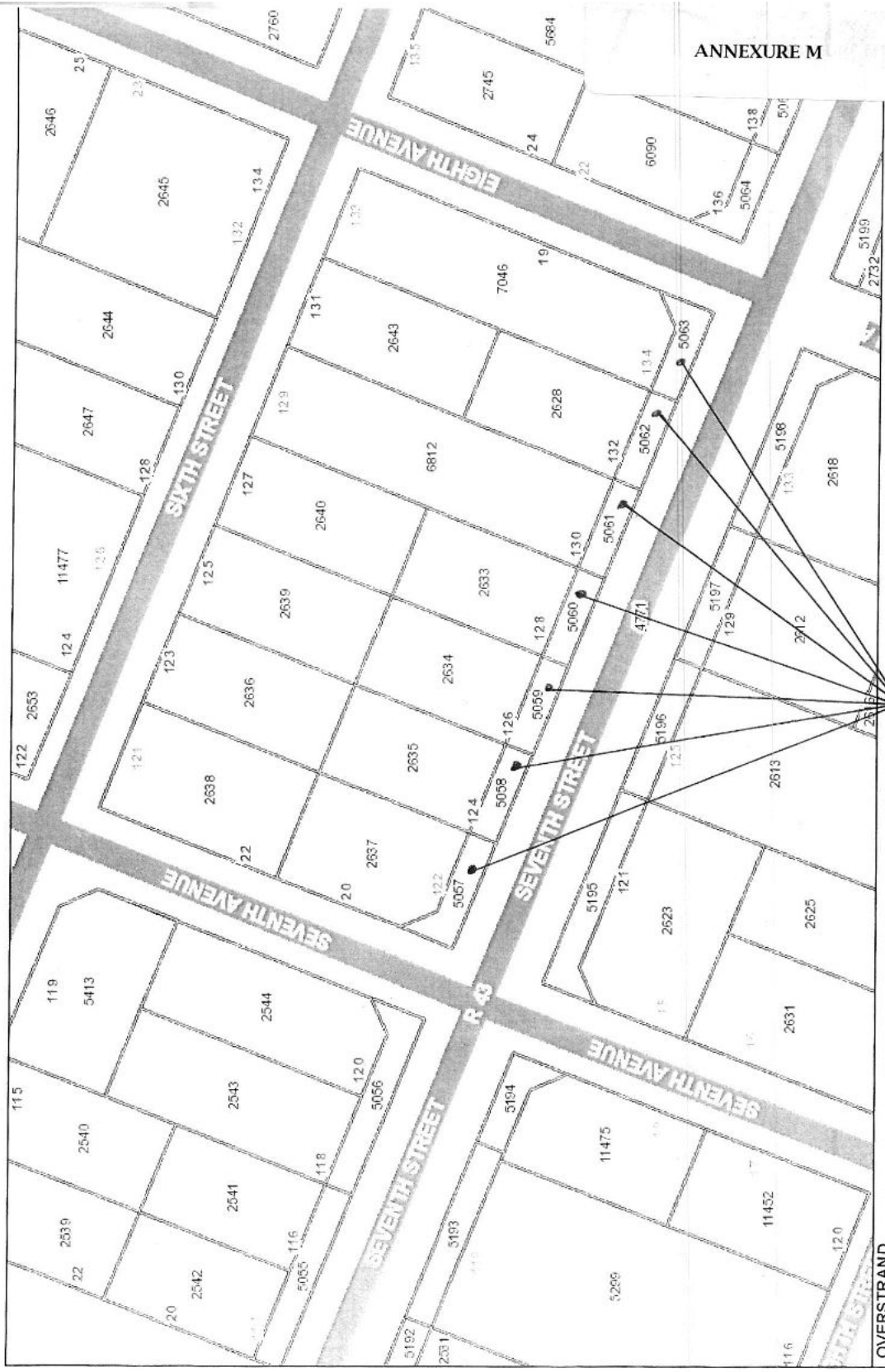




Completed By	C Spammer	DATE	08/22/2017
Client		Date	08/22/2017
Client ref		Open-Service ref	WVWP_WVKL4295_V7
Details	COPPER SERVICES AFFECTED		
Page Size	A4	Sheet No	1 of 5

Legend	
	Existing SDC
	Planned SDC
	To Be Abandoned Manhole
	To Be Recovered SDC
	Existing Jct
	Planned Jct
	To Be Abandoned Jct
	To Be Recovered Jct
	Existing PJB
	Planned PJB
	To Be Abandoned PJB
	To Be Recovered PJB
	Existing Indoor DP
	Planned Indoor DP
	To Be Recovered DP
	Existing DP
	Planned DP
	To Be Recovered DP
	Existing Pole
	Planned Pole
	To Be Recovered Pole
	Existing Struc and Silty
	Planned Struc and Silty
	To Be Recovered Struc and Silty
	Existing Underground Route
	Planned Underground Route
	To Be Abandoned Underground Route
	Existing Overhead Route
	Planned Overhead Route
	To Be Recovered Overhead Route
	Existing Mini OMDP
	Planned Mini OMDP
	Existing Stop and Sily
	Planned Stop and Sily

ANNEXURE M

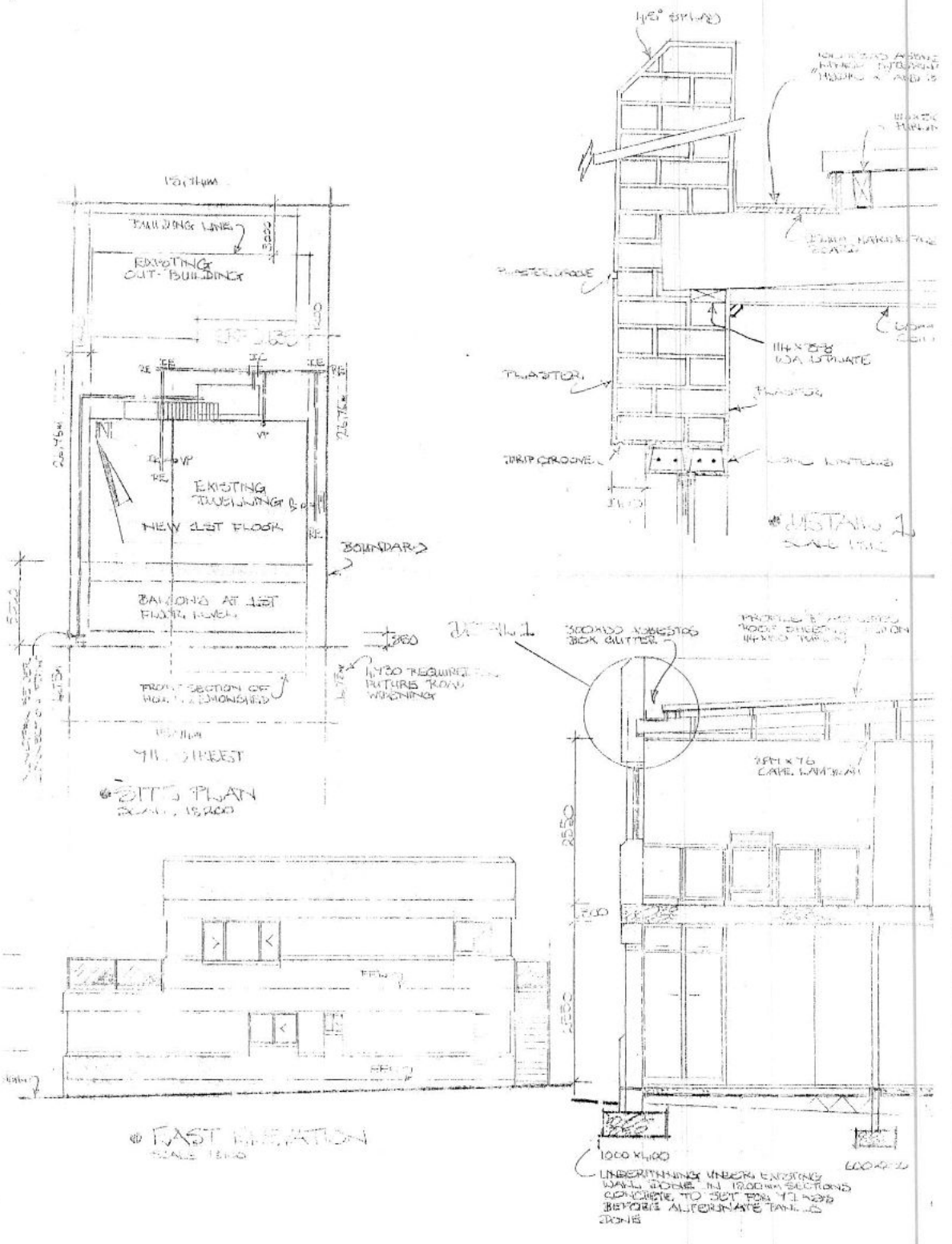


EXPLOITED PORTIONS (MUNICIPALY OWNED)



APPROVED

ANNEXURE N 1/6

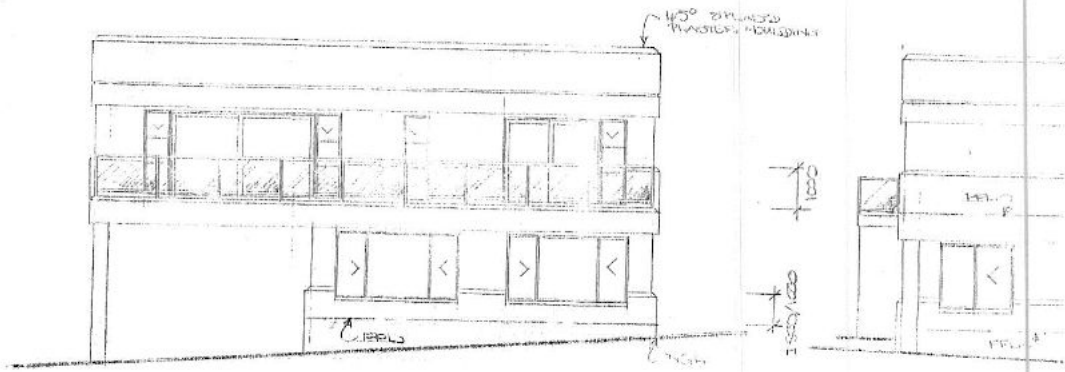


FAST REVISION SCALE 1:500

UNDERMINING UNDER EXISTING WALL DONE IN ROOM SECTION CONCRETE TO SET FOR 750mm BEFORE ALTERNATE TANKS DONE

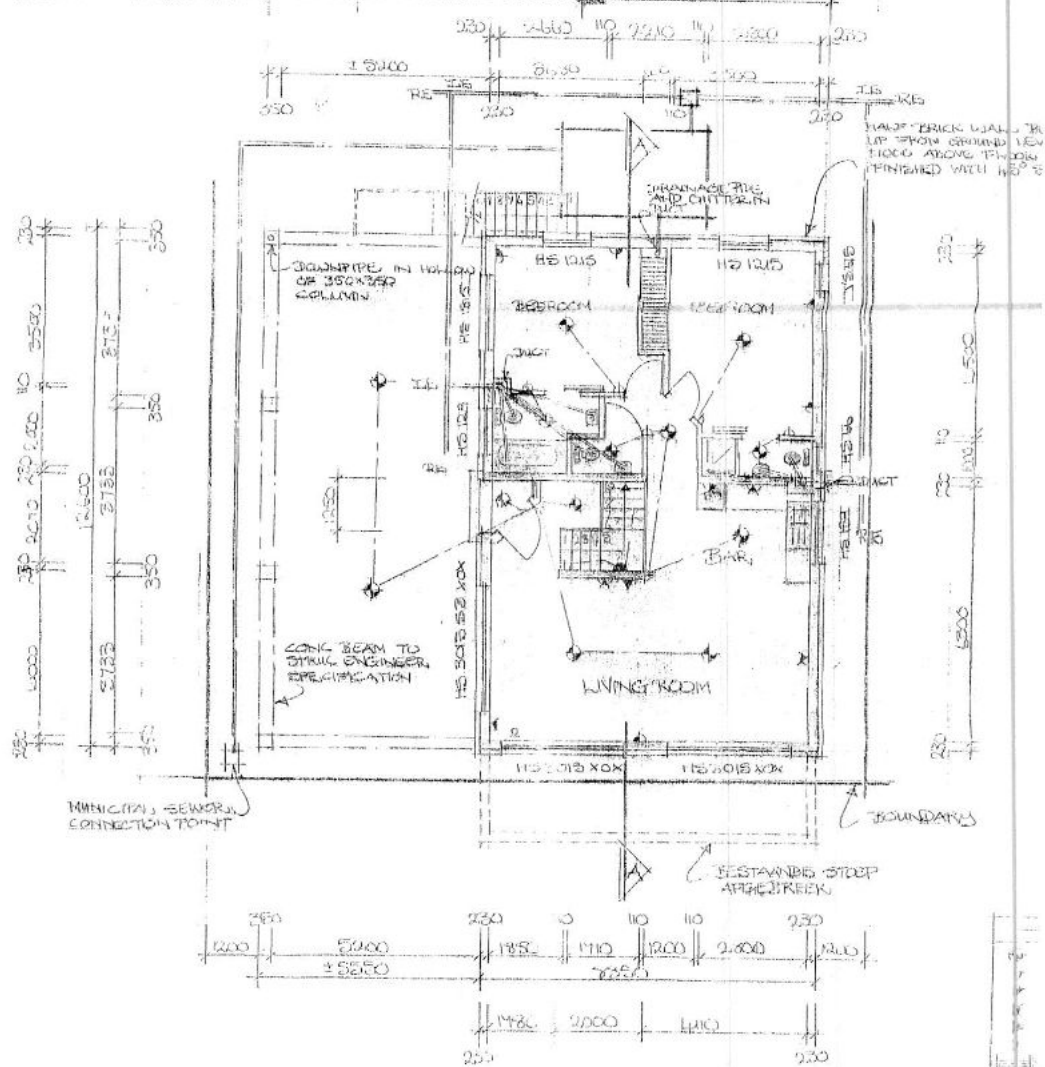
ANNEXURE N 3/6

NOT APPROVED



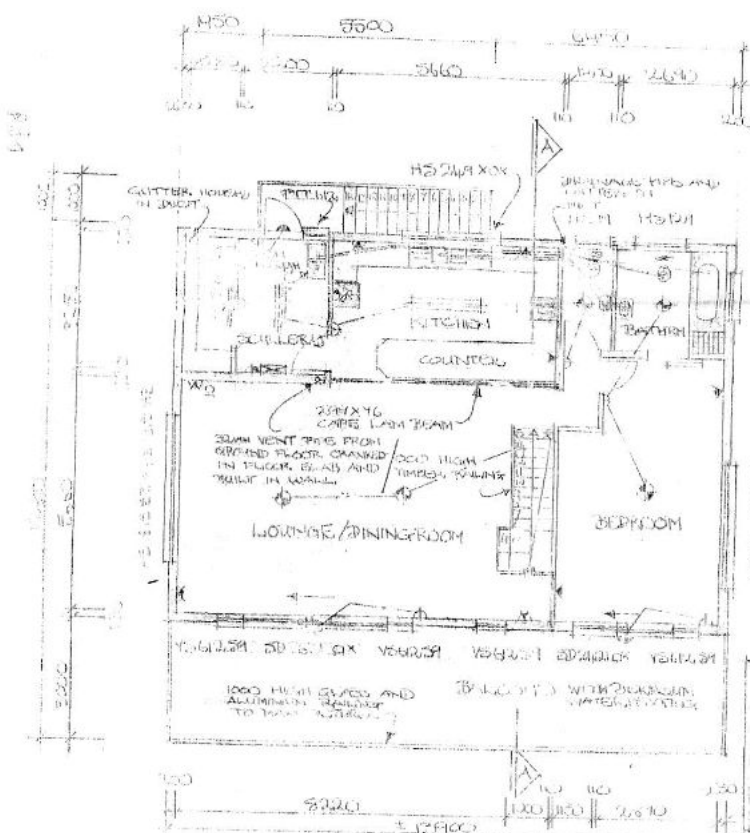
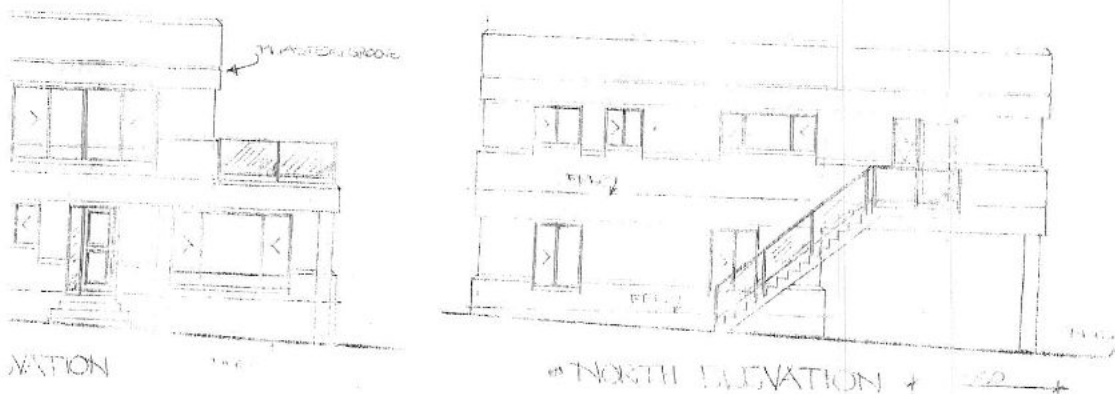
SOUTH ELEVATION

WEST ELEVATION



GROUND FLOOR PLAN

ANNEXURE N 4/6



NOTE: PROVIDE THAT THE CONCRETE COLUMN JOINTS ARE CAST IN CONCRETE. PROVIDE WITH 5mm THICKNESS OF STEEL PLATE WITH WELDED TO CONCRETE.

COLUMN DETAIL
SCALE 1:10

CONCRETE COLUMN JOINTS
LENGTH 1000mm x 100mm
TOTAL - 350.00m²

1st FLOOR PLAN

REVISION	DESCRIPTION
1	ISSUED FOR PERMIT THIS IS A PRELIMINARY PLAN. THE DESIGN IS SUBJECT TO APPROVAL BY THE ENGINEER. THE DESIGN IS SUBJECT TO APPROVAL BY THE ENGINEER. THE DESIGN IS SUBJECT TO APPROVAL BY THE ENGINEER.

Architectural Office
GERHARD ENGELBRECHT
Nat. Dip. Architect (Plan. Inst.)
BRANDON SCORGIE
Nat. Dip. Architect (Design Inst.)

BUILDING PLANS
ALTERATIONS
PROJECT MANAGEMENT

TEL: (0283) W-62200 H-61857



Van Blommestein Street
P.O. Box 183
Glenelg
7201

STATE DIVISION
DRAFTING PERMITS

COUNCIL - APPROVALS W/NET

ALTERNATIVE SOLUTIONS
TO EXISTING STRUCTURE
FOR THIS SPINNING ROOM
ON 1st FLOOR. 2000
1200 x 700 x 2000
HEIGHT 2.00m

ANNEXURE N 6/6

OPENING NOTES

- EXISTING FLOOR LEVEL TO BE MAINTAINED E.L. REMOVED FROM EXISTING DRAWING
- UNDERMINING OF FOUNDATION UNDER THE WALLS OF STAGE A AND B ON SITE PLAN
- STAGE A UNDERMINING WORK LEFT MIN OF 100MM ABOVE STAGE B UNDERMINING LEVEL
- ALL RUBBLE DEBRIS FROM UNDERMINING REMOVED FROM SITE
- SEE ARCHITECTURAL PLAN FOR DETAILS OF ANY WORK TO BE REMOVED

20/02/2016

Architectural Office

GERHARD ENGELBRECHT

Not. Dip. Architecture (Prof. Tech)

BRANDON SCORGIE

Not. Dip. Architecture (Vocational)

BUILDING PLANS

ALTERATIONS

PROJECT MANAGEMENT



Van Blommestein Straal

P.O. Box 181

Orkus River

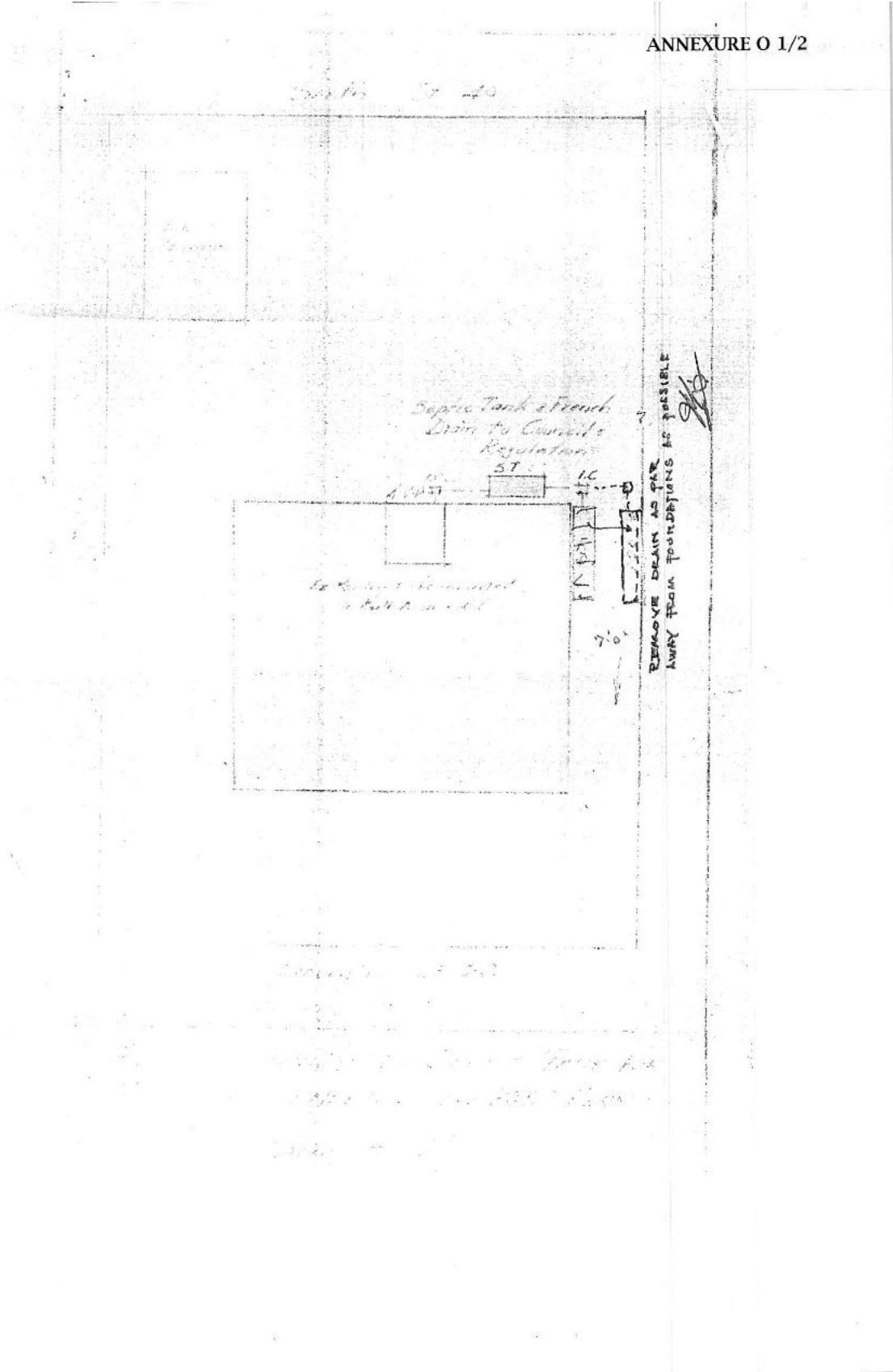
7201

TEL: (0283) W-62200 H-61857

SLABE 1300
DATE: 20/02/2016
SIGNATURE: MTS

EXISTING DRAWING
PRIOR TO ALTERATIONS OF
METS & VAN WISSE
E.L. NO 2635
100MM ABOVE
UNDERMINING

ANNEXURE O 1/2



Super Tank & French
Drain to Council's
Regulation

ST

IC

to Council's Regulation
to Council's Regulation

REMOVE DRAIN AS PER
AWAY FROM FOUNDATIONS AS POSSIBLE

J/S

MUNICIPALITY OF HERMANUS

ENGINEER'S DEPT. BUILDING SURVEYOR'S FRANCHISE

Reviewed for approval: 23. 5. 55

W. H. B. G.
Town Engineer

Approved by P.M. Committee: 23. 5. 55

on the basis of approval
on reverse side of plan

NO. **55042**

MUNICIPALITY OF HERMANUS.

PLAN No.

Drawings approved subject to that any alterations
shown thereon in blue pencil by the undersigned
are adhered to.

Date 23. 5. 55 *W. H. B. G.*
Town Engineer

MUNICIPALITY OF HERMANUS.

Received 23. 5. 55

Building Surveyor's Office
W. H. B. G.

4.2**PORTION 13 OF FARM SANDIES GLEN NO. 129, BREDASDORP DIVISION : PROPOSED CONSENT USES AND DEPARTURES : MESSRS PLAN ACTIVE ON BEHALF OF TORMAY CC****13/129 GDK (3835)****P Roux****31 May 2018****(028) 313 8900****Hermanus Administration****1. EXECUTIVE SUMMARY**

An application has been received on 12 March 2017 from Messrs Plan Active on behalf of the owner of Portion 13 of Farm 129, Sandies Glen (Laughing Waters), for the following;

- a consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 to accommodate tourist facilities (function and workshop venue), tourist accommodation (four (4) or five (5) guest cottages) and intensive horticulture (three (3) hydroponic tunnels) on the property concerned;
- a departure in terms of Section 16(2)(b) of the above By-Law to relax the following:
 - western lateral building line from 30m to ± 12 m and ± 15 m respectively, to accommodate the existing cottages no. 2 & 3;
 - road building line from 30m to ± 9 m to accommodate the existing cottage no. 3;
 - road building line from 30m to ± 22 m to accommodate the function/workshop venue;
 - road building line from 30m to ± 24 m and ± 27 m respectively, to accommodate the existing tunnel north of the gravel road; and
 - road building line from 30m to ± 5 m and ± 10 m respectively, and the western lateral building line from 30m to ± 16 m and ± 19 m respectively, to accommodate the existing tunnel south of the gravel road.

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

Portion 13 of Farm 129 is zoned for agricultural use and being used for agricultural purposes (flower farm with hydroponic tunnels) and tourist accommodation (guest cottages) and tourist facility (function). The property owner seeks to diversify the land use and therefore seeks to obtain approval for additional uses which includes four (4) or five (5) guest cottages and intensive horticulture three (3) hydroponic tunnels.

A complaint was received regarding the usage of guest cottages and functions held on the subject farm and a compliance notice was sent to the property owner who submitted the subject application to legalise the use. When the application was

submitted it was noted that there are hydroponic tunnels indicated on the Site Development Plan. The use of the hydroponic tunnels is a consent use (intensive horticulture) in terms of the Zoning Scheme and the property owner does not have the required permission for the tunnels, therefore application is made for intensive horticulture.

Several of the structures are situated within the prescribed building lines (as indicated in the Executive Summary of this report) and therefore application is made to depart from the Zoning Scheme building lines.

4. SUMMARY OF APPLICANT'S MOTIVATION

The detailed motivation for the proposed application is attached to the item and must be read together with this summary below:

- ❖ The property is 123,4478 ha in extent and held by Title Deed No T68424/2012.
- ❖ The subject property is 23km east from Stanford.
- ❖ Existing development on the property;
 - Main dwelling;
 - Three (3) labour's cottages (two (2) have been converted for use as tourist accommodation);
 - Three (3) tunnels (vegetables are grown);
 - Two (2) sheds;
 - Goat shed;
 - Carport;
 - Double garage (converted to function and workshop venue or used as guest cottage when required);
 - Cheese farm/produce processing room;
 - Coop;
 - Protea cultivation nursery (for own use);
 - Paddocks
 - Cultivable area 10 - 15 ha;
 - Protea flower and foliage area 5,5 ha
- ❖ Only 10 – 15 ha is cultivatable due to most of the farm consisting of high clay soils. The property owner therefore diversifies the uses on the farm in order to create sustainable income and to alleviate the loan which was used to restore and run the property.
- ❖ The proposed uses are in line with the uses on the neighbouring farms which also have agricultural and tourism uses.
- ❖ The farm consists of natural beauty and various recreational activities and interactions for guests.
- ❖ The diversification of the uses on the farm will allow for the diversification of the sources of income on the farm that cannot be economically viable by means of agricultural activities only.
- ❖ Function and workshop venue may also be used for a cottage when needed. The structure will only be used for one (1) of the proposed uses at a time. Functions to be held in the venue are: parties, small scale intimate events, small scale conferences and workshops for farm related uses.
- ❖ The four (4) to five (5) cottages will accommodate a maximum of fourteen (14) guests and the function and workshop venue will be able to accommodate thirty (30) people attending a workshop/function.
- ❖ The hydroponic tunnels were constructed prior to the adoption of the current Zoning Scheme, however no building plans were submitted. In order to legalise

the structures an application must be submitted in order to comply with the current legislation and in order to submit building plans.

- ❖ The proposed facilities in the existing structures are clustered together and only the two (2) new accommodation units will be clustered next to the existing road and access ways on the subject property.
- ❖ The impact on the departure of the road building lines will be minimal as the structures which encroach, already exist.
- ❖ The side building lines which is encroached upon will also be minimal as there are trees which allow the next door property owner's privacy to be maintained and all guest accommodations (stoep areas) face away from the boundary.
- ❖ The applicant also states that a manager's dwelling will be constructed on the farm which is in line with the provisions of the Zoning Scheme.
- ❖ Tourist related activities includes
 - Hiking and mountain-biking
 - Swimming in spring-fed farm dams
 - Farm-fresh breakfasts, brunches, braai's and picnics;
 - Horse in-sight coaching and workshops;
 - Horse riding
 - Cheese and wine tasting
 - Cheese-making weekends, and
 - Day outing to your choice of the area's exceptional attractions.
- ❖ The applicant further motivates that the proposal is in line with Overstrand Municipality's forward planning documentation and the planning principles as depicted in the planning legislation
- ❖ All parking will be provided on site;
- ❖ 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 areas or high potential agricultural areas;
- ❖ The application is compliant with the principals as stated in SPLUMA and LUPA.
- ❖ No restrictive conditions are contained in Title Deed No. T68424/2012.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Notices	Yes	07/07/2017	11/08/2017
Ward councillor	Yes	07/07/2017	11/08/2017
Total letters of objection	One (1)		
Was public participation undertaken in accordance with Section 45 - 49 of the Proposed Draft By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly?			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			Yes

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

Name	Date received	Summary of comments	Recommendation
National Department of Agriculture, Forestry and Fisheries	29/05/2018	No objection	Positive
Breede-Gouritz Catchment Management Agency	11/05/2018	Annexure G	Positive
Fire Department	17/08/2017	Annexure H	Positive
Engineering Services	08/08/2017	Annexure F	Positive
Building Department	07/07/2017	Building plan be submitted to council for approval.	Positive
Heritage Western Cape	30/10/2017	Annexure I	Positive
Cape Nature	04/10/2017 07/11/2017	Annexure K	Positive
DEADP (Environmental Section)	6/06/2018	Annexure N	Positive
Eskom	23/08/17	Annexure K	Positive
Department of Transport	11/07/17	No objection	Positive
Western Cape Department of Agriculture	09/06/17	No objection	Positive
Telkom	19/09/17	Annexure L	Positive
District Department of Health	17/08/17	Annexure M	Positive
Overstrand Municipality Environmental services	10/08/17	No objection	Positive

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

One (1) objection was received against the application from the property owner on Portion 4 of Farm Sandies Glen No 129. The full objection is attached to this item and should be read together with the points of objection as summarised below;

1. Concerns relating to inconsistency in the application

- a. The applicant states that the application is for the relaxation of the eastern boundary, however the application is for the western building line.
- b. The road is indicated as the Papiessvlei-Elim road, however it is the Road DE 1222 (the DR1222) (Sandies Glen Road). The Papiessvlei-Elim road is far off to the west of Sandies Glen.
- c. Mention made of the Department of Horticulture, it is not clear to what department is referred to. Only the department of Agriculture, Water affairs and Overstrand Municipality can give approval for the tunnels.

2. The following points are issues regarding the composition of the motivation.

- a. Plan Active is appointed by GI Rosslee, however no person by that name have been in contact with the objector.
- b. The applicant states that the farm is economically not viable due to agricultural potential; however since 1973 various owners had the farm and used it solely for agricultural use.
- c. The previous owner assured that the tunnels were approved and that the necessary permissions were gained. This seems not to be the case and the objector wishes to lodge his complaint now.
- d. The applicant states that the subject property is located in an area which has tourist accommodation and tourist facilities, and therefore the proposal is in line with the character of the area. The objector states that only one (1) approval was found where a farm had permission to conduct tourist industry.
- e. Mention made to available water, swimming in the private spring fed dams and cottages will be serviced with spring water. The objector states that in terms of a Title Deed servitude he also has rights to the three (3) fountains on Portion 13 of Farm Sandies Glen No. 129 and that the proposed activities may impede on his rights.
- f. The applicant states that the venue will be used for parties and functions up to 24:00. How will this contribute to the peacefulness and peace and tranquillity of the agricultural area.
- g. The objector is not limited to only use the main dwelling on his property and may freely walk and use his property.
- h. In P9 and 10 the applicant states what might cause issues to the objector, which the objector does not find pleasing. Further changes were made to the cottage and a back door was created for the loading and unloading of luggage.
- i. The trees referred to (which create privacy) is on the objector's property and he may remove them at any stage.
- j. In P 11 the applicant again states what the adjacent property owners will and will not consider to be regarded as a nuisance.

- k. The approval from BOCMA is for the use of the river. Water out of the fountain is Schedule 1 which may be used for household and animal use.
 - l. The servitude right is already transgressed by the adjacent property owners.
 - m. It seems that the subject property owners are not aware of the baboons which sits on the wall of the fountain, nor are they aware of the baboons habits of dropping faeces into the water, further a shade cloth will not help in deterring the baboons.
 - n. The objector disputes the statement that the facilities are placed cautiously and will not impact visually.
3. The next section deals with points of objection. Five points are provided:
- a. Threat to the objector's basic right to household water.

The objector in terms of a servitude right has right to three sevenths (42,85%) of the yield delivered by the spring which will now also be used for guest accommodation and facilities.

In 2016 the water to the objector's house was disrupted. The objector investigated and it was found that the water flow was deterred by an asbestos plate. Mrs (Dr) Neke who resides on the farm and representative of the farm owner stated their apology and stated that they did it to fill the tanks for the hydroponic tanks and for the guest cottages.

The objector calculates (with the information of the application) that there will be a total of forty eight (48) individuals on the farm and sixty four (64) farm animals which will need to receive water from the spring. Further using information based on the following documentation; *"Council for Scientific and Industrial Research 2003"* and *"Guidelines for Human settlement Planning and Design – Revised 2003 (Chapters 9 and 10)"* the objector concurred that the 1200 litre of water will be required out of the property owner's 57,15% water right. The main concern was that no independent scientific study was done to measure the outflow (yield) of the spring during the dry seasons. The objector therefore requests that the independent scientific study be done in terms of the CSIR report.

- b. Threat to the survival of the objector's agricultural activity

It is not known to the objector how the structures in the 30m building line was approved (if ever) at the respective location.

The following is of concern;

- **Vehicles park in close proximity to the boundary fence**
 - Farm workers never parked their vehicles at this location.
 - Should farming implements be used in close proximity to the farm boundary, then it may cause damage to the vehicles.
 - Thus prohibiting the objector's ability to do normal agricultural activities.
 - **Milk stall.**
 - The objector's milk stall is 21m from the erf boundary (legally approved) and the paddock for the cows is 12m from the boundary.
 - The buildings on Portion 13 of Farm Sandies Glen No. 129 are constructed after the aforementioned structures on the objector's property – no objection was provided due to it being used for farm workers.
 - The noise from the milking machines, cow droppings and flies will be unhygienic and nuisance to guests.
 - Possible objections from guests will prohibit the objector's ability to do normal agricultural activities
 - Production of vegetables and crops to the west of the proposed facilities (14m) will require the ground to be prepared and worked which will create dust. Further, insecticides and various chemicals used will not be useable due to the close proximity of the proposed buildings and facilities. The location of the proposed facilities prohibits the objector's ability to do normal agricultural activities.
 - The sewerage tank built 14m from the property boundary. This is therefore in close proximity to the objector's boundary and may have a negative effect (ground pollution) should the sewerage tank overflow.
 - On various occasions it has occurred that the guests feed the horses on the objector's farm which is unacceptable to the objector as he has no control on what is being fed to his animals by guests on the adjacent farm.
 - An open fire was on the adjoining property with no prior approval from the authorities. This activity is life threatening and can cause major problems.
- c. The objector states that the value of his property may be negatively affected by the proposed use and proximity of the activities to his property and question how he will be able to advertise and promote his property in the future.
- d. The objector mentions an incident in which him and his wife saw a guest on the adjacent farm unclothing him in the open. The objector states this occasion impacted on his right to privacy and religious and moral values.

Further, small children live on the farm should not be exposed to such incidents.

- e. The previous owner of Portion 13 of Farm Sandies Glen No.129 assured the objector that the hydroponic tunnels are legal and that the water from the river is used for irrigation. The objector states that the use of spring water for irrigation purposes is unlawful as he also has right to the water. What measures will be put in place to ensure that the river is not polluted by pesticides and no spring water is used for irrigation purposes?

Applicant's response to the objection above:

Visual impact

The applicant contests that the visual impact will be same (or may be worst if the cottages is used for farm workers, regardless of the proposed land use application proposed since the proposed land use will be accommodated in the existing structures. The allegations that the existing structures as a result of the application, now become visible to him where they were not visible before is a misrepresentation of the facts. The existing structures have always been in his view and have recently been renovated with water, sewerage, electricity and safe braai areas added to the cottages. The two (2) new cottages are not visible from the objector's property.

Town Planner's Response:

Although the visual impact have been existing on the property for some time the main concern for the objector is not the existing structures, but the change of use.

Name of road

The subject farm will gain access from the DR 1222 as confirmed by the District Roads Engineer (DRE). DRE issued their consent for the land use application. The correct road was considered by DRE and therefore the alleged inaccurate road names have no bearing on the merit and consideration of the application.

Town Planner's Response:

The applicant's comment is noted.

Department of Horticulture

The aforementioned department was named as this was the information provided to the client, that being stated that the relevant departments will have time to comment on the application.

Town Planner's Response:

The application has been sent to the relevant departments for comment, all comments and the relevant conditions will be incorporated into the evaluation of the subject application.

Ownership of the Farm

The subject farm is registered in the name of Tormay CC. The power of attorney and company details submitted with the application is correct. The objector has no concern/business with regards to the ownership of the farm. Last mentioned also has no bearing on the application and this comment should be dismissed.

Town Planner's Response:

The registered property owner is noted and has provided consent towards the application. However, the comment stating the objector has no concern/business with regards to the ownership of the farm, is not agreed with. The owner of a property in accordance with planning law is the responsible and accountable party for all land uses which takes place on the owner's property. Should adjacent property owners have grievances regarding issues then they should be able to address the responsible party, further should an authority seek to prosecute due to illegal activities then the property owner will be held accountable.

Owners are not capacitated to cultivate

The past agricultural activities on the farm bear no relation to the proposed consent use application. The current owner has been upgrading the farm since 2012. The owners have since also farmed protea orchards which the objector clearly have no understanding of. Further, the PSDF and municipal legislation promote and recognize the need to diversify income while ensuring the sustainability of the farm. As stated in the motivation the application meets the criteria and requirements for tourist facilities and tourist accommodation on farms.

Town Planner's Response:

This point is noted and will be considered in the evaluation of the application.

Noise Levels

Noise levels will be kept to a minimum in order to remain in the context of the location. The objector's comment with regards to the impact on the tranquillity is merely assumptions.

Town Planner's Response:

Noise mitigation measure will have to be incorporated should the application be approved.

Outbuilding on the objector's eastern boundary and proximity

The reference to the outbuilding on the objector's eastern boundary and the proximity of the dwelling from the common boundary shared with Portion 13 of farm Sandies Glen No. 129 was merely to indicate that the impact of the western building line deviation will be minimal on the habitable structures on Portion 4 of farm Sandies Glen No. 129 (Mr Jacobs' farm). It was never intended to be prescriptive or place any constraint on what the objector can and cannot do on his farm.

Town Planner's Response:

The SDP and the proposal as submitted with the application and in the notice indicate the proposed cottages on the western side. The mention of the cottages on the eastern side was made in error. Further, even though of the error the only property owner who might be affected is Mr Jacobs on Portion 4 of farm Sandies Glen No. 129.

Renovation and use of the guest cottages

Mr Jacobs' comment with regards to the renovation and use of the guest cottages within the western lateral building line, refers. The access door being referred to, replaced a previous window in the same position. Mr Jacobs complains about the on and off loading of luggage, etc. on the farm boundary and within his view. The aforementioned needs to be compared with the nuisance caused by excessive drinking and partying that used to go on every weekend when the structures were still used for labourers' cottages. The latter also meant uncontrolled access by visitors at the labourers' cottages. Some of these visitors also parked in the road and in the entrance to these cottages – in full view of Mr Jacobs. It is therefore submitted that the change of use of the labourers' cottages to guest cottages will have a lower impact on the neighbouring property.

Town Planner's Response:

It is understood that the loading and off-loading of luggage can create noise however the alternative must also be considered were the cottages remain for the use of labourers' accommodation who will have right to permanent lodging whereas guests prefer quiet surrounding and will alternate from time to time. Further, the manager will remain on the property.

Existing trees

The reference to the existing trees that shelter the guest cottages from the view of Mr Jacobs refers. Yes, Mr Jacobs can remove the trees at any given time (but given the nature of his objections the latter is doubtful). New trees have been planted on the common boundary in front of cottage no. 3 to screen off the cottage to the neighbour and improve privacy. The client also confirmed that they plan to install a reeds barrier in this area to make the area even more secluded.

Town Planner's Response:

The comment provided by the applicant is noted and mitigation measures should help with privacy issues. A latte fence has been erected which screens both farms.

Water contamination

Mr Jacobs mentions possible water contamination caused by the overflow of sewage tanks. It is in the best interest of the owners to manage the sewage treatment on the farm in line with the relevant legislation.

Town Planner's Response:

It is understood that the owner of Portion 13 of farm Sandies Glen No. 129 will also not want to cause any pollution on the farm as it will negatively affect their own agricultural process. This will further have been looked at from an environmental point of view.

Impact on Agricultural Rights

Mr Jacobs stipulates that he exercises his agricultural rights and that the hospitality industry will have a negative impact thereon. Take note that his property is earmarked as Nature Reserve on the maps of the area. Aerial photographs of the valley also indicate that besides planting a small pasture, Mr Jacobs has not cultivated the land for the past twenty (20) years. In addition it is unclear how tourist facilities and tourist accommodation on this small scale will have a negative impact on an adjacent farm's agricultural activities. The existing labourers' cottages were in place before our client bought the subject property and we cannot comment as to why these structures were placed on the western farm boundary of the Laughing Waters Farm. The spatial planning policies do however favour the use of existing structures in already disturbed footprints for tourist accommodation/tourist facilities. It therefore proves to be efficient to apply for the relaxation of the relevant building lines to accommodate the new land uses within the existing structures.

Town Planner's Response:

The impact of the proposed use on Mr Jacobs' agricultural activity will be minimal. Further, Mr Jacobs has the right to utilise his property in line with the primary rights as determined in the Zoning Scheme as no one can prohibit him from doing so.

Parking

Parking can be provided in the relevant building lines and no application/deviation is required. It is submitted that his concerns with regards to his agricultural activities and how it might impact on the guests visiting the cottages can be resolved through mutual neighbourly co-operation. In addition, guests visiting the farm accept that they are visiting a working farm in an agricultural environment. Any complaints in this regard will be Laughing Waters' responsibility and will have no bearing on the neighbour. Our client acknowledges the neighbour's right to farm and maintain his crops and has no intent to prevent him from doing so. Comments with regards to parking in the road, amount of people anticipated etc. refers. Sufficient parking can be provided for onsite and the client has to adhere to the approved SDP and conditions of approval when renting out the cottages and catering for functions on the premises. The proposal is in line with the parking requirements for the Overstrand Municipality.

Reed barriers have been implemented to deter guests from interacting with Mr Jacob's farm animals.

Town Planner's Response:

The provision of parking bays within building lines are a common practice as the space is readily optimally utilised otherwise. Only guests staying in the proposed

two (2) guest cottages on the western side will park in the 30m western lateral building line. Alternative parking has been identified for guests of the tourist facility.

The provision of reed barriers will promote privacy for Mr Jacobs.

Fire Risk

The objection with regards to the fire risks associated with the fire pit and proposed land uses refers. The fire pit in question is sunk and surrounded by a low wall made from rocks and concrete. This is built below the cottages and surrounded by a well-kept lawn, an embankment and windbreak. As mentioned the conversion of the labourers' cottages to guest cottages will lower the risk of fires caused by careless behaviour since the guest cottages will be serviced and no longer occupied by labourers on the farm. In addition the objector does not manage alien vegetation on his property, which causes a greater fire risk to the Laughing Waters farm and surrounding areas. The farm owners are active members of the Agulhas Biodiversity Initiative (removes aliens on their farm once a year), Working for Water, the Greater Overberg Fire Protection Association, the local landowners association and Stanford Tourism which proves their commitment to ensuring the reduced fire risks and ecological integrity of the farm and its surrounds.

Town Planner's Response:

The applicant's comment is noted and agreed with.

Tunnels

The comments with regards to the tunnels refer. Initially the owners were under the impression that the tunnels were approved structures since they bought the subject property with the tunnels. We discussed the matter with the Town Planning and Building Departments respectively in May 2017. The current Land Use Planning By-Law was promulgated in 2015. Before that the Land Use Planning Ordinance (LUPO) applied to land use applications in the Overstrand Municipality's rural areas. Under LUPO horticulture was a primary use on Agriculture Zone I properties (i.e. no land use approvals required). However, building plan approval for the tunnels still applied even under the old legislation. Consequently, if building plans were approved for the tunnels the structures would have been considered legal and no further action would have been required. However, no building plans seem to exist for the existing tunnels and consequently the current owners had to adhere to the requirements of the Overstrand Municipality's By-Law on Municipal Land Use Planning, 2015 and submit a formal application for consent use to accommodate the existing tunnels. The current owners now merely want to ensure that any omissions made by the previous owners, for which the current owner is not in any way responsible, are addressed and legalized. Once again the visual impact remains unchanged for the neighbour since these tunnels have been on the farm for a few years now and forms part of the diverse vegetable cultivation (and livelihood) of the farm.

Town Planner's Response:

The tunnels are considered as a secondary right in terms of the Zoning Scheme for intensive horticulture and therefore a consent use application is submitted. The tunnels will allow the property owner to farm and cultivate produce on a smaller

section of the farm and therefore less natural vegetation will have to be removed. Irrigation for the tunnels will have to be in line with the water use license.

Character of the Area

The statement with regards to the character of the area (situated in a tourism and agricultural area) refers. The greater Stanford and rural areas are regarded and recognized as a growing agri-tourism area. We would also like to emphasize that tourist facilities and accommodation are promoted in the rural areas. The Overstrand SDF (2006) stipulates that non-agricultural land uses should be restricted to those that support the sustainable production potential of the farming unit.

Town Planner's Response:

Comment from applicant is noted and agreed with.

Water Rights

The objector states that the proposed land uses will negatively impact on his water rights. As mentioned in our motivation report the new cottages will be serviced with the water from the spring. However, the client also confirmed that they intend to supply the two (2) new cabins with water from rain harvesting. The existing structures and tunnels have always had access to the spring water and this will remain unchanged (three (3) tunnels, for domestic use and for supplying potable water to the function/workshop venue and to the existing labourers' cottages/proposed guest cottages). There will be no impact on the current servitude right registered in favour of Mr Jacobs. The owners have allowed Mr Jacobs free access to the spring water and have never limited his access to three seventh (3/7th) as per the servitude rights. The client confirmed that their agricultural and proposed tourism land uses will be managed from the four seventh (4/7th) legitimate allocation of the spring water. The calculations presented by Mr Jacobs about how and to what purpose Laughing Waters uses its four seventh (4/7th) share of the water is irrelevant and should therefore be dismissed.

The client confirmed that plans are underway to install an appropriate flow meter and taps to ensure correct water flow to both the subject properties.

The objector's comments and CSIR figures with regards to the irrigation of the tunnels refers. The aforementioned comments and figures do not allow for proper storage management nor do they take into account that proper drip irrigation has been installed in the tunnels. In addition modern methods are being used to reduce the tunnel water consumption. Also worth noting is that the three (3) tunnels are seldom in use at the same time due to the labour intensive work required.

The comment from Mr Jacobs with regards to the approved water rights of the farm refers. The confirmation of lawful water use certificate issued by Breede-Gouritz Catchment Management Agency dated 17 April 2015 was attached to our application. The subject property's legal water use allows the use of the spring water for vegetable cultivation in the tunnels and the small adjacent field. As mentioned in our client's affidavit the tunnels have been on the property for ±16 years and the method of irrigation installed by the previous owner indicates that the

tunnels were never set up to use the water from the river. This statement from Mr Jacobs should therefore be dismissed.

The client is involving experts to ensure that the water is not contaminated (as mentioned in the motivation report).

Town Planner's Response:

As stated earlier, the irrigation for the tunnels will have to be in line with the water use license. Further, positive comment has been received from BGCMA regarding the water use. The only requirement will be to amend the water use licence for commercial purposes. The proposed meter flow will allow the respective property owners to manage their respective water uses.

The comment regarding CSIR is noted.

Resale and Value of the Property

According to the objector the proposed application will have a negative impact on the resale value of his property. The labourers' cottages (always occupied by people) have always been close to the western lateral boundary and close to his milking stable, which is in itself, also too close to the boundary. The rest of the comments with regards to possible factors that will impact the resale value of his farm are unjustifiable and ludicrous. It is rather submitted that the resale value of his farm will probably be enhanced by its adjacency to a farm that is cared for.

Town Planner's Response:

If Portion 13 of farm Sandies Glen No. 129 is better managed and taken care of it will increase the adjacent farm values as any prospective buyer will know the character of the area and know what is possible on the farm. The comment made by Mr. Jacobs is not agreed with.

Privacy and Christian morals and values

Mr Jacobs states that the proposal will have a negative impact on his family's privacy and Christian (and moral) values. The single incident referred to in his letter of objection is neither regarded as a predictor of future events nor does it set a precedent for future guests to follow.

Town Planner's Response:

It is unfortunate that such an event has transpired however, the property owner is now more knowable regarding the management of the proposed uses and can manage client's expectations and set ground rules to prohibit future incidents from occurring.

Comment from Stanford Heritage Committee

Comment was received from Stanford Heritage Committee stating that they have no objection however the age of the existing dwellings were questioned. A letter was received from Heritage Western Cape stating that the proposed application has no impact in terms of the Heritage Act.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See comment above.

9. MUNICIPAL ASSESSMENT OF COMMENTS

Initial comment from Cape Nature was negative towards the proposed parking which is to cater for the tourist facility. The applicant noted the comment and amended the parking layout in order to supply the parking layout closer to the tourist facility as per drawing number: *farm 129-13sdp-1-rec 2.drw*. Cape Nature in turn stated that they have no further objection.

Any relevant comments and conditions provided by the internal and external departments will be stipulated as conditions of approval.

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 applicant addressed the planning principals in the motivation. From a Town Planning Department's perspective the proposed application is considered consistent in the following manner:

Spatial Justice

The proposed development will not further promote the spatial development imbalances. Further the productive farm will lead to job creation.

Spatial sustainability

The proposed uses and structures will be on transformed areas. The additional uses will also enable the farm owner to make the farm economically sustainable.

Efficiency

The proposed application only affects the current property and its immediate neighbouring properties, and therefore has limited impact. As stated previously transformed areas will be used for development which will enable the property owner to optimally develop the farm and utilise its existing resources.

Spatial resilience

The application will ensure that the existing resource, land is utilised 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

No municipal services are to be rendered as stated in the Services Report.

The water use license will have to be amended as per the comment received from BGCMA.

The applicant provided sufficient information on the entrance, egress and manoeuvring of vehicles on the property. This was circulated to the engineering who indicated that they have no objection with the proposal.

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

The applicant seeks to acquire approval for the following proposals:

- a consent use in terms of Section 16(2)(o) to accommodate tourist facilities (function and workshop venue), tourist accommodation (four or five guest

cottages) and intensive horticulture (three hydroponic tunnels) on the property concerned;

- a departure in terms of Section 16(2)(b) to relax the following:
 - western lateral building line from 30m to ± 12 m and ± 15 m respectively to accommodate the existing cottages no. 2 & 3;
 - road building line from 30m to ± 9 m to accommodate the existing cottage no. 3;
 - road building line from 30m to ± 22 m to accommodate the function/workshop venue;
 - road building line from 30m to ± 24 m and ± 27 m respectively to accommodate the existing tunnel north of the gravel road, and
 - road building line from 30m to ± 5 m and ± 10 m respectively, and
 - the western lateral building line from 30m to ± 16 m and ± 19 m respectively to accommodate the existing tunnel south of the gravel road.

Portion 13 of farm Sandies Glen No. 129 is currently developed with a main dwelling, outbuildings and three (3) labourers' cottages. The property owner intends to convert an outbuilding to be used for dual purposes (tourist accommodation and/or tourist facility). Two (2) of the labourer's cottages have been converted to be used as tourist accommodation and the property owner wishes to legalise the existing use. The previous property owner developed hydroponic tunnels, which the current owner of the farm wishes to utilise. No building plans were submitted for the tunnels in terms of the previous Zoning Scheme and therefore consent use is requested in terms of the current Zoning Scheme. Building line departures are submitted due to the change of use and position of the existing structures to the road and lateral boundaries. The two (2) new guest cottages will be positioned in a manner which is compliant with the current Zoning Scheme and out of view sight lines of existing structures on neighbouring properties.

It is noted that the subject property has an agricultural zoning. However, due to the topography and soil composition of the farm any standard farming activity alone does not allow for the farm to be economically viable. Further, the main agricultural activity on the farm is the cultivation of Proteas with the first harvest due in a few years. Thus with the early offset of the farm development (repairing, maintaining and upgrading of existing structures) and the time for the farm to develop its own produce, the property owner will require additional uses in order to develop the farm economically sustainable. 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 in the area as described and promoted in the Overstrand Municipal Spatial Development Framework.

The objections received from the adjacent property owner - Mr Jacobs is noted and have been sufficiently addressed. Most of the issues are and can be mitigated with the proper management of the farm. The property owner of Portion 13 of farm Sandies Glen No. 129 has indicated that mitigation measures will be taken to ensure that the relevant issues are addressed.

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 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, Napier and other tourist facilities in the surrounding area.
- The character depicted in the design proposal is that of a rural rural/agricultural character which contributes towards the character of the area.
- The subject property is consisting with natural beauty which attracts tourist to the area.

10.9 ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

There are no restrictive conditions contained in the Title Deed.

11. RECOMMENDATION

1. in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for a building line relaxation from the following:
 - western lateral building line from 30m to ± 12 m and ± 15 m respectively to accommodate the existing cottages no. 2 & 3;
 - road building line from 30m to ± 9 m to accommodate the existing cottage no. 3;
 - road building line from 30m to ± 22 m to accommodate the function/workshop venue;
 - road building line from 30m to ± 24 m and ± 27 m respectively to accommodate the existing tunnel north of the gravel road, and
 - road building line from 30m to ± 5 m and ± 10 m respectively, and the western lateral building line from 30m to ± 16 m and ± 19 m respectively to accommodate the existing tunnel south of the gravel road;

on Portion 13 of the Farm 129, **be approved**, in terms of the provisions of Section 61 of the By-Law;

2. in terms of Section 16(2)(o) of the above By-Law for a building line to accommodate tourist facilities (function and workshop venue), tourist accommodation (four (4) or five (5) guest cottages) and intensive horticulture (three (3) hydroponic tunnels) on Portion 13 of farm Sandies Glen No. 129, **be approved**, in terms of the provisions of Section 61 of the By-Law;
3. that the approval provided in point 1 and 2 is subject to the following conditions;

- (a) that the approval is only limited to the Site Development Plan (SDP) as submitted with the application and the Revised SDP drawing number: *farm 129-13sdp-1-rec 2.drw*;
 - (b) that the conditions compiled by the District Health, Fire Department, Department of Environmental Affairs and Development Planning, and Cape Nature (attached as Annexures N, H, O and K), be complied with;
 - (c) that the conditions compiled in the Services Report (attached as Annexure F), be complied with;
 - (d) that building plans be submitted to the Building Department for approval and that the relevant conditions set out in approval condition (b), contained in this approval be complied with at that stage;
 - (e) that before the tourist facility is operated, proof of compliance must be submitted which indicates that the structure complies with the comment provided by the Fire Department;
 - (f) that should the property owner in future seek to develop additional labourers' cottages, then proof must be provided that the labourers' cottages are for bona fide agri cultural use and an approval for the amendment of the SDP must be obtained prior to the submission of building plans.
 - (g) that a metering mechanism is incorporated at the fountain;
 - (h) 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;
 - (i) that the tourist 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;
 - (j) that any proposed sign to be displayed complies with the Municipal By-Law on signage;
 - (k) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
 - (l) that all other development parameters as prescribed in the relevant Zoning Scheme, be complied with.
4. that the objector and the applicant 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.

11. REASONS FOR RECOMMENDATION POINT 1 AND 3

- ❖ 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, Napier and other tourist facilities in the surrounding area.
- ❖ The character depicted in the design proposal is that of a rural rural/agricultural character which contributes towards the character of the area.
- ❖ The subject property is optimally located close to Stanford, Napier and other tourist related facilities in the surrounding area.
- ❖ The subject property is consisting with natural beauty which attracts tourist to the area.

12. Annexures

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Plan : Revised Site Development Plan: drawing number: <i>farm 129-13sdp-1-rec 2.drw</i>
Annexure D:	Objection received from Mr L.E. Jacobs
Annexure E:	Response to objection from Mrs. G.I. Rosslee and Messrs Plan Active Town & Regional Planners
Annexure F:	Engineering Services
Annexure G:	Breede-Gouritz Catchment Management Agency
Annexure H:	Fire Department
Annexure I:	Heritage Western Cape
Annexure J:	Cape Nature dated 4 October 2017 and 7 November 2017
Annexure K:	Eskom
Annexure L:	Telkom
Annexure M:	District Department of Health
Annexure N:	Department of Environmental Affairs and Development Planning (Enviro)

SIGNATURES

REGISTERED PLANNER

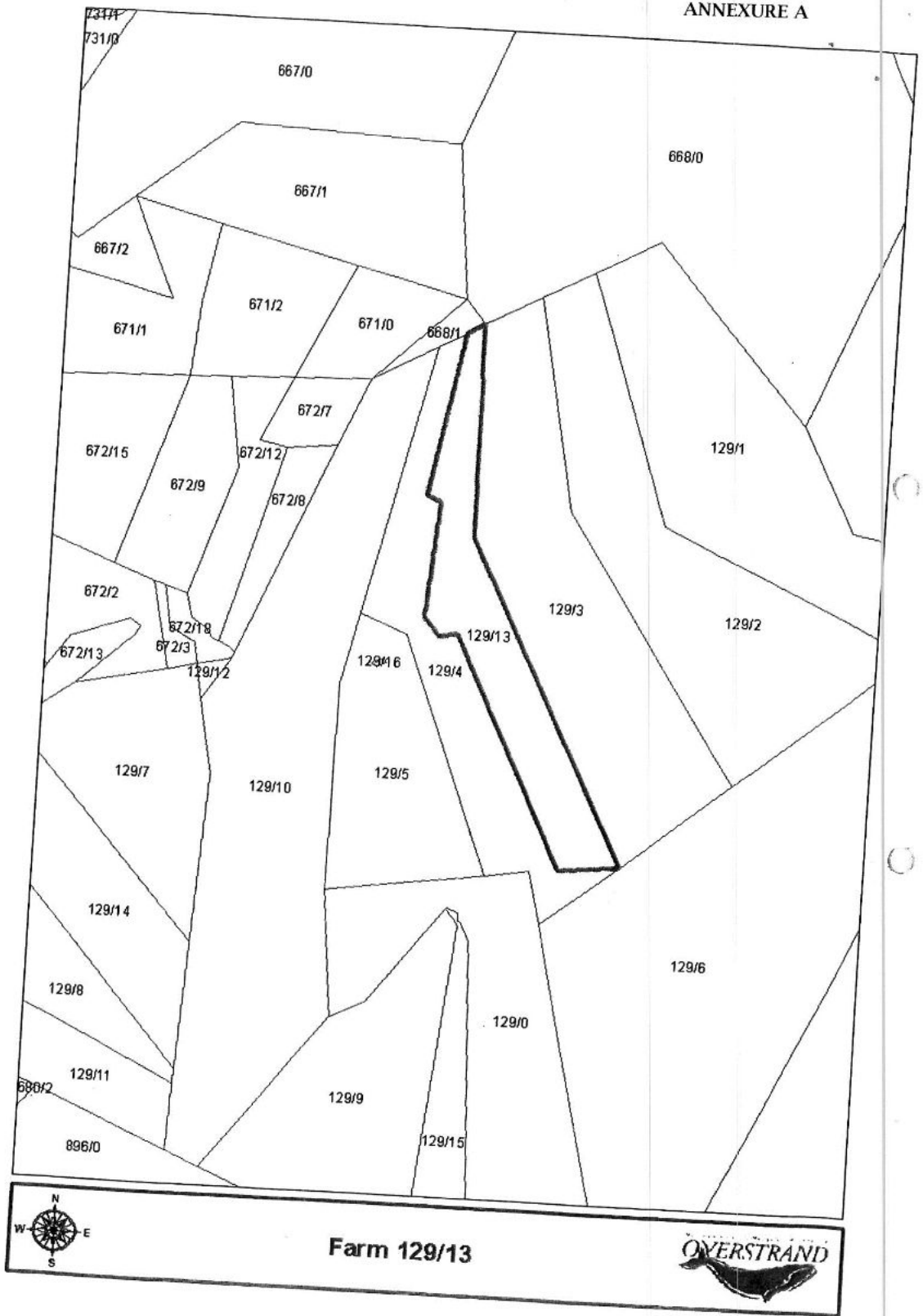
Name : **S VAN DER MERWE**

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

Signature : _____

Date: _____

ANNEXURE A



Motivation report

Portion 13 of the farm Sandies Glen no. 129

**PROPOSED CONSENT USE & DEPARTURE
PORTION 13 OF THE FARM SANDIES GLEN NO. 129
DIVISION BREDASDORP
OVERSTRAND MUNICIPALITY**

MOTIVATION REPORT

1. BACKGROUND

The company Plan Active has been appointed by G.I. Rosslee, on behalf of The Tormay CC, the owners of Portion 13 of the farm Sandies Glen No. 129, to submit an application for the consent use to accommodate tourist facilities and tourist accommodation on the subject property.

The subject property is known as Laughing Waters Farm – a beautiful Fynbos flower farm in the scenic Sandies Glen.

The owners intend to diversify the land use on Portion 13 of the farm Sandies Glen No. 129 to offer a getaway for families and individuals wishing to enjoy the peace of a vibrant farm. The diversification of the land uses will also add to the diversification of sources of income on a farm that cannot be economically viable by means of agricultural activities only.

This application proposes a consent use for tourist facilities and tourist accommodation to accommodate a function and workshop venue and four (five if function venue is converted to a cottage) guest cottages on the subject property. The function venue can easily be converted to a two sleeper cottage as well and the existing structure will either be used for function / workshop purposes or as a cottage.

There are three existing tunnels on the farm. Application is also made for consent use to legalise the existing tunnels (intensive horticulture) on the subject property.

The existing structures to be used for tourist accommodation and tourist facility purposes are

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Motivation report

Portion 13 of the farm Sandies Glen no. 129

situated within the 30m lateral and road building lines. An application is also submitted for departures to accommodate the existing structures within the aforementioned building lines.

2. APPLICATION DETAILS

Application is made for the following:

- The consent use of Portion 13 of the farm Sandies Glen No. 129 in terms of Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, to accommodate tourist facilities, tourist accommodation and intensive horticulture on the subject property;
- The departure of Portion 13 of the farm Sandies Glen No. 129 in terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, to relax the lateral and road building lines to accommodate three of the existing structures to be used as tourist facility (one function and workshop venue or cottage), tourist accommodation (two guest cottages) and two of the three existing hydroponic tunnels.

3. GENERAL APPLICATION INFORMATION

3.1 PROPERTY DESCRIPTION

The subject property is 123,4478ha in extent and held by title deed no. T68424/2012.

The subject property is situated ±23km east of Stanford travelling along the Papiessvlei Elim Road. The aforementioned road runs through the subject property. Please refer to the locality plan attached. The subject property is located in an agricultural and tourism environment.

3.2 ZONING

The land is zoned Agricultural Zone I and is utilized as such.

Motivation report

Portion 13 of the farm Sandies Glen no. 129

3.3 LAND USE

Portion 13 of the farm Sandies Glen No. 129 is used for agricultural purposes. The following structures can be found on the subject property:

- Main dwelling;
- Three labourer's cottages (of which two have been converted for use as tourist accommodation units);
- Three tunnels (vegetables);
- Two sheds;
- Goat shed;
- Carport (farm implements);
- Double garage (aforementioned and portion of shed converted to the function and workshop venue or used as guest cottage when required);
- Cheese farm / produce processing room;
- Coop;
- Protea cultivation nursery (for own use);
- Paddocks.

The following existing agricultural activities are on the subject property:

Land use	Irrigated (ha)	Dry land (ha)	Amount
Vegetables			3 hydroponic tunnels
Protea flower and foliage cultivation	5,5		
Cultivable area (future plantings)	10-15ha		
Livestock:			
- Goats			20
- Horses			7
- Cattle			5
- Pigs			4
- Chickens			20
- Geese			5
- Bee-keeping			-

The Protea and foliage cultivation for cut flowers and bouquets is for local and future international markets. As mentioned above a mere 15-20ha of the farm is cultivatable area.

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Motivation report

Portion 13 of the farm Sandies Glen no. 129

At this small scale and given high clay soils, King Proteas are the most suited viable crop. However, it takes \pm 4-5 years before plants produce flowers of any volume.

The hydroponic (translated to organic) tunnels existed prior to the purchase of the farm in 2012. The tunnels consist of small scale vegetable fields, irrigated and managed for diverse vegetable cultivation. Vegetables are then for own use / occasional catering for guests and for sale to the local Stanford Market and restaurants.

The livestock produce free range cheese, yogurt, meat and eggs. The cheese and yogurt are sold at the local market. The rest (eggs, meat, honey etc.) are for own use or occasional guest catering.

It is vital that the owners of the subject property diversify their sources of income. The aforementioned is crucial for their survival during the start-up phase and the farm's viability. As mentioned above the farm is not viable solely through agriculture due to the size of the cultivatable land. In addition the initial rundown state of the farm and the enormous costs for repair, replacement and development, particularly of the Protea orchards, renovating the cottages for guests and the labourer's cottage had a large impact on the operational cost of the farm. The ongoing running expenses are also substantial with labour, diesel, electricity and land bank loan repayment being the most significant.

Land uses that surround Portion 13 of the farm Sandies Glen No. 129 are agricultural activities and tourism related (tourist accommodation and tourist facilities) land uses.

3.4 PROPOSED DEVELOPMENT

The following are proposed:

- The consent use of Portion 13 of the farm Sandies Glen No. 129 in terms of Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, to accommodate tourist facilities (function and workshop venue), tourist accommodation (four / five guest cottages) and intensive horticulture (three hydroponic tunnels) on the subject property;
- The departure of Portion 13 of the farm Sandies Glen No. 129 in terms of Chapter 4,

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Motivation report

Portion 13 of the farm Sandies Glen no. 129

Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, to:

- o relax the western lateral building line from 30m to $\pm 12m$ and $\pm 15m$ respectively to accommodate the existing cottages (Laughing on the Farm and Laughing by the River shown as cottages no. 2 and 3 on Site Development Plan no. 1) on the subject property;
- o relax the road building line from 30m to $\pm 9m$ to accommodate the existing cottage (Laughing on the farm / cottage no. 3 on Site Development Plan no. 1);
- o relax the road building line from 30m to $\pm 22m$ to accommodate the function and workshop venue (shown as structure no. 1 on Site Development Plan no. 1).
- o relax the road building line from 30m to $\pm 24m$ and $\pm 27m$ respectively to accommodate the existing tunnel north of the gravel road.
- o relax the road building line from 30m to $\pm 5m$ and $\pm 10m$ respectively and the western lateral building line from 30m to $\pm 16m$ and $\pm 19m$ respectively to accommodate the existing tunnel south of the gravel road.

Laughing Waters is a beautiful fynbos flower farm in the scenic Sandies Glen – encircled by spectacular mountains and with a river running through. The farm offers star-lit nights, wide-open nature, interactions with herds of goats and horses, hiking, mountain biking and swimming in the private spring-fed farm dams. Laughing Waters is a wonderful getaway for families and individuals wishing to enjoy the gentle peace of a vibrant farm.

The owners intend to diversify the land use on Portion 13 of the farm Sandies Glen No. 129 to offer a getaway for families and individuals wishing to enjoy the peace of a vibrant farm. The diversification of the land uses will also add to the diversification of sources of income on a farm that cannot be economically viable by means of agricultural activities only (also refer to *Section 3.3 Land Use*).

This application proposes consent uses to accommodate the following tourist facilities and tourist accommodation:

- Function & workshop venue. The aforementioned will also be converted to a cottage when the need for additional accommodation exists. The structure will either be used as function or workshop venue or cottage but not for both at any given time.
- Four guest accommodation cottages (two in existing structures and two in proposed new structures).

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Motivation report

Portion 13 of the farm Sandies Glen no. 129

The detail pertaining to the proposed tourist accommodation units and function / workshop venue is as follows:

BUILDING DESCRIPTION	EXTENT	NO. OF GUESTS
Laughing Under the Oaks: function & workshop venue or cottage	195m ²	30 people attending a workshop/function or 2 guests sleep over
Laughing By the River	187m ²	4
Laughing On the Farm	120m ²	4
New cottage no. 4	70m ²	2
New cottage no. 5	70m ²	2

The footprint and uses of the existing dwelling and auxiliary structures associated with the agricultural activities will remain unchanged.

Tourist facility (function & workshop venue):

The owners have converted the existing double garage and a portion of the shed into a function and workshop venue. The renovation was done in such a manner that the existing structure is interchangeable to also be used as a guest accommodation unit (two guests only) if the need for more accommodation on the farm exceeds the demand for the function / workshop venue. The proposed function and workshop venue (or cottage) will be 13m x 15m and ±195m² in extent. The proposed venue will accommodate a maximum of 30 people (regardless of the type of event / workshop). The facility will be accommodated in an existing structure on the subject property. Provision will be made for an inside entertainment area, two toilets, a kitchen and a stoep. It is anticipated that the venue will be used until 24:00 for functions booked in the evenings. The venue will be used for functions or workshops during the week as well as on weekends.

The position of the proposed function and workshop venue is ideal since it is situated in close proximity to the existing access to the farm and close to the gravel road travelling from Stanford to Napier.

It is anticipated that the proposed function and workshop venue will be used for the following:

- Parties;
- Small scale intimate events;
- Small scale conferences;

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Motivation report

Portion 13 of the farm Sandies Glen no. 129

- Workshops for farm related uses: cheese making, horse in-sight coaching, skills development for local community taught by international experts etc.

All catering for events or workshops will be done on the premises.

Guest accommodation units:

It is proposed to apply for the consent use for tourist accommodation units to accommodate the two (three when the function venue structure is also used as a cottage) existing self catering cottages and two new guest cottages on the subject property. Unit no. 1 was a double garage and portion of shed previously. Units no. 2 and 3 were labourers' cottages. The position of the existing cottages is indicated on Site Development Plan no. 1 attached. All the existing cottages are positioned next to the existing farm roads and no new roads / driveways will be created to accommodate the cottages.

Unit no. 2 is 17m x 11m and $\pm 187\text{m}^2$ in extent. A maximum of four guests can be accommodated in this cottage. Unit no. 3 is 15m x 8m and $\pm 120\text{m}^2$ in extent. A maximum of 4 guests can be accommodated in this cottage. The aforementioned cottages used to be labourers' cottages in the past.

Two new cottages (cottages no. 4 and 5 indicated on Site Development Plan no. 2) are proposed further north of the existing two cottages. The new cottages will be positioned in a portion of veld. The location of the proposed new cottages was chosen because of the wide-view the site offers, the site is undisturbed by farm activities and is not in close proximity to any water courses. There is an existing road that will be used to gain access to the cottages. The position of the two new cottages does not encroach onto the applicable building lines or the 32m edge from any watercourses. The proposed new cottages will be $\pm 70\text{m}^2$ in extent each and will be ecologically sensitive cabins. A maximum of two guests can be accommodated in each of the proposed new cottages.

The tourist accommodation units will be self catering units and will be occupied on short term basis by tourists visiting the area. The self catering cottages will be tastefully decorated and fully equipped. The existing and proposed tourist accommodation units (cottages) are single storey and clustered together on existing transformed / disturbed portions of land next to the existing roads on the subject property. Where new cottages are positioned in the veld the footprints are small ($\pm 70\text{m}^2$ units). Refer to the Photograph Annexure attached.

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Motivation report

Portion 13 of the farm Sandies Glen no. 129

Hydroponic tunnels (intensive horticulture)

The hydroponic (translated to organic) tunnels existed prior to the purchase of the farm in 2012. The tunnels consist of small scale vegetable fields, irrigated and managed for diverse vegetable cultivation. Vegetables are then for own use / occasional catering for guests and for sale to the local Stanford Market and restaurants.

The existing tunnels do not have concrete foundations. They consist of metal pipe frames covered with shade cloth / plastic that can easily be disassembled. The gabbling between the river and the tunnels, as stipulated by the Department of Horticulture, has strengthened the river bank.

In contrast to traditional intensive horticulture practices our client's focus is on organic / permaculture vegetable production. This implies that they enrich the soil naturally, use a diversity of crop plants to support the tunnel ecosystem health and do not use artificial chemicals or fertilisers.

Although the tunnels were constructed when the Land Use Planning Ordinance (Ordinance 15 of 1985) was still the governing legislation and no land use approvals were required for horticulture purposes, the previous property owners did not submit building plans for the existing tunnels. The tunnels were however constructed in line with the Department of Horticulture's guidelines. Since the current land use legislation, the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, does not allow for intensive horticulture as a primary land use right on Agriculture Zone I properties, application is made for a consent use to accommodate the existing three hydroponic tunnels on the subject property.

There are two tunnels north of the gravel road and one south of the road. The tunnels are clustered together with other existing structures on the farm. The dimensions of the tunnel south of the road are 24m x 8m and the two tunnels north of the road area 30m x 8m each.

The proposed change in land use will not have a negative impact on any natural vegetation of the subject property (most structures already exist and two new cottages will have a small footprint). The existing structures are not situated on high potential agricultural land and therefore the impact will be kept to a minimum. There are also no other agricultural activities that the proposed units will impose on.

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The proposed facilities are clustered together where structures already exist. The two new cottages will also be clustered and be positioned in the veld next to the existing roads and access ways on the subject property. The proposed new cottages will have small footprints and will be ecologically friendly (cabin style).

The tourist accommodation units, tourist facility and horticulture will not lead to the fragmentation of ownership of land and therefore adheres to the objectives of the Subdivision of Agricultural Land Act, Act 70 of 1970.

The existing cottages and function and workshop venue (i.e. existing structures) are situated within the 30m lateral and the road building lines. Application is therefore made for a departure to relax the western lateral building line from 30m to $\pm 12\text{m}$ and $\pm 15\text{m}$ respectively to accommodate cottages no. 2 and 3. Application is also made to relax the road building line from 30m to $\pm 9\text{m}$ to accommodate existing cottage no. 3. In addition the existing structure to be used as function and workshop venue or cottage also encroaches the road building line. Application is therefore made to relax the road building line from 30m to $\pm 22\text{m}$ to accommodate the function and workshop venue structure. Two of the three existing tunnels encroach the 30m road building line. Application is therefore made for a departure to:

- relax the road building line from 30m to $\pm 24\text{m}$ and $\pm 27\text{m}$ respectively to accommodate the existing tunnel north of the gravel road;
- relax the road building line from 30m to $\pm 5\text{m}$ and $\pm 10\text{m}$ respectively and the western lateral building line from 30m to $\pm 16\text{m}$ and $\pm 19\text{m}$ respectively to accommodate the existing tunnel south of the gravel road.

Since the aforementioned structures already exist the impact of the proposed encroachments will be low.

The proposed deviations on the common boundary with Portion 4 of farm Sandies Glen no. 129 will not intrude on the adjacent farm owners' privacy since the habitable structures on Portion 4 are situated further to the west on the property (neighbours house $\pm 150\text{m}$ away from the existing cottages). The structures on Portion 4 closest to the common boundary with Portion 13 are mainly outbuildings. Proposed cottages no. 2 and 3 are accommodated in the previous labourers' cottages (vacant). This means that the use of the structures were already for living purposes (i.e. habitable structures). When occupied by labourers in the past the use of these structures had a greater impact on the neighbour (specifically referring to noise and behavioural problems) than the proposed guest cottages will have. It should

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also be noted that the back of the cottages face the common boundary with Portion 4. The stoeps, braai areas, etc. face to the east and consequently the guests and possible noise will not be on the side of the structures that encroach the common boundary. In addition there is an existing row of trees on the common boundary that aids in protecting the privacy of both the owner of Portion 4 as well as the guests visiting cottage no. 2. New trees have been planted on the common boundary in front of cottage no. 3 to screen off the cottage to the neighbour in future. Please refer to the Photograph Annexure attached. The proposed deviations do not hinder access to the subject property in case of a fire.

The deviation of the function and workshop venue will have no impact on the neighbouring properties since the deviation is on the road building line (the Papiessvlei Elim Road cuts through the subject property).

The total floor space of all structures on the subject property does not encroach the allowable floor space of 5000m² for Agriculture Zone I properties.

There are six persons employed on the subject property. Temporary staff is also employed when required. Apart from the two vacant labourers' cottages on the premises (converted to tourist accommodation cottages) there is also one labourer's cottage occupied by an employee of the farm. All other staff members live in Stanford and the owners are responsible for their travelling arrangements on a daily / weekly basis.

The owners also intend to construct a manager's dwelling on the subject property. A manager's dwelling is part of the primary right of Agriculture Zone 1 as per the definition: *"Agriculture" means the cultivation of land for crops and plants including plantations, the keeping and breeding of animals, beekeeping, bird farming or the operation of a game farm, and comprises natural veld, and includes only such activities and buildings as are reasonably connected to the main farming activities such as residential accommodation for the farmer, farm manager and farm labourers, the packing of agricultural produce grown on the property; but excludes intensive horticulture, intensive animal farming, agricultural industry, and a farm shop.* The position of the proposed manager's dwelling is shown on Site Development Plan no. 3 attached. The manager's dwelling will be ±150m² in extent and single storey only. The area where the manager's house will be positioned was previously disturbed but is currently dominated by a single plant species.

There are existing roadways on the farm and the tourist accommodation units and proposed tourist facility are located next to and gain access from the existing gravel roads.

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The positioning of the tourist accommodation units does not have a negative impact on the existing or potential agricultural activities on the land on the subject property. The estimated co-ordinates of the units are as follow:

Building description	Latitude	Longitude
1. Function / workshop venue or cottage (Laughing Under the Oaks)	19° 40' 08.58" E	34° 28' 23.39" S
2. Laughing By the River	19° 40' 05.71" E	34° 28' 22.34" S
3. Laughing On the Farm	19° 40' 06.01" E	34° 28' 22.67" S
4. New Cottage no. 4	19° 40' 08.37" E	34° 28' 08.05" S
5. New Cottage no. 5	19° 40' 08.89" E	34° 28' 07.03" S
6. Manager's house	19° 40' 29.68" E	34° 28' 36.75" S

The proposed consent use for tourist accommodation and tourist facilities complies with the parking requirement policy for developments in the Overstrand:

Proposed land use	Parking required	Parking provided
Five tourist accommodation units	2 bays per unit	10
Function venue (maximum 30 people)	1 bay per 4 seats / persons attending = 8 bays	10 (plus 2 parking for disabled next to the venue)
TOTAL	19	20

Parking will be provided in already transformed / disturbed areas or small portions of veld next to existing gravel roads as shown on the site development plans and photograph annexure attached.

The proposed change in land use (consent use) and departure do not propose activities that will lead to uncalled for smoke, smells, noise or dust and will therefore not have a negative impact on the adjacent property owners or the ambiance of the Sandies Glen area.

The proposed consent use and departure do not have a negative impact on the surrounding farms as the subject property's zoning will remain unchanged. The owners simply intend to apply for their secondary right on the subject property to allow them to continue to make a living on the subject property.

To conclude: we are of the opinion that the proposal is compact, unobtrusive, respects the rural vernacular and does not impact on the agricultural activities of the subject property or

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the surrounding farms.

For details pertaining to the services on the subject property please refer to Section 3.7.1 of this report.

Section 3.9 motivates the application further in terms of the applicable local and regional spatial planning policies.

The proposed consent use and departure of Portion 13 of farm Sandies Glen No. 129 are not in contrast to the existing land uses tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

3.5 CHARACTER OF THE ENVIRONMENT

The subject property is situated in the picturesque Sandies Glen area and last mentioned is known as an area with many tourist related land uses (function venues and tourist accommodation). Sandies Glen is also surrounded by many tourist attractions in a 20-30km radius (Stanford Village, Baardskeerdersbos, Elim, Napier).

Sandies Glen is characterised by agricultural activities, tourist facilities (such as function venues, restaurants, etc.), tourist accommodation units and recreational facilities (mountain biking trails, adventure activities, etc.). The proposed tourist facility (function and workshop venue), tourist accommodation units and tunnels are therefore in line with the existing character of the area.

The tunnels will remain unchanged. Visually the proposed tourist facility and tourist accommodation units will mostly remain unchanged (only renovations and additions done) and new structures will blend in well with the natural and built environment (limited footprint, cabin-like structures). The proposed land uses will mostly be accommodated within existing structures, with the exception of the two new cottages (cabins) north on the subject property. Last mentioned will take the shape of cabins and will be raised on stilts.

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Portion 13 of the farm Sandies Glen no. 129

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

Due to the size and location of the property as well as the fact that the proposed tourist facilities are associated with the agricultural activities on the subject property it has the potential to be developed with tourist facilities and tourist accommodation units. The subject property is situated in the picturesque Sandies Glen area and surrounding towns (such as Stanford, Baardskeerdersbos, Elim and Napier) and the area as a whole is known as an agricultural area with many tourism valued sites and attractions luring thousands of tourists to the area annually.

Tourist related activities on the farm will include:

- Hiking & mountain-biking;
- Swimming in spring-fed farm dams;
- Farm-fresh breakfasts, brunches, braai's & picnics;
- Horse In-Sight coaching & workshops;
- Horse-riding;
- Cheese & wine-tasting;
- Cheese-making weekends;
- Day outings to your choice of the area's exceptional attractions.

It is important to note that the farm is not viable solely through agriculture due to the size of the cultivatable land. The existing tunnels do however contribute towards the diversification of the income on the subject property. The tunnels have been in existence for a few years and the existing successful horticulture practices proof that the subject property can successfully accommodate these activities. In addition the initial rundown state of the farm and the enormous costs for repair, replacement and development, particularly of the Protea orchards, renovating the cottages for guests and the staff cottage had a large impact on the operational cost of the farm. The ongoing running expenses are also substantial with labour, diesel, electricity and land bank loan repayment being the most significant. It is therefore vital that the owners of the subject property diversify their sources of income. The aforementioned is crucial for their survival during the start-up phase and the farm's viability.

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Portion 13 of the farm Sandies Glen no. 129

3.7 IMPACT ON EXTERNAL ENGINEERING SERVICES

3.7.1 PROVISION OF SERVICES

All services on the subject property already exist.

No additional services are required to accommodate the tourist facility (function and workshop venue) and existing cottages no. 2 and 3. The existing structures are already connected to the existing available services on the subject property. The servicing of the two new cottages is described below.

Available water

The water from the natural spring is used for the vegetables (three tunnels), for domestic use and for supplying potable water to the function / workshop venue and to the existing labourers' cottages (proposed guest cottages). The new cottages will also be serviced with spring water. Water from the river is used for irrigating the Protea orchards. The subject property has lawful water use in terms of the National Water Act, 1998 (Act 36 of 1998). Refer to a copy of the confirmation of lawful water use certificate issued by Breede-Couritz Catchment Management Agency dated 17 April 2015.

There is ample water available to maintain the existing and proposed land use on the subject property. All servitudes pertaining to water usage as described in title deed no. T68424/2012 will remain unchanged.

A water analysis of the water for domestic / commercial use was recently undertaken on the subject property. Please refer to the certificate of water analysis compiled by Bemlab dated 15 March 2017. The results show that the drinking water from the spring is not SANS approved. This is due to a small amount of E.Coli count (1/100ml). The aforementioned count is low but nonetheless present. The contamination is most probably due to faecal contamination from an animal. The client is in the process of considering mitigation measures to remove the E.Coli from the spring's water:

- A fence will be placed around the spring to ensure that no mammal can access the spring;
- The area will be covered with a shade cloth "ceiling" to prevent / reduce aerial access by birds;
- Investigate the installation of an ultra violet lamp filtration system.

The two new cottages and the manager's dwelling will be supplied of water by means of rain

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water harvesting. Additional water if required will be stored in a tank nearby.

The proposed consent use and departure will not impact on the existing water sources on the farm nor the existing water rights of neighbouring farms.

Sewerage

There are two existing septic tanks on the subject property (±3000l and 5000l respectively). One septic tank services the two existing labourers' cottages (proposed guest cottages no. 2 and 3). Another septic tank services the existing main dwelling and the existing structures west of the existing dwelling (including the existing structure where the function and workshop venue will be accommodated). It is anticipated that the existing septic tanks will suffice to accommodate the proposed land uses.

The two new cottages will be serviced with one new septic tank. The manager's dwelling will be fitted with a compostable toilet.

Electricity

Eskom is the electricity supplier to the farm. No additional electricity supply is required to accommodate the function and workshop venue / cottage or the existing two cottages.

The two new structures will be serviced with solar energy (panels), gas and rustic oil lamps. The manager's dwelling will also be serviced with solar energy for electricity.

Solid waste

Refuse / waste disposal are stored in bins on the farm (outside the farm shed). The solid waste is transported to the Stanford dump site once the bins have reached full capacity. Waste is sorted into recyclables: pig / earthworm food and disposables.

Conclusion

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

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Portion 13 of the farm Sandies Glen no. 129

3.7.2 TRAFFIC IMPACT, PARKING AND ACCESS

Since we are not applying for a subdivision of Portion 13 of the farm Sandies Glen No. 129, no additional access points or access roads will be created and the existing access points and roads will remain. Access to Portion 13 of the farm Sandies Glen No. 129 is obtained from the Papiessvlei Elim (gravel) Road travelling from Stanford to Napier as shown on the Site Development Plans (access points marked as A, B and C). It is proposed to keep the existing access points for the purposes of this application.

The existing access points give access to the following structures / land uses:

- Access point A: Access to main dwelling, proposed **function and workshop venue**, main dwelling, proposed manager's dwelling and auxiliary structures (sheds, carport, tunnels, etc.);
- Access point B: Access to tunnels, nursery, Protea Orchards and proposed **new cottages no. 4 and 5**;
- Access point C: Access to **cottages no. 2 & 3** (existing labourers' cottages) and **existing tunnels**.

The existing access points are also shown on the Photograph Annexure.

The visitors to the function and workshop venue, existing and proposed cottages will make use of existing gravel roads on the subject farm. It is not proposed to construct any new roads on Portion 13 of the farm Sandies Glen No. 129. The proposed parking areas will be situated next to the existing gravel roads on the farm and will not infringe onto water courses or vegetation on the subject property.

The proposed consent use complies with the parking requirement policy for developments in the Overstrand:

Proposed land use	Parking required	Parking provided
Five tourist accommodation units	2 bays per unit	10
Function venue (maximum 30 people)	1 bay per 4 seats / persons attending	10 (plus 2 parking for disabled next to the venue)
Intensive horticulture	0	0
TOTAL	19	20

Refer to the site development plans for the positions of the proposed parking bays. Ample

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parking can be provided for on site. All parking bays are 2,5m x 5m in extent with at least 7,5m manoeuvre space behind each parking bay. Provision is also made for two parking bays for disabled people opposite the proposed function and workshop venue. The majority of the parking bays will be situated next to the existing road in a portion of veld. As previously mentioned the proposed parking bays will not infringe onto the existing vegetation or water courses on the subject property. Please refer to the site development plans and photograph annexure.

The proposed consent use is to accommodate a small-scale function and workshop venue, four (five if the venue is used as a cottage) tourist accommodation units and the existing tunnels on the subject property. The proposed land uses will attract slightly higher volumes of traffic to the subject property, but not to the extent that a traffic impact statement is required. The scale of the proposed development is comparatively small. We are of the opinion that the existing access points should therefore suffice for the purposes of this application and that the impact on the traffic will be kept to a minimum.

3.8 TITLE DEED

The title deed T68424/2012 has no restrictions that prohibit the proposed land use. Since the content of the title deed is straight forward (no conditions mentioned pertaining to land use management), a conveyancer's certificate is not deemed a requirement for this land use application.

There is a bond registered against the subject property. The bondholder's consent was requested and will follow.

3.9 FORWARD PLANNING & OTHER LAND USE DOCUMENTS

3.9.1 PROVINCIAL SPATIAL DEVELOPMENT FRAMEWORK (2013)

DEVELOPMENT OUTSIDE THE URBAN EDGE

The PSDF (2013) stipulates that compatible and sustainable rural activities of an appropriate scale and form can be accommodated outside the urban edge (except in bona fide wilderness areas). The following criteria apply in assessing consistency with this policy:

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- Does not alienate unique or high value agricultural land, or compromise existing farming activities.
- Does not compromise the current or future possible use of mineral resources.
- Is consistent with the cultural and scenic landscapes within which it is situated.
- Does not involve extensions to the municipality's reticulation networks (i.e. served by off-grid technologies).
- Does not impose real costs or risks to the municipality delivering on their mandate.
- Does not infringe on the authenticity of rural landscapes.

The proposed tourist facility and tourist accommodation units comply with the criteria specified by the PSDF (2013):

- Existing roads will be used to accommodate the proposed tourist facility and tourist accommodation units (keeping the impact on the environment to a minimum).
- There is no impact on the agricultural productive landscape since the proposed tourist facility and tourist accommodation units will be located in mostly existing structures and within already transformed areas / small portion of veld on the subject property. Areas available for the possible establishment of future agricultural activities on the subject property will not be affected.
- The proposed development does not compromise any possible future use of mineral resources.
- As a private estate the provision, operation and maintenance of the services will be the responsibility of the farm owner. Additional services as described in Section 3.7.1 can be provided on site without having a negative impact on the environment.
- The tourist facility and tourist accommodation units are a small-scale development to keep the impact on the rural landscape to a minimum.

From the above it is evident that the proposed development is consistent with the PSDF's (2013) criteria to reach the Province's objectives to strengthen and diversify the rural economy.

3.9.2 RURAL LAND USE PLANNING & DEVELOPMENT GUIDELINES

The abovementioned policy specifies that rural tourism activities should not compromise farm production and should be placed to reinforce the farmstead precinct. Existing

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structures or disturbed footprints should preferably be used, and adequate provision should be made for access and parking. Buildings should respond to the farm's built vernacular.

The tourist facility and tourist accommodation units will adhere to all the abovementioned criteria and objectives:

- The tourist facilities will not compromise the existing or future farming production activities;
- The tourist facilities will be accommodated within mostly existing structures and on already transformed portions of land;
- Adequate provision is made for access (existing) and parking;
- The existing and proposed structures are compatible with the overall built vernacular of the area.

From the above it is evident that the proposed development adheres and complies with the Rural Land Use Management Guidelines.

3.9.3 OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK (2006)

The *Overstrand Spatial Development Framework (2006)* shows that Portion 13 of the farm Sandies Glen No. 129 is situated outside the urban edge in the rural areas of the Overstrand region. The aforementioned policy earmarks the subject property for Core Agriculture, Conservation 2 and Conservation-Agriculture purposes – refer to the Overstrand SDF (2006) plan attached.

Portion 13 of the farm Sandies Glen No. 129 will be used for tourism and agriculture purposes. The proposed tourist facility and tourist accommodation units fall within areas earmarked for Core Agricultural (new cabin-like structures for cottages no. 4 and 5) and Conservation-Agriculture (existing structures for function and workshop venue, cottages no. 2 and 3 and tunnels) purposes. The footprints and impact on the agricultural land is however minimal since the tourist facility and two of the cottages will be accommodated in existing structures. The tunnels also already exist and the footprints will remain unchanged. The two new structures will also have a minimum impact since the proposed footprints will be small and the cabins will be positioned in an already transformed area (pastures). It is important to note that the zoning and main land use will remain for agricultural purposes.

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The Overstrand SDF (2006) stipulates that non-agricultural land uses should be restricted to those that support the sustainable production potential of the farming unit.

In addition the abovementioned SDF also describes the following statements for compliance for tourist facilities:

Policy statement	Evaluation of proposed land use
1. Tourist facilities and tourist accommodation should be carefully located to mitigate their potential visual impacts.	Complies.
2. Tourist facilities and tourist accommodation should be of a scale and built form that is consistent with the character of the rural environment.	Complies.
3. The establishment of tourist facilities should have its primary objective the sale of goods / services to tourists as opposed to the sale of convenience good and services to the local residents. Tourist facilities should therefore be complementary to farming activities and to tourism within the area.	Complies.

The proposed tourist facility, tourist accommodation units and tunnels will also not have an impact on any conservation worthy portion/s of land on the subject property (refer to *Section 3.10.2 Environmental Impact*).

Consequently the proposed consent use and departure of Portion 13 of the farm Sandies Glen No. 129 is compatible with the spatial planning policies for the Overstrand area.

3.10 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

3.10.1 HERITAGE VALUE

The application does not involve changing the character of a site larger than 5000m² since the total extent of the proposed tourist accommodation units will not exceed 5000m² and the greater extent of the subject property's character will remain unchanged. Consequently the proposed consent use will not trigger Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

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The proposed land use (tourist facility, tourist accommodation units and tunnels) will be accommodated in existing and new structures on the subject property. The tunnels also already exist on the subject property and do not impact on any conservation worthy elements on site. Furthermore the subject property is not earmarked as a property with heritage value and is also not associated with any persons or groups of heritage value or any past slavery occurrences.

3.10.2 ENVIRONMENTAL IMPACT

The extent, use and position of and the provision of services for the proposed tourist facility and tourist accommodation units do not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998). Take note that a maximum of 14 guests will be accommodated in the proposed tourist accommodation units.

The proposed tourist facility, tourist accommodation units and tunnels do not impact on any conservation worthy portion/s of land on the subject property (the proposed tourist facilities will be accommodated within existing transformed portions of land). Furthermore the positions of the proposed tourist facility and tourist accommodation units and the existing tunnels are next to existing farm roads.

Proposed new structures (cottages no. 4 and 5) are not positioned within 32m of any water courses / dams (refer to Site Development Plan no. 2). In addition each new unit will only be $\pm 70\text{m}^2$ in extent with two parking bays of $\pm 25\text{m}^2$ in total. The listed activity with regards to the removal of vegetation of 300m^2 or more does therefore not apply to this application.

There are Critically Biodiversity Areas (CBA's) present on the subject property. The proposed tourist facilities and parking areas are not positioned within any CBA's. Please refer to the CBA map attached.

The farm owners are active members of the Agulhas Biodiversity Initiative (removes aliens on their farm once a year), Working for Water, the Greater Overberg Fire Protection Association, the local landowners association and Stanford Tourism which proofs their commitment to ensuring the ecological integrity of the farm and the well-being of Sandies Glen, Stanford and its surrounds.

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3.11 PLANNING PRINCIPLES

The principles of spatial justice and spatial resilience are not applicable to this application.

Spatial sustainability: the existing and proposed structures are situated in already transformed areas and have no negative impact on the conservation worthy areas on the farm. The proposed tourist facility and tourist accommodation units will have no impact on the economic viability of the agricultural land. The tunnels add to the economic viability / self sustainability of the subject property without negatively impacting on the conservation worthy areas or surrounding farms. The impact on the biophysical environment will also be kept to a minimum. Furthermore the extent of the subject property, the concern about the economic viability of the farm if the land uses are not diversified, the location of the subject property in scenic Sandies Glen and in close proximity to other tourist attractions, compliance with the spatial planning policies for the area, etc. allows for the consideration and approval of the proposed consent use without having an adverse impact on the spatial sustainability of the area. The existing tunnels as well as the proposed renovations and additions are to an improved farm within an established agricultural and tourism area and will therefore not impact on a sensitive environment.

Efficiency: Laughing Waters Farm is easily accessible and conveniently located close to Stanford and Napier which makes travelling to the farm to make use of the tourist facilities easy and accessible to everybody. At the moment the subject property is a working farm. It proofs to be efficient to create a tourist facility and tourist accommodation units to diversify the land uses and sources of income (since the economic viability depends on the diversification of the sources of income). Simultaneously the proposal creates an unique tourist experience on the farm without negatively impacting on existing agricultural activities or the surrounding environment.

It proofs to be efficient to keep the existing tunnels since these forms an integral part of the (limited) agricultural activities on the subject property. The tunnels were already present on the farm when the current owners bought the subject property and the current owners were unaware of the land use and building plan approval requirements concerning the existing tunnels. To remove the tunnels proofs to be detrimental to this developing farm since the economic viability of the farm includes the existing horticulture production.

The departure application is to accommodate existing structures and tunnels only. It proofs to be more efficient to use the labourers' cottages as guest cottages since the labourers'

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cottages had a greater noise and disturbance impact than the proposed guest cottages will. The labourers' cottages were vacant when the owners started with renovations to the structures and subsequently it is more efficient to use these structures for upmarket guest accommodation instead of letting it corrode to a derelict state. It also makes sense to keep the existing tunnels at its current disturbed positions (and allow the building line relaxations) instead of moving these tunnels to comply with the building lines at the cost of disturbing a greater extent of the subject property.

Good administration: 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. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation.

4. RECOMMENDATION

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

- The proposed consent use and departure will not have a negative impact on the existing or future agricultural activities;
- The proposed tourist facility and tourist accommodation units will be accommodated in mostly existing structures, in already transformed areas or small portions of existing veld - therefore the impact on the environment will remain unchanged;
- The consent use is to legalize the existing tunnels, no new tunnels are proposed;
- The proposal is compatible with the existing character of the area;
- No additional access points or roads are proposed. All road infrastructure already exist;
- No upgrading of existing services is required to accommodate the tourist facility and cottages no. 2 and 3 within the existing structures. Services for the new structures (cottages no. 4 and 5) can easily be provided without having a negative impact on the environment;
- The zoning will remain Agricultural Zone I;
- The proposed consent use and departure of the subject property comply with the spatial planning policies of the area;
- There are no environmental aspects that will negatively impact the application and the application will not have a negative impact on any environmental factors;

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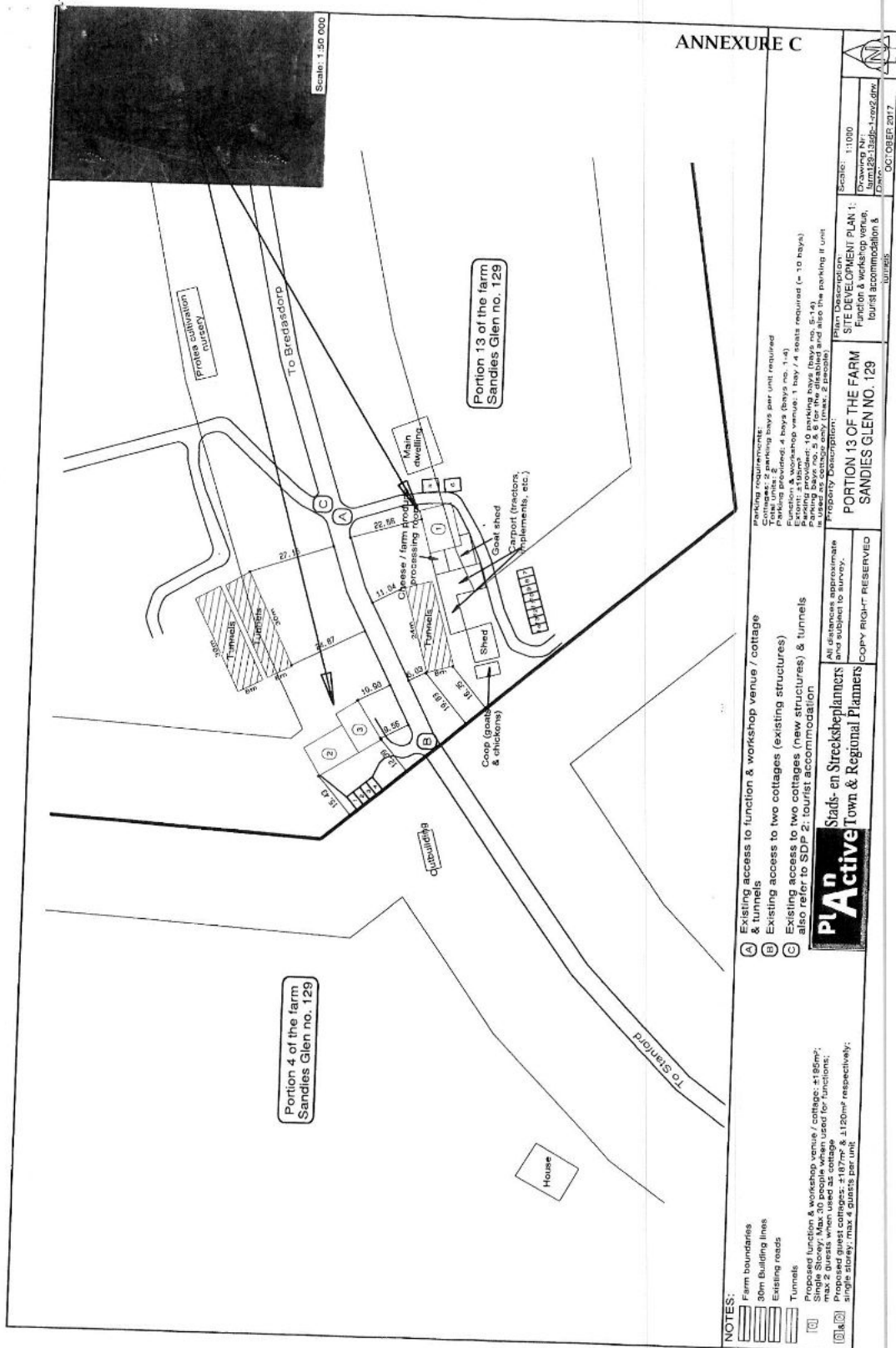
Motivation report

Portion 13 of the farm Sandies Glen no. 129

- The application is fully compliant with the applicable planning principles described in the LUPA (2014).

To conclude, the owners have significantly improved the value, appearance and peacefulness of the farm, the neighbouring area and Sandies Glen in general. The aforementioned was done by way of substantial renovation of the extremely run-down farm infrastructure, in particular the previous staff accommodation (at the time of purchase) and the attraction of tourists to the farm and to the area in general. Our client collaborates with many of their neighbours to create special experiences for visitors and they experience a mutual benefit. The owners and the staff working on the farm are committed to contribute towards the Overstrand rural area's tourist (specifically the agri-tourism) significance and value. In addition the existing tunnels were part of the property when it was bought in 2012 and is an integral part of the limited agricultural activities on the farm. Consequently our client would like to keep the aforementioned.

The application can therefore be supported for your favourable evaluation.



ANNEXURE C

- NOTES:**
- 1. Farm boundaries
 - 2. 50m Building lines
 - 3. Existing roads
 - 4. Tunnels
 - 5. Proposed function & workshop venue / cottage: ±185m²; Single Storey; Max 30 people when used for functions; max 2 guests when used as cottage
 - 6. Proposed function & workshop venue / cottage: ±187m² & ±120m² respectively; single storey; Max 4 guests per unit

- A Existing access to function & workshop venue / cottage & tunnels
- B Existing access to two cottages (existing structures)
- C Existing access to two cottages (new structures) & tunnels also refer to SDP 2: tourist accommodation

PLAN
Stads- en Sireksheplanners
Town & Regional Planners

parking requirements:
Cottages: 2 parking bays per unit required
Parking provision: 4 bays (bay no. 1, 4, 5)
Function & workshop venue: 1 bay / 4 seats required (= 10 bays)
Parking provision: 10 parking bays (bay no. 6, 7, 8, 9, 10)
In use as cottage: 2 bays for the disabled and also the parking if unit is used as cottage; 2 people

PORTION 13 OF THE FARM SANDIES GLEN NO. 129

Scale: 1:1000
Drawing No: [blank]
Client: [blank]
Date: [blank]
OCTOBER 2017

PLAN Description:
SITE DEVELOPMENT PLAN 1:
Function & workshop venue,
tourist accommodation &
tunnels.



C S Jod Merwe
 ANNEXURE D 1/17
 Aansoek Laughing Waters : Beswaar : L E Jacobs, Plaas 129/4, Sandies Glen.
 Telefoon 0283410889. Posbus 3, STANFORD. 7210



- A. Ek plaas op rekord dat my onderstaande besware baseer is op werklike ondervindings/voorvalle wat opgedoen is tydens die tydperk (ongeveer) November 2016 tot huidiglik, waartydens die betrokke gasvryheidsfasiliteit (volgens die Raad se rekords) sonder die nodige toestemming bedryf is.
- B. Vir die rekord boekstaaf ek ook dat ek nie in beginsel gekant is teen die gasvryheidsbedryf nie. Bewys hiervan is dat ek geen beswaar gehad het toe die vorige eienaar van plaas 129/10 Carolina (Cold Mountain/Brunia) (my buurman aan my westekant) vroeër 'n soortgelyke aansoek gebring het nie.

Die verskil is in hierdie geval dat die aansoek deur die destydse eienaar van plaas 129/10 vir fasiliteite was heeltemal buite sig van my eiendom in die veld opperig sou word. In teenstelling daarmee is hierdie aansoek van die eienaar van Laughing Waters vir fasiliteite wat reeds opperig is, binne sig van my woonhuis en boonop slegs sowat twaalf meter vanaf die gemeenskaplike plaasgrens geleë is. (Sien aanhangsel A en B). **Dit is ook interessant en insiggewend om in hierdie verband daarop te let dat die genoemde woonhede op Laughing Waters heeltemal buite sig van die aansoeker self se woonhuis geleë is.**

- C. Ek plaas op rekord dat ek in die Landbou bedrywige is op 'n eiendom wat vir Landbou soneer is.

FILE NO:	Pm 13/129
SCAN NO:	STF
COLLABORATOR NO:	1063452

Ter aanvang net eers drie teenstrydighede wat in my opinie in die aansoek voorkom

1. P5 Item 3.4 derde reël van bo, sowel as P9 derde paragraaf : Dit wil voorkom asof daar in die aansoek verwarring is oor vir watter grens se boulyn se verslapping daar voor aansoek gedoen word. Die woonhede waarna verwys word in die aansoek is teen die Westelike grens van die eiendom. In die aansoek word na die Oostelike grens verwys.
2. Die aansoek dui aan die dat die betrokke eiendom op die " Papiessvlei – Elim " pad geleë is en dat die pad oor die eiendom loop. Dit is in my opinie verkeerd. Pad DR 1222 (die Sandies Glen pad) wat op die plaas Fairfield van die R316 af draai, loop oor die eiendom. Papiessvlei en Elim is vër Suid-wes van Sandies Glen geleë.
3. Daar word op bladsy agt van die aansoek in paragraaf twee verwys na die " Department of Horticulture " verwys. Dit is nie duidelik na watter departement van Tuinbou verwys word nie, en hoe die betrokke departement enige

2 Aug 2017

ANNEXURE D 2/17

"stipulasie " met betrekking tot die plasing van die tonnells kan/kon maak nie. Slegs die departement Landbou, die departement Water en Sanitasie en die Overstrand Munisipaliteit kan sodanige goedkeurings verleen.

Dan net 'n paar opmerkings oor die inhoud van die aansoek (met verwysing na die bladsy nommers en paragrawe van die aansoek) :

i) P1, item 1, eerste paragraaf : Plan Active dui aan dat hulle deur G I Rosslee aangestel is om die aansoek in te dien.

Ek het nog nooit enige persoon genaamd G I Rosslee ontmoet nie en slegs met Dr K S Neke en Mnr Gerd Piepe kontak gehad rakende enige sake met betrekking tot die betrokke eiendom.

ii) P1, Item 1, derde paragraaf; P4 Item 3.3 vierde paragraaf, sowel as P13, laaste paragraaf : Die stelling word gemaak dat die eiendom nie ekonomies lewensvatbaar is met slegs landboubedryf nie. Tydens my eienaarskp van plaas 129/4 (sedert 1973), het verskeie vorige eienaars van eiendom 129/13 soos D P van Dyk, J B van Dyk, C Hugo, J Stander en W F Beineke die eiendom net vir landbou benut. Die vraag ontstaan nou of dit dalk die huidige eienaars se onvermoë is om te boer, of dalk by wyse van spreke nie 'n geval is dat die huidige eienaars te veel rieme uit die vel tot hulle beskikking wil sny nie, want die enigste veranderlike sedert 1973 is die eienaarskap van die eiendom?

iii) P1, Item 1, vyfde paragraaf : Die aansoek vra vir die wettiging van drie tonnells. Die vorige eienaar het my die versekering gegee dat die tonnells goedgekeur is toe hy dit opgerig het, en dat hy water uit die rivier pomp vir gebruik in die tonnells. Ek het in goedertrou sy woord aanvaar. Nou blyk dit dat dit nie die waarheid was nie en wil ek dan ook nou die geleentheid gebruik om beswaar aan te teken teen die tonnells.

iv) P2, Item 3, tweede paragraaf; P4, Item 3.3, laaste paragraaf; P12, Item 3.5 eerste en tweede paragraaf, sowel as P23 Item 4 : Die stelling word gemaak dat die eiendom in 'n landbou- en toerisme omgewing geleë is "(tourist accommodation and tourist facilities, compatible with the existing character of the area)".

Ek kon slegs rekord vind van een eiendom binne 'n omtrek van sowat 12 kilometer van my eiendom af wie goedkeuring het om in die toerismebedryf bedrywig te wees. In my opinie ervaar ek dit as 'n onjuiste stelling en betwis die geldigheid daarvan.

v) P5 derde paragraaf van onder sowel as P14 " Available water " : Daar word verwys na " swimming in the private spring fed dams" en ook " The new cotages will be also be serviced with spring water. " In terme 'n bestaande serwituut het ek waterregte op drie fonteine op eiendom 129/13 (sien asseblief my item 1). Hierdie voorgestelde aksies mag dalk ook impakteer op my serwituutregte.

ANNEXURE D 3/17

- vi) P 6 " Tourist facility " en P24 drie reëls van bo : Daar word voorsien dat die vergaderplek (" venue ") gebruik sal word vir funksies en partytjies wat tot tot 24:00 (00:00 ?) sal duur. Dit is nie vir my duidelik hoe dit sal bydra tot die rustigheid (" peace and tranquility " en " peacefulness ") van hierdie landelike omgewing nie.
- vii) P9 laaste paragraaf : Daar word verwys na " mainly outbuildings ". Hierdie gebou waarna verwys word is 'n melkstal waarna ek meer volledig verwys in item 2 (ii) van my ondergenoemde besware.
- Daar word ook verwys na my hoofwoning wat 150 meter vanaf die grens is. Wil die aansoeker vir my voorskryf dat ek net in my woning mag wees en nie my hele eiendom tot teen die grens mag benut vir landbouoelindes nie ? Of waar en wanneer ek op my eiendom mag rondbeweeg?
- viii) P9 laaste drie reëls en P10 eerste reël : Eerstens vind ek dit aanmatigend van die aansoeker om vir my te besluit wat vir my steurend mag wees en tweedens is daar gedurende die eerste helfte van 2016 in die " back of the cottages " 'n deuropening aangebring wat nie tydens die gebruik as werkers akkomodasie daar was nie. Hierdie ingang is reg by die parkeerarea en besoekers gebruik dit as die plek waar hulle bagasie, ens afgelaai word. Sien Bylae G.
- ix) P10 vierde reël : Die bome wat 'n skerm vorm en waarna verwys word, is op my eiendom en ek sou die bome te enige tyd kon verwyder indien dit my sou pas.
- x) P11 derde paragraaf van onder : Weereens vind ek dit aanmatigend van die aansoeker om vir my te besluit of die rook, geraas, ens. vir my steurend mag wees. Uit ondervinding vind ons die geraas van betalende gaste se honde, kinders en die vure wat gemaak word, erg steurend.
- xi) P14, Item 3,7 " Available water " eerste reël : Die Breede Overberg Opvangbestuursagentskap (BOCMA) (nou die BGCMA) het slegs watergebruikregte goedgekeur vir water uit die rivier. Die water uit die gesegde fontein is skedule 1 water in terme van die betrokke Wet wat vir huishoudelike en dierlike gebruik is. Dit mag in my opinie nie vir Landbouoelindes gebruik word nie. Navraag by die BGCMA het aan die lig gebring dat die fontein se water nie goedgekeur en/of geregistreer is vir landbouoelindes nie.
- xii) Item 3,7 " Available water " , tweede paragraaf : Soos aangedui in my beswaar Item 1, is die serwitutregte reeds deur die huidige inwoners geskend.
- xiii) Item 3,7 " Available water " , derde paragraaf : Dit wil voorkom asof die huidige bewoners nog nie by geleentheid die bobbejane op die op die wal van die fontein opgemerk het nie. Hulle is oënskynlik ook nie bekend met die gewoontes van bobbejane wat in die water mis nie, en ook nie bewus daarvan dat 'n skadunet geen afskrikmiddel vir 'n bobbejaan is nie.

ANNEXURE D 4/17

xiv) P15, " Sewerage " : Die tenk waarna verwys word by die wooneenhede, is eers gedurende die eerste helfte van 2016 aangebring. Ek gee meer volledig my beswaar hieroor in my item 2 (iv).

xv) P16, 3.7.2 " Traffic impact, parking and access " Tabel onder aan bladsy : Daar word verwys na 'n maksimum van 30 mense. Sien my Bylae H by my besware wat selfverduidelikend behoort te wees.

xvi) P20, Tabel " Policy Statement ", Item 1 : Ek betwis die stelling dat die fasiliteite versigtig geplaas is en dat die visuele impak versag is.

My besware is ingedeel in vyf dele, naamlik : 1. Die bedreiging vir my basiese reg tot toegang tot water vir huishoudelike gebruik ; 2. Waargenome bedreiging vir die voortbestaan van my landbou-aktiwiteite ; 3. Die impak op die herverkoopwaarde van my eiendom ; 4. Die bedreiging van my en my gesin se privaatheid sowel as die impak op my en my gesin se Christelike en morele waardes en ; 5. Die tonnells.

1. Bedreiging van my basiese reg tot water vir huishoudelike gebruik.

In terme van 'n Hofbeslissing (Akte van Serwituut 88/1942) het my eiendom sekere regte op drie fonteine wat op die plaas Laughing Waters geleë is. In ooreenstemming met die gesegde Serwituut, het ek onder andere die reg tot Drie Sewendes (42,85 %) van die lewering van die betrokke fontein waaruit die aansoeker ook hulle water (en vir die voorgestelde gasvryheidsbedryf wil) verkry.

In ongeveer laat November 2016 is my huishoudelike watertoevoer heeltemal onderbreek.

By 'n nadere ter plaatse ondersoek het ek gevind dat die watertoevoer na my eiendom by die bron (fontein) op die plaas Laughing Waters met 'n plat asbesplaat afgesper was en dat die totale lewering van die fontein na Laughing Waters kanaliseer was. Ek het die versperring verwyder en onmiddelik die aansoeker se verteenwoordiger persoonlik genader om 'n verduideliking. Me. (Dr) Neke het aan my gesê dat hulle "tenke vir die tonnells leeg was" en dat hulle boonop gaste vir hulle bed en ontbyt fasiliteit verwag. Sy het bygevoeg dat sy onskuldig was en een van die werkers daarvoor blameer. Sy het haar verskoning aangebied.

Die plaas Laughing Waters se aansoeker (se verteenwoordiger) is deel van 'n gesin van vier lede plus ten minste ses voltydse werkers. Hulle vroeëre advertensie het gewag gemaak van "our lovely spring water" en vir agt gaste voorsiening gemaak. Uit die huidige aansoek is die getalle : 30 individue by 'n werkwinkel, plus 8 gaste, die gesin van 4 plus 6 werkers. Dus 'n totaal van 48 individue, (en in die

ANNEXURE D 5/17

aansoeker se eie woorde) die tonnells vir groenteverbouing, sowel as 'n totaal van 64 diere (bokke, varke en ander diere) wat daaruit voorsien moet word.

In hierdie verband verwys ek na die verslag : " Council for Scientific and Industrial Research (2003). Guidelines for Human settlement Planning and Design – Revised August 2003 (Chapters 9 and 10 revised). A report completed under the patronage of the Department of Housing by the CSIR. "

Die spesifieke tabel wat in hierdie verband relevant is, is Tabel 9.11. In my opinie is 'n realistiese syfer 200-250 liter water per persoon per dag (L/c/d = liter per capita per dag).

Aan die hand van hierdie syfer beteken dit dat (48 persone x 250 l/pd) 12000 liter per dag benodig word net vir menslike gebruik sonder die agriponika (tonnells) en die diere. En dit net uit die aansoeker se 57,15% van die bron se daaglikse lewering.

My kommer spruit daaruit dat daar na die beste van my wete tot datum nog nie 'n onafhanklike wetenskaplike meting van die bron (fontein) se lewering tydens die droeë tyd (Februarie - Maart) gedoen is om te bepaal of die aansoeker hulle behoefte vir water uit hulle toegelate 57,15 % van die lewering van die bron sal kan bevredig nie.

In hierdie verband dring ek daarop aan dat 'n wetenskaplike meting deur 'n onafhanklike geregistreerde persoon gedoen word in terme van die volgende voorskrif van die reeds gemelde verslag van die WNNR :

"The reliable yield from a spring is estimated by measuring the outlet flow rate during the driest months of the year (August/September in summer rainfall areas, February/March in winter rainfall areas). The reliable yield is then calculated by multiplying this flow rate by a factor. This factor see Table 9.3)....."

Indien hierdie aansoek sonder die nodige wetenskaplike inligting goedgekeur word, mag dit negatief op my reg in terme van die reeds gemelde Hofuitspraak impakkeer.

2. Bedreiging vir die voortbestaan van my Landbouaktiwiteite.

Dit is nie duidelik hoe hierdie fasiliteite (indien ooit) binne die 30 meter boulyn beperking goedgekeur is nie. (Sien aanhangsel A en B)

Wat nou belangrik is, is die volgende :

- i. Vreemde voertuie.
 - a. Ek heg 'n foto aan van slegs een van vele voorbeelde in my besit waar gaste se voertuie teen my grensdraad parkeer word. Die voertuig se

ANNEXURE D 6/17

voorkant is slegs sowat 500 mm van my grensdraad en dit is algemeen wanneer gaste die fasiliteite benut. Daar is heel dikwels soveel as drie voertuie gelyktydig daar parkeer. (Aanhangel C)

- b. Die plaaswerkers wie voorheen die geboue bewoon het, nooit voertuie hier parkeer nie.
 - c. Indien ek enige landbou-implement soos byvoorbeeld 'n bossiekapper daar naby gebruik, sal skade heelwaarskynlik aan die voertuie aangerig word.
 - d. **Dit beperk dus my vermoë om normale landbou-aktiwiteite daar uit te voer.**
- ii. Melkstal.
- a. My melkstal is 21 meter vanaf die grens (Toe bouplanne circa 1984 vir die melkstal goedgekeur is, was die boulyn van die destydse Afdelingsraad 20 meter). Die kraal waarin die koeie oornag is slegs 12 meter vanaf die grens.
 - b. Die geboue op Laughing Waters is na my melkstal opgerig. Ek het geen rede gesien om destyds beswaar aan te teken daarteen nie – dit was bedoel as akkomodasie vir werkers.
 - c. Die geraas van die melkmasjiene (vanaf ongeveer 04:00 soggens), die mis van die koeie en die gevolglike oorlas van vlieë en ander insekte is in my opinie eenvoudig onhigiënies en steurend.
 - d. **Moontlike klagtes van die gaste sal my reg om my landbou-aktiwiteit uit te voer aan bande lê.**
- iii. Groente- en Gewasverbouing.
- a. Die grond direk Wes van die fasiliteite (vanaf sowat 14 meter) word afwisselend vir die verbouing van uie, knoffel, aartappels en graanwasse aangewend. (Sien aanhangsel D)
 - b. Met die bewerking en voorbereiding van die grond sal stof uiteraard 'n probleem skep.
 - c. Wanneer nodig sal insekdoders, plaagdoders en onkruidodders gespuit word en daar is geen manier waarop ek die verspreiding van die middels kan voorkom/verhoed binne sowat 14 meter nie.
 - d. **Die ligging van die geboue/fasiliteite (vir die doel van "bed en ontbyt"), beperk dus my vermoë om normale landbou-aktiwiteite daar uit te voer.**
- iv. Riool.
- a. Die riooltenk vir hierdie fasiliteite is eers gedurende die eerste helfte van 2016 binne die 12 meter spasie tussen my heining en die fasiliteite

ANNEXURE D 7/17

- aangebring. (My skatting is seker sowat sewe meter vir die tenk en selfs nader aan my heining vir die uitloop). (Aanhangel E)
- b. Dit beteken dat die tenk en die "oorloop/uitloop" van die tenk binne 'n paar meter van my grens is en direk in my eiendom kan inloop/insig.
- c. In hierdie verband verwys ek ook na die reeds gemelde verslag van die WNNR se Tabel C 1 waarin die gemiddelde daaglikse vloei-volumes van riool vir 'n enkel familie huis (single-family dwelling unit (du)) aangedui word. Met die gemiddeld van die geseerde tabel word 750 liter per dag vir ses persone aangedui.
- d. Die aansoeker se vroeëre advertensie het aangedui dat die fasiliteite onder bespreking ses persone kan huisves.
- e. Die rooilwater van hierdie fasiliteite sal dus daaglik ongeveer 750 liter binne 6-8 meter vanaf my heining stort of laat sig.
- f. Die riooltenk en die oorloop is ook in my opinie redelik naby aan die vlei met 'n steil helling afwaarts na my eiendom en die vlei. (Aanhangel F)
- g. Aangesien die "vlei" ook die Sondagskloofrivier is en binne 'n redelike kort afstand van die riooltenk deur my eiendom vloei, mag enige besoedeling 'n erg negatiewe effek hê op water wat ek uit die rivier onttrek vir groenteverbouing. (Ek is 'n geregistreerde watergebruiker by die Departement Waterwese)
- v. Diere.
- a. Daar was reeds meer as een voorval waar gaste my perde oor die grensdraad gevoer het en ek die gaste moes versoek om dit te staak. Dit het ongewenste en neerhalende opmerkings/kommentaar van die gaste ontlok.
- b. Dit is vir my onaanvaarbaar dat my diere blootgestel word aan vreemde "voer" waarvoor ek geen beheer het nie.
- c. Uit die betrokke gaste se reaksie kom dit vir my voor asof hulle onder die indruk verkeer dat my diere aan die eienaar van Laughing Waters behoort en dat ek 'n ondergeskikte werker van die eienaar van Laughing Waters is.
- d. Wie sou ek verantwoordelik hou indien 'n perd (of enige ander diere) siek word en vrek as gevolg van die vreemde voer?
- e. Ek is intens ongemaklik om deur betalende gaste van die aansoeker soos 'n "ongewenste persoon" op my eie eiendom aangespreek te word. Dit plaas onnodige stres op my en my gesondheid.

ANNEXURE D 8/17

- vi. Vuur.
- a. Tydens die hoogte van die brandseisoen, het ek op Sondag, 20 November 2016 om 20:15 agtergekom dat daar 'n oop vuur naby die fasiliteite en binne sowat 20 meter van die rand van die vlei aan die gang was .
 - b. Ek het die aansoeker per Whatsapp gekontak en daarna gevra.
 - c. Ek is (per Whatsapp) ingelig dat die aansoeker toestemming van die "authorities" het om 'n oop vuur in 'n " fire pit " te maak.
 - d. In reaksie op my navraag by die betrokke owerhede die volgende dag, het dit aan die lig gekom dat geen so 'n toestemming verleen is nie.
 - e. **Hierdie optrede van die aansoeker sowel as hulle gaste is in my opinie lewensgevaarlik en kan onnoembare skade aanrig.**
 - f. *Hierdie voorval het direk daartoe aanleiding gegee dat ek navraag begin doen het by die Overstrand Munisipaliteit se Departement Stadsbeplanning om vas te stel of hierdie " Bed en Ontbyt" fasiliteite goedgekeur was.*
3. **Herverkoopwaarde van my eiendom.**
- a. Indien hierdie aansoek goedgekeur word, mag dit 'n negatiewe effek hê op die herverkoopwaarde van my eiendom.
 - i. Hoe bemark ek my eiendom met woonhuise so naby die melkstal ?
 - ii. Hoe bemark ek dit met voertuie wat binne een meter van die grensdraad parkeer word en beskadig mag word ?
 - iii. Hoe bemark ek dit met vreemde mense wie diere oor die grensdraad voer?
 - iv. Hoe bemark ek dit met "gaste" wie my "aanspreek" omdat ek hulle nie wil toelaat om my perde te voer nie?
 - v. Hoe bemark ek dit met die gevaar dat mense vergiftig mag word deur spuitmiddels wat op gewasse toegedien word?
 - vi. **Ek ervaar dit as uiters onregverdig dat die aansoeker se behoefte om 'n "bed en ontbyt" te bedryf negatief op die waarde van my eiendom mag impakteer.**
4. **Impak op my en my gesin se privaatheid en Christelike en morele waardes.**
- a. Weereens, soos reeds gemeld, is my besware gegrond op werklike voorvalle/insidente.
 - b. Op Vrydag, 18 November 2016 om ongeveer 17:30 was my vrou en ek besig om diere op hok en stal te sit en te voer, toe een manlike besoeker/gas van Laughing Waters binne sowat 8 meter van die grensdraad af in die openbaar totaal ontklee, 'n paar keer in die rondte draai en toe in 'n gemakstoel (wat hulle uitgedra het) gaan sit om die laatmiddagson te geniet.

ANNEXURE D 9/17

- c. Ek het die aansoeker se verteenwoordiger (Me Neke) per Whatsapp gekontak en ek gee verbatim haar respons (per Whatsapp) hier weer : " Dear Riana & Laurie, Wow a surprise to us all."
- d. Ek het kleinkinders wat nog baie jonk is en aan hierdie (in ons waardestelsel) byna onsedelike gedrag blootgestel mag word.
- e. Wanneer gaste hierdie fasiliteite gebruik, is daar vry algemeen mense wie buite die gebou voor 'n deur (sien aanhangsel G) op stoele sit en my en my gesin se bedrywighede gade slaan.
- f. **Dit laat ons intens ongemaklik voel en ons ervaar dat dit as 'n ernstige skending van ons reg op privaatheid.**

Die oprigting van 'n saliede (baksteen/sementblok) muur van 'n minimum hoogte van 1,8 meter vanaf die openbare pad tot teen die vlei mag sommige van die negatiewe effekte teenwerk, maar dit sal beslis nie alles oorkom nie.

5. Hidroponiese tonnels

- a. Die vorige eienaar het my ten tye van die oprigting van die tonnels die versekering gegee dat die tonnels goedgekeur is.
- b. Die vorige eienaar het my ook die versekering gegee dat water uit die rivier gepomp word vir gebruik in die tonnels. Ek het in goedertrou sy woord aanvaar, maar is nou meer versigtig en versoek skriftelike bewyse vir die onderstaande items d, e en f.
- c. Ek ervaar die gebruik van die water uit die fontein waarop ek 'n serwituut het, as onwettig in terme van die bestaande wetgewing aangesien die water uit die fontein as skedule 1 water klassifiseer is.
- d. Watter beheermaatreël(s) sal in plek gestel word om te verseker dat die fontein se water nie vir tonnelverbouing aangewend word nie?
- e. Watter beheermaatreëls is in plek om te verseker dat kunsmis en/of insekmiddeks nie in die tonnels gebruik word nie ? Twee van die tonnels is reg op die bank van die rivier en slegs sowat 70 meter stroom-op van my grens met die aansoeker se eiendom.
- f. Sal die nodige gereelde, onafhanklike waterontledings by my grens gedoen word om te verseker dat die rivier nie besoedel word nie?

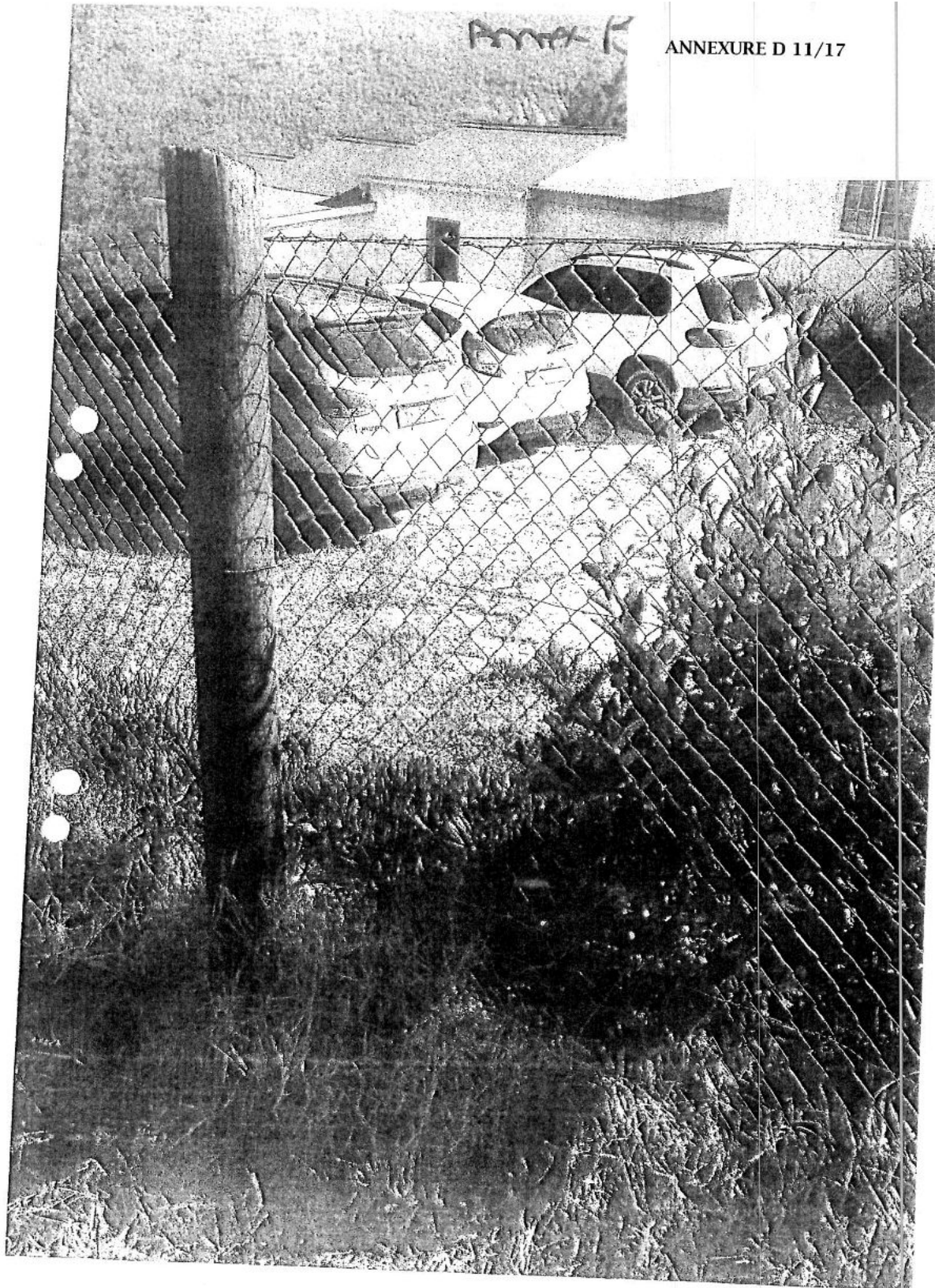
Die uwe.

L E Jacobs

Sandies Glen.

07 Augustus 2017



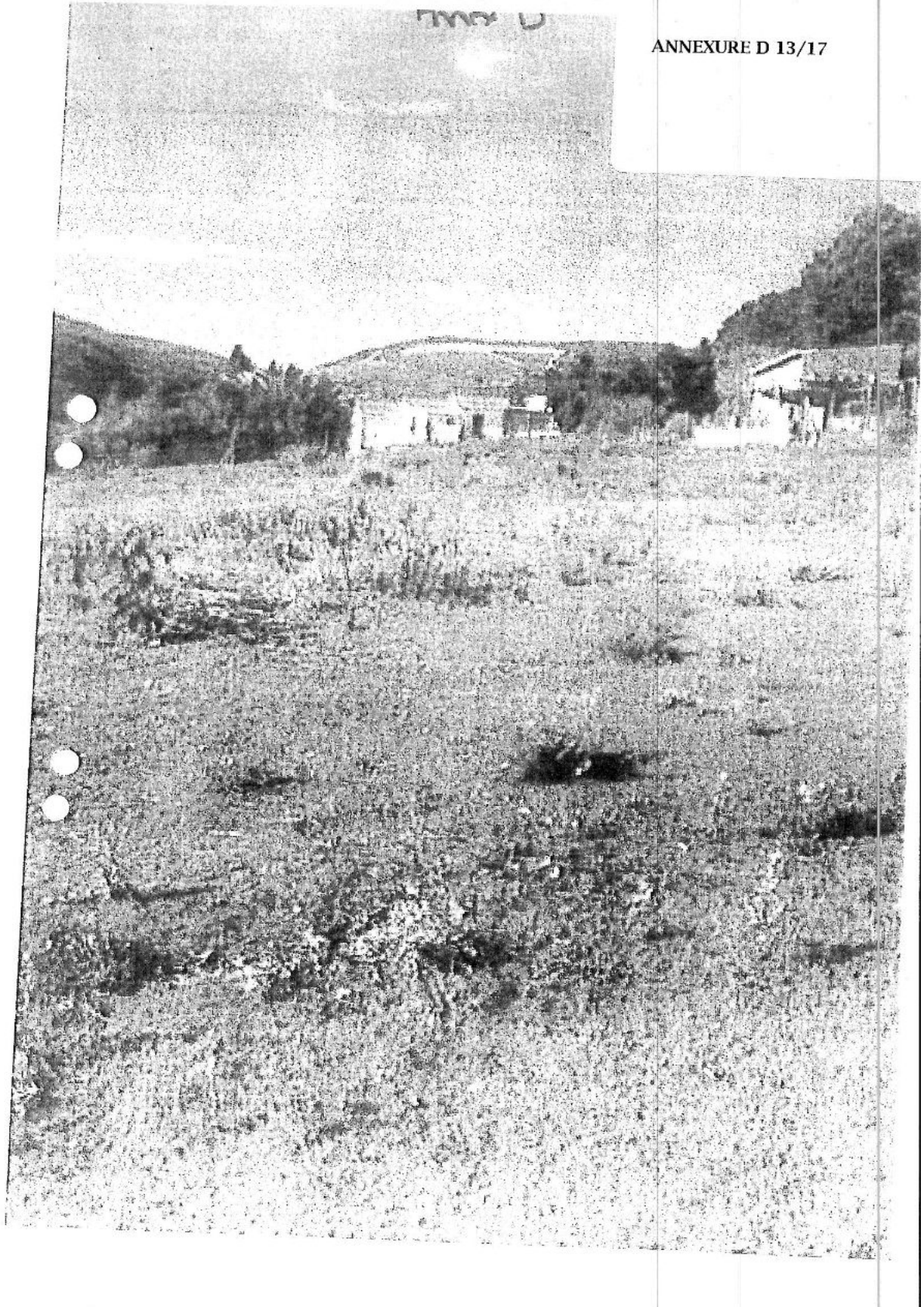


ANNEXURE D 11/17



ANNEXURE D 12/17

ANNEXURE D 13/17

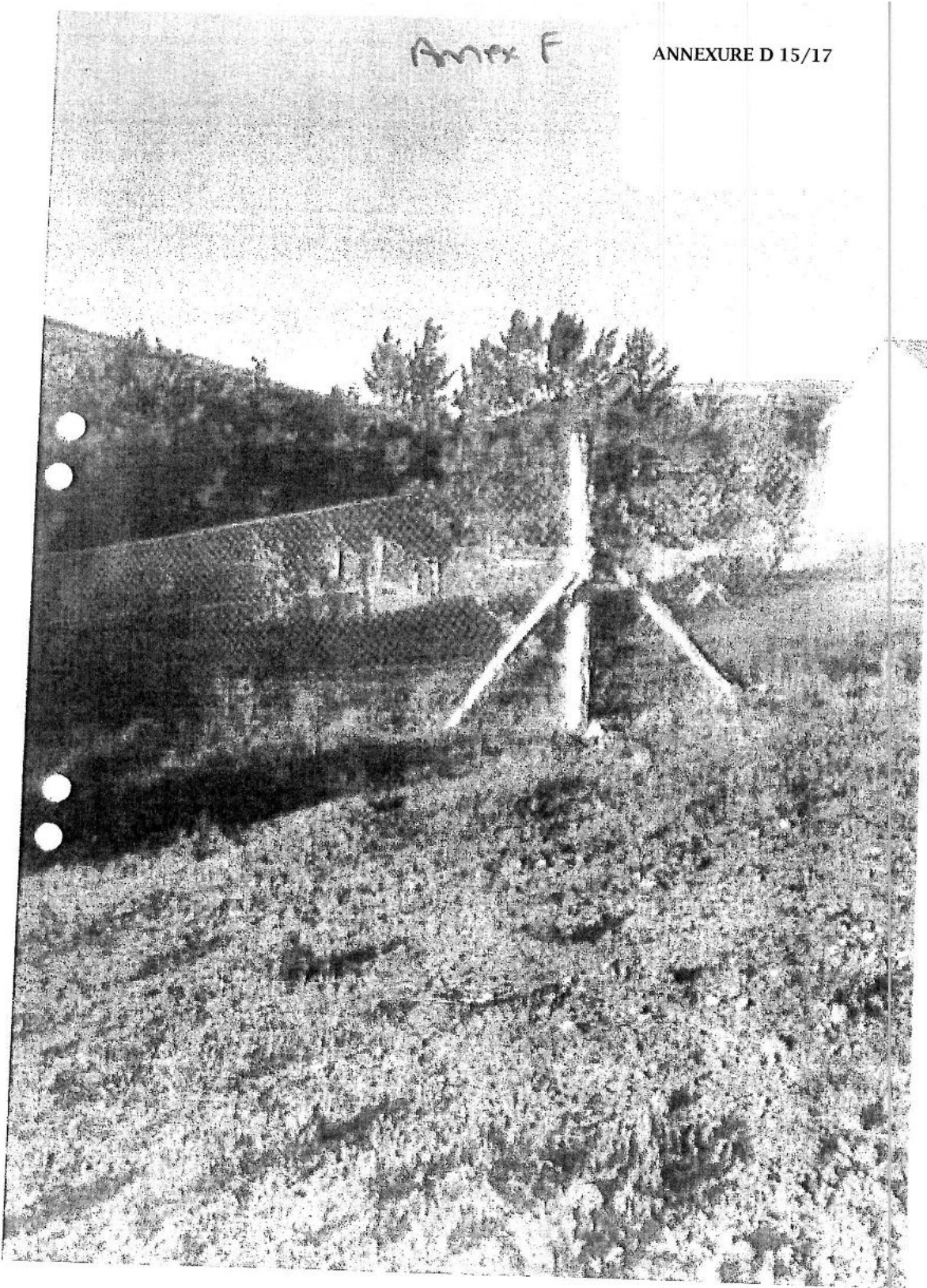




ANNEXURE D 14/17

Annex F

ANNEXURE D 15/17



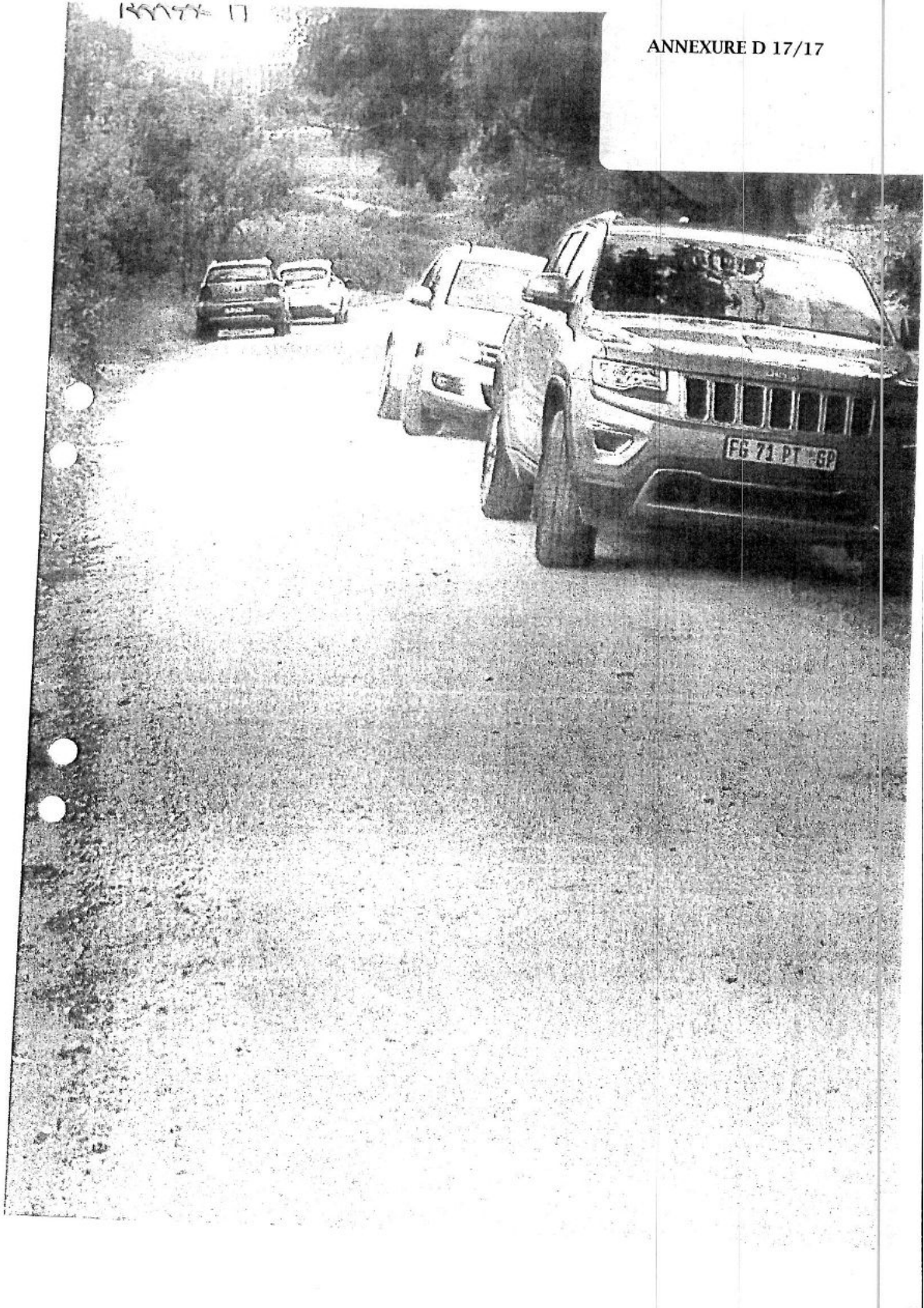
Annex G

ANNEXURE D 16/17



18/07/17

ANNEXURE D 17/17



PLAN Town & Regional Planners
Stads- en Streeksbeplanners
Active



ANNEXURE E 1/6

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

Our reference: PA17009/ML
Your reference: 129/13

26 SEPTEMBER 2017

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

FOR ATTENTION: MR PETRUS ROUX

TRA Theart
(P Roux)

FILE NO:	Plan 13/129
SCAN NO:	STF
	06
COLLABORATOR NO:	1079507

Sir

PROPOSED CONSENT USE & DEPARTURE: PORTION 13 OF THE FARM SANDIES GLEN NO. 129, BREDASDORP DIVISION

- THE TORMAY CC

Reference is made to our application dated 11 April 2017 and your letter with objections attached thereto dated 28 August 2017.

An objection was received from L.E. Jacobs. Our client provided us with an extensive response to Mr L.E. Jacobs' objection in the form of a sworn affidavit with annexures. Consequently we will merely summarize the response to objections and add to the response where aspects were maybe not adequately addressed.

Firstly, we would like to correct the reference in our motivation report to the relaxation of the eastern lateral building line. This should in fact be the **western lateral building line** as pointed out by the objector. This was merely a typing error from our side and it was not intended to misrepresent the facts of the proposed application. It is submitted that the objector knew what building line was being referred to and since the western building line is on the common boundary with Mr Jacobs only, the error in our report will have no impact on any of the adjacent property owners. We are therefore of the opinion that the re-advertising of the application will be superfluous and that the amendment of the motivation report (attached) to finalize the application will suffice.

The response to Mr. L.E. Jacobs' objection can be summarized as follows:

- The **visual impact** on Mr L.E. Jacobs will be the same (if not worse for the existing use of labourers' cottages), regardless of the proposed land use application proposed since the proposed land uses will be accommodated in the existing structures on the subject property. The allegations that the existing structures, as a result of the application, now become visible to him where they were not visible before is therefore a misrepresentation of the facts. The

Divine Inspiration Trading 329 (Pty) Ltd, trading as Plan Active
Reg. No. 2006/030921/09
Val. No. 4770250340

John Mc Lachlan: Ncip (Town Planning) Tech Witwatersrand, MSAPI
Pauline Spronk: B (Soc Sc) US, BA Hon (UNISA)
Meriké Lemm: B. Art et Scien Cum Laude (Town Planning) UNW; SACTRP

TP 27 SEP 2017

ANNEXURE E 2/6

structures have always been in his view and have always been within 12m of the farm boundary. The existing cottages and old double garage were in a filthy state of disrepair with no waterborne sewerage, electricity, fire inside the cottages for light and cooking and the area surrounding the cottages was littered. The owners renovated and serviced the units and constructed safe braai areas – all significant improvements to the existing structures and in turn the environment and visual impact on the neighbour.

The two new proposed cabin units (guest cottages) are not visible at all from Mr Jacobs' dwelling.

- The reference to the **name of the road** refers. The application takes access from Divisional Road 1222 as confirmed by the District Roads Engineer (DRE). The DRE issued their consent for the proposed land use application. A copy of the DRE's consent dated 5 July 2017 is attached. The correct road was considered by the DRE and it is submitted that the reference to the alleged inaccurate road names has no bearing on the merit and consideration of the application. This comment from the objector can therefore be dismissed.
- The reference to the **Department of Horticulture** was included since this was information provided to us by the client. Regardless of the reference to this department, the application was submitted to all relevant external departments (including the National Dept of Agriculture and the Dept of Agriculture: Western Cape) for consideration and approval. This comment can therefore be dismissed.
- The question regarding the **ownership of the farm** refers. The subject property is registered in the name of The Tormay BK. The power of attorney and company resolution documents submitted with the application are correct. In addition the objector has no concern / business with regards to the ownership of the farm. Last mentioned also has no bearing on the application whatsoever and this comment should be dismissed.
- The objector's reference that the **owners are not capacitated to cultivate** the subject property is uncalled for. The past agricultural activities on the farm bear no relation to the proposed consent use application at hand. As contested by the owner they began upgrading the farm when they acquired it in 2012. They are also actively cultivating the farm with Protea orchards – a process of which Mr Jacobs clearly has no understanding of. As mentioned in our application the subject property's irrigable area is relatively small and as a result the diversification of the land uses to increase the farm's income and sustainability proofs to be efficient and justifiable. The provincial (PSDF, 2013 and the Rural Land Use Planning and Development Guidelines) and municipal legislation (Overstrand Zoning Scheme Regulations, 2013) recognize the aforementioned need to diversify income while ensuring the sustainability of the farm. As stipulated in our motivation report (Section 3.9 Forward Planning and Other Land Use Documents) the proposal meets the criteria and requirements for tourist facilities and tourist accommodation on farms and can therefore be considered for the subject property.
- The proposed functions will relate to the context of the location (farm environment, tranquil, quiet) and as a result **noise levels** will be kept to a minimum. The objector's comment with regards to the impact on the tranquility of the environment is merely assumptions.

- The reference to the **outbuilding on the objector's eastern boundary** and the **proximity of the dwelling** from the common boundary shared with Portion 13 of the farm Sandies Glen no. 129 was merely to indicate that the impact of the western building line deviation will be minimal on the habitable structures on Portion 4 of the farm Sandies Glen No. 129 (Mr Jacobs farm). It was never intended to be prescriptive or place any constraint on what the objector can and cannot do on his farm.
- Mr Jacobs' comment with regards to the **renovation and use of the guest cottages** within the western lateral building line refers. The access door being referred to replaced a previous window in the same position. Mr Jacobs complains about the on and off loading of luggage, etc. on the farm boundary and within his view. The aforementioned needs to be compared with the nuisance caused by excessive drinking and partying that used to go on every weekend when the structures were still used for labourers' cottages. The latter also meant uncontrolled access by visitors at the labourers' cottages. Some of these visitors also parked in the road and in the entrance to these cottages – in full view of Mr Jacobs. It is therefore submitted that the change of use of the labourers' cottages to guest cottages will have a lower impact on the neighbouring property.
- The reference to the **existing trees** that shelter the guest cottages from the view of Mr Jacobs refers. Yes, Mr Jacobs can remove the trees at any given time (but given the nature of his objections the latter is doubtful). New trees have been planted on the common boundary in front of cottage no. 3 to screen off the cottage to the neighbour and improve privacy. The client also confirmed that they plan to install a reeds barrier in this area to make the area even more secluded.
- Mr Jacobs mentions possible **water contamination** caused by the overflow of sewage tanks. It is in the best interest of the owners to manage the sewage treatment on the farm in line with the relevant legislation.
- Mr Jacobs stipulates that he exercises his **agricultural rights** and that the hospitality industry will have a **negative impact** thereon. Take note that his property is earmarked as Nature Reserve on the maps of the area. Aerial photographs of the valley also indicate that besides planting a small pasture, Mr Jacobs has not cultivated the land for the past 20 years. In addition it is unclear how tourist facilities and tourist accommodation on this small scale will have a negative impact on an adjacent farm's agricultural activities.

The existing labourers' cottages were in place before our client bought the subject property and we cannot comment as to why these structures were placed on the western farm boundary of the Laughing Waters Farm. The spatial planning policies do however favour the use of existing structures in already disturbed footprints for tourist accommodation / tourist facilities. It therefore proves to be efficient to apply for the relaxation of the relevant building lines to accommodate the new land uses within the existing structures.

Parking can be provided in the relevant building lines and no application / deviation is required. It is submitted that his concerns with regards to his agricultural activities and how it might impact on the guests visiting the cottages can be resolved through mutual neighbourly co-operation. In addition guest visiting the farm accepts that they are visiting a working farm in an agricultural environment. Any complaints in this regard will be Laughing Waters' responsibility and will have no bearing on the neighbour. Our client acknowledges the

ANNEXURE E 4/6

neighbour's right to farm and maintain his crops and has no intent to prevent him from doing so.

Comments with regards to parking in the road, amount of people anticipated etc. refers. Sufficient parking can be provided for on site and the client has to adhere to the approved Site Development Plan and conditions of approval when renting out the cottages and catering for functions on the premises. The proposal is in line with the parking requirements for the Overstrand Municipality.

The planned construction of a reeds barrier should alleviate any attempt by the guests to the farm to interact with the neighbour's farm animals.

The objection with regards to the fire risks associated with the fire pit and proposed land uses refers. The fire pit in question is sunk and surrounded by a low wall made from rocks and concrete. This is built below the cottages and surrounded by a well-kept lawn, an embankment and windbreak. As mentioned the conversion of the labourers' cottages to guest cottages will lower the risk of fires caused by careless behaviour since the guest cottages will be serviced and no longer occupied by labourers on the farm. In addition the objector does not manage alien vegetation on his property, which causes a greater fire risk to the Laughing Waters farm and surrounding areas. The farm owners are active members of the Agulhas Biodiversity Initiative (removes aliens on their farm once a year), Working for Water, the Greater Overberg Fire Protection Association, the local landowners association and Stanford Tourism which proves their commitment to ensuring the reduced fire risks and ecological integrity of the farm and its surrounds.

- The comments with regards to the **tunnels** refer. Initially the owners were under the impression that the tunnels were approved structures since they bought the subject property with the tunnels. We discussed the matter with the town planning and building departments respectively in May 2017. The current land use planning bylaw was promulgated in 2015. Before that the Land Use Planning Ordinance (LUPO) applied to land use applications in the Overstrand Municipality's rural areas. Under LUPO horticulture was a primary use on Agriculture Zone I properties (i.e. no land use approvals required). However, building plan approval for the tunnels still applied even under the old legislation. Consequently, if building plans were approved for the tunnels the structures would have been considered legal and no further action would have been required. However, no building plans seem to exist for the existing tunnels and consequently the current owners had to adhere to the requirements of the Overstrand Municipality's Bylaw on Municipal Land Use Planning (2015) and submit a formal application for consent use to accommodate the existing tunnels. The current owners now merely want to ensure that any omissions made by the previous owners, for which the current owner is not in any way responsible, are addressed and legalized. Once again the visual impact remains unchanged for the neighbour since these tunnels have been on the farm for a few years now and forms part of the diverse vegetable cultivation (and livelihood) of the farm.

Our client rejects the false and inaccurate claims made by Mr Jacobs in points 5.a, b and c. In addition the demands made in points 5.d, e and f are illegitimate and beyond his rights to demand.

- The statement with regards to the **character of the area** (situated in a tourism and agricultural area) refers. The greater Stanford and rural areas are regarded and recognized as a growing agri-tourism area. We would also like to emphasize that tourist facilities and accommodation are promoted in the rural areas. The Overstrand SDF (2006) stipulates that non-agricultural

ANNEXURE E 5/6

land uses should be restricted to those that support the sustainable production potential of the farming unit.

In addition the abovementioned SDF also describes the following statements for compliance for tourist facilities:

Policy statement	Evaluation of proposed land use
1. Tourist facilities and tourist accommodation should be carefully located to mitigate their potential visual impacts.	Complies.
2. Tourist facilities and tourist accommodation should be of a scale and built form that is consistent with the character of the rural environment.	Complies.
3. The establishment of tourist facilities should have its primary objective the sale of goods services to tourists as opposed to the sale of convenience good and services to the local residents. Tourist facilities should therefore be complementary to farming activities and to tourism within the area.	Complies.

Thus, even though the immediate surrounding farms are not characterized by tourist facilities and tourist accommodation, the policies that govern the rural areas recognizes and promotes these types of facilities subject to the requirements as stipulated above. Consequently the proposed consent use and departure of Portion 13 of the farm Sandies Glen No. 129 are compatible with the spatial planning policies for the Overstrand area.

- The objector states that the proposed land uses will negatively impact on his **water rights**. As mentioned in our motivation report the new cottages will be services with the water from the spring. However, the client also confirmed that they intend to supply the two new cabins with water from rain harvesting. The existing structures and tunnels have always had access to the spring water and this will remain unchanged (three tunnels, for domestic use and for supplying potable water to the function / workshop venue and to the existing labourers' cottages / proposed guest cottages). There will be no impact on the current servitude right registered in favour of Mr Jacobs. The owners have allowed Mr Jacobs free access to the spring water and have never limited his access to 3/7th as per the servitude rights. The client confirmed that their agricultural and proposed tourism land uses will be managed from the 4/7th legitimate allocation of the spring water. The calculations presented by Mr Jacobs about how and to what purpose Laughing Waters uses its 4/7th share of the water is irrelevant and should therefore be dismissed.

The client confirmed that plans are underway to install an appropriate flow meter and taps to ensure correct water flow to both the subject properties.

The objector's comments and CSIR figures with regards to the irrigation of the tunnels refers. The aforementioned comments and figures do not allow for proper storage management nor do they take into account that proper drip irrigation has been installed in the tunnels. In addition modern methods are being used to reduce the tunnel water consumption. Also worth noting is that the three tunnels are seldom in use at the same time due to the labour intensive work required.

The comment from Mr Jacobs with regards to the approved water rights of the farm refers. The confirmation of lawful water use certificate issued by Breede-Gouritz Catchment

ANNEXURE E 6/6

Management Agency dated 17 April 2015 was attached to our application. The subject property's legal water use allows the use of the spring water for vegetable cultivation in the tunnels and the small adjacent field. As mentioned in our client's affidavit the tunnels have been on the property for ±16 years and the method of irrigation installed by the previous owner indicates that the tunnels were never set up to use the water from the river. This statement from Mr Jacobs should therefore be dismissed.

The client is involving experts to ensure that the water is not contaminated (as mentioned in the motivation report).

- According to the objector the proposed application will have a negative impact on the **resale value** of his property. The labourers' cottages (always occupied by people) have always been close to the western lateral boundary and close to his milking stable, which is in itself, also too close to the boundary. The rest of the comments with regards to possible factors that will impact the resale value of his farm are unjustifiable and ludicrous. It is rather submitted that the resale value of his farm will probably be enhanced by its adjacency to a farm that is cared for.
- Mr Jacobs states that the proposal will have a negative impact on **his family's privacy and Christian (and moral) values**. The single incident referred to in his letter of objection is neither regarded as a predictor of future events nor does it set a precedent for future guests to follow.

Also find attached the response to objection affidavit of G.I. Rosslee on behalf of The Tolmay BK with list of annexures:

- Photos referred to in the affidavit with descriptions;
- Confirmation of lawful water use certificate issued by Breede-Gouritz Catchment Management Agency dated 17 April 2015 was;
- Scanned copy of L.E. Jacobs objection showing manual inserted numbers 1, to 27.4 adjacent to relevant paragraphs which are referred to in pages 1-11 in the main body of the affidavit document.

Our client takes note of the content of Eskom's comments on the application.

A heritage consultant was appointed to compile a heritage report as requested by the Stanford Heritage Committee. Refer to a copy of the letter of appointment from Katie Smuts, Professional Heritage Practitioner and Archaeological Consultant, dated 27 September 2017 for your attention. The heritage comments / approval will follow in due course. Consequently we request that an additional 60 days be granted to attend to the heritage application.

Yours faithfully



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

ANNEXURE F

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR DEPARTURE & CONSENT USE: PORTION 13 OF
FARM 129, SANDIES GLEN (3647)**

Electricity	:	Eskom area
Stormwater	:	No services available
Water	:	No services available
Sewer	:	No services available
Roads and traffic	:	No services available

Conditions:

1. that the developer arrange with ESCOM for the provision of electricity and that he complies with all conditions as may be set by ESCOM;
2. that no water and sewer services from Overstrand Municipality is available and the developer will be responsible to obtain the necessary approval, licence and permits from the applicable authorities (Water and Sanitation, Health, Bocma etc.) for the use of any other water resources and the extraction thereof;
3. that the developer is responsible to provide potable water to the development that complies with SANS0241 standards and that relevant proof be submitted to the Senior Manager: Engineering Services, Overstrand Municipality;
4. that waste water disposal be done in a safe and healthy manner and that plans thereof be submitted to the Municipality and DWA for approval;
5. that, as no municipal refuse removal services are rendered in the area, the owner is responsible for removal of all refuse generated on the property, and disposal thereof at a registered municipal waste transfer station or –waste disposal facility;
6. that the developer complies to all the conditions set by Department Of Water Affairs & Bocma.


 DENNIS HENDRIKS
 SENIOR MANAGER:
 ENGINEERING SERVICES

0 | 9 | 2017.
 DATE

BREDE-GOURITZ

51 Garling Street Worcester 6850, Private Bag X3055 Worcester 6850

Enquiries: Rafeeq Le Roux
Date: 09th May 2018

Tel: 023-346 8000

Fax: 023-347 2012

E mail: rleroux@bgcma.co.za

Reference No: 4/5/1/G40M/SANDIES GLEN 129/13

Plan Active
6 Magnolia Avenue
Hermanus
7200
Merike.planactive@gmail.com

Attention: Merike Lerm

COMMENT ON THE APPLICATION FOR PROPOSED CONSENT USE AND DEPARTURE: PORTION 13 OF THE FARM SANDIES GLEN NO 129, BREDASDORP AND WATER USE CLARIFICATION.

This office, in principle, has no objection to the proposed consent use and departure, subject to the following conditions:

- The water use is classified as commercial due to the nature of the activities it is required for and not domestic i.e. Schedule 1. This office recommends that application be made for a portion of the confirmed Existing Lawful Water Use for irrigation to be registered for commercial purposes. This is to accommodate for and legalise the use of water as it pertains to the consent use and departure application. Alternatively, a water use license may be applied for.

Application for amendment to an existing registration require the following:

- A cover letter
- A water balance
- A copy of the property Title Deed
- Completion of the DW Forms (DW 758, DW 760, DW 789, DW 901 and DW 902). The forms are obtainable from the BGCMA website www.breedegouritzcma.co.za
- Power of attorney (if applicable) and a copy of the signatories Identity Document for whoever signs the DW forms.

General

- All relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use must be adhered to.
- No use of surface water and/or storage of water is permitted, unless the applicant has formally obtained a license in terms of Section 41 of the National Water Act (Act 36 of 1998) and/or formal authorisation in terms of General Authorisations issued under Section 39 (Government Notice 399 dated 26 March 2004), and/or if it is authorised

ANNEXURE G 2/4

under Schedule 1 of the National Water Act, 1998 (Act 36 of 1998) and/or if it is an Existing Lawful Water Use in terms of the National Water Act, 1998 (Act 36 of 1998).

- The registration of all water uses as defined in Section 21 of the National Water Act 36 of 1998 that need to be registered. The relevant registration forms may be accessed on the www.breedegouritzcma.co.za website or alternatively this office may be approached for assistance.
- Where the applicant has an existing lawful registered water use, used for agricultural purposes thus far, application should be made to this office to amend such use proportionally per annual volume for domestic, commercial, industrial and/or agricultural, if this is applicable.
- No pollution of surface water or ground water resources may occur due to any activity.
- No stormwater 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.
- All relevant sections and regulations of the National Environmental Management: Waste Act 2008 (Act 59 of 2008) regarding the disposal of solid waste must be adhered to. Solid waste may only be disposed of onto an authorized solid waste facility in terms of abovementioned legislation.
- No permanent structures may be constructed within the 100 year flood line or within 100 meters of any watercourse (seasonal or permanent river, stream etc.), whichever is furthest without firstly obtaining authorization in terms of Section 21 (c) and (i) of the National Water Act, 1998 (Act 36 of 1998).
- The water provided for domestic use must comply with the SANS 241: 2011 guidelines for drinking water (edition 1). 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 this office and the Provincial Department of Health must be informed of the procedures to rectify the problem.
- It is the duty of the applicant(s) to ensure that all servitudes of aqueduct, access and storage to give effect to the apportionment of water uses has been agreed upon prior amongst the property owners and formally registered with the Deeds of Office to give effect thereto upon approval of the application.

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 1998.
- The construction site for a conventional sewerage disposal system (french drain system) and/or conservancy tank must be placed above the 100 year flood line, or alternatively, more than 100 metres from the edge of a water resource, whichever is further.

ANNEXURE G 3/4

- Conventional sewerage disposal systems can only be considered where the residential structures are more than a 75m radius apart and are limited only to single residential units, if and where the geology supports such system and must be supported by District Municipal Health.
- (Conference facilities, lodges, schools, restaurants, tasting facilities and hotels will require alternative methods of sewage treatment for disposal and/or treatment.)
- The construction of a conservancy tank must be of such a nature that no water will enter the system or leave it by means of seepage. Special care must be taken with the placing of the damp proof coarse during the construction phase. The tank needs to be inspected on a regular basis for seepage as a precautionary approach against any sewage leaving the system and causing pollution.
- When a conservancy tank is used for the disposal of sewage, this office must be furnished with a signed copy of the contract between the contractor or the *Overstrand Municipality* which is appointed to pump the conservancy tank and the applicant. A contingency plan must be developed and furnished to this office.
- The volume of sewage needs to be metered on a monthly basis and a removal programme needs to be scheduled to ensure that the conservancy tank is pumped well within time before overflowing. Alternatively, floating devices should be installed within the tanks that initiate an alarm at 75% full capacity to arrange for collection and disposal

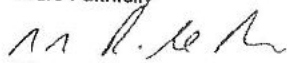
Please be advised that all relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use must be adhered to. The use of water without the required authorization in terms of the National Water Act, 1998 (Act 36 of 1998) may be regarded as unlawful and a criminal offence.

The onus remains on the registered property owner to confirm adherence to any relevant legislation with regards to the activities which might trigger and/or need authorization for

Please do not hesitate to contact this office if you have any further queries.

Please ensure to quote the above reference in doing so.

Yours Faithfully



MR. JAN VAN STADEN

CHIEF EXECUTIVE OFFICER (ACTING)

Cc

1. The Municipal Manager
Overstrand Municipality
P.O. Box 20
Hermanus
7200
petrusroux@overstrand.gov.za

Attention: Mr Petrus Roux



File reference: GRBRE 13/129 (3647)
Date: 7 July 2017

INTERNAL MEMORANDUM

From : Town Planning Department
Town Planner : Petrus Roux

TO:

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

Applicant	PLAN ACTIVE (obo TORMAY CC)
Property Details	PORTION 13 OF FARM 129, SANDIES GLEN, A DIVISION OF BREDASDORP
Application Description	PROPOSED DEPARTURE AND CONSENT USE

MUNICIPALITEIT OVERSTRAND MUNICIPALITY
FIRE BRIGADE / BRANDWES
APPROVED / GOEDGEKEUR
17 AUG 2017

ATTACHMENTS :

1.	Notice
2.	Locality Plan
3.	Site Development Plans
4.	Motivation

Should the information be insufficient for you to make an informative comment, please list any additional documentation that you would require to make informed comments.

YOUR DEPARTMENT'S COMMENTS:

① All structures must be in compliance with National Fire Protection and Building Regulations SANS10400T:2011 + SANS10400A:2010 respectively.

② Tourist facilities + accommodation must be in compliance regulations as per Annexure A+B (attached).

Signature: _____ Date: _____ 2017

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

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

COMMENTS REQUIRED BY: 11 August 2017



OFFICE of THE CHIEF FIRE OFFICER
PO BOX 20
HERMANUS
7200
Tel: 028 313 8980
Fax: 028 313 1493



Compliance requirements for A1 - Restaurants, Bars, Entertainment, Tourist Facility - Public Gathering venues in terms of the National Fire Protection Regulations SANS10400T:2011
ANNEXURE A - TOWN PLANNING APPLICATION: PTN 13 of FARM 129 SANDIES GLEN, DIVISION of BREDASDORP
APPLICATION No: GGRBRE 13/129 (3647)

- Free standing building - Provide fire hose reels in compliance with Section 4.34 of SANS10400T:2011 - 1x30m FHR per 500m² in the case of a building being larger than 250m².
- Provide 1 x Fire Hydrants for any building larger than 1000m² or part thereof in compliance with Section 4.35.4 of SANS10400T:2011.
- Provide a SANS10139 compliant manually activated visual and audible alarm system in compliance with Section 4.31.3 of SANS10400T:2011.
- Provide 1 x Fire Extinguisher per 200m² of either type: Water - 9litre; Carbon Dioxide CO₂ - 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 cleaning 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 500millilitre.
- **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 backrests 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 H 3/3 OVERSTRAND</p> 
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STANDARD REQUIREMENTS FOR OPERATION OF AN ESTABLISHMENT CLASSIFIED – H5 HOSPITALITY - SELF CATERING TOURIST ACCOMMODATION IN ANY H3 OR H4 CATEGORY BUILDING IN TERMS OF THE NATIONAL FIRE PROTECTION REGULATION SANS10400T:2011

ANNEXURE B – PTN 13 of FARM 129 SANDIES GLEN, DIVISION of BREDASDORP
TOWN PLANNING APPLICATION No: GRBRE 13/129 (3647)

The town planning application is subject to compliance with the following fire safety requirements are prescribed together with any other building standards compliance requirements:

Fire Extinguishers:

SANS10400T:2011 – 4.37:

1 x Portable Fire Extinguisher per each accommodation unit of a type - 4.5kg Dry Chemical Powder.

Combustibility of Floor Coverings:

Shall comply with requirements of Section 4.14 of SANS10400T:2011 for occupancy H5.

Combustibility of Wall Coverings:

Shall comply with requirements of Section 4.15 of SANS10400T:2011 for occupancy H5.

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 located so that each accommodation unit can be protected in case of fire.
- 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

ANNEXURE I

Our Ref: HM/STANFORD/PORITION 13 OF FARM 129
Case No.: 17092706AS1009E
Enquiries: Andrew September
E-mail: andrew.september@westerncape.gov.za
Tel: 021 483 9543
Date: 27 October 2017

Katie Smuts –
8
34 Caledon Street
Stanford
7210
katie.smuts@gmail.com



TP-A Theart
(Suld merke)

RESPONSE TO NOTIFICATION OF INTENT TO DEVELOP: FINAL
In terms of Section 38(2) of the National Heritage Resources Act (Act 25 of 1999) and the Western Cape Provincial Gazette 6061, Notice 298 of 2003

NOTIFICATION OF INTENT TO DEVELOP: PROPOSED CONSENT-USE, DEPARTURES AND RENOVATION OF EXISTING STRUCTURE ON PORTION 13 OF FARM 129, SANDIES GLEN, STANFORD, SUBMITTED IN TERMS OF SECTION 38(1) OF THE NATIONAL HERITAGE RESOURCES ACT (ACT 25 OF 1999)

CASE NUMBER: 17092706AS1009E

The matter above has reference.

Heritage Western Cape is in receipt of your application for the above matter received on 11 October 2017. This matter was discussed at the Heritage Officers meeting held on 23 October 2017.

You are hereby notified that, since there is no reason to believe that the proposed consent-use and redevelopment will impact on heritage resources, no further action under Section 38 of the National Heritage Resources Act (Act 25 of 1999) is required.

However, should any heritage resources, including evidence of graves and human burials, archaeological material and paleontological material be discovered during the execution of the activities above, all works must be stopped immediately and Heritage Western Cape must be notified without delay.

This letter does not exonerate the applicant from obtaining any necessary approval from any other applicable statutory authority.

HWC reserves the right to request additional information as required.

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

Yours faithfully

Mxolisi Dlamuka
.....
Mxolisi Dlamuka
Chief Executive Officer, Heritage Western Cape

FILE NO: Ptn 13/129
STF ✓
SCAN NO:
COLLABORATOR NO:
1095722

30 OCT 2017

www.westerncape.gov.za/cas

ANNEXURE J 1/3



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

Attention: Petrus Roux
By email: alida@overstrand.gov.za

Dear Alida

Application for Consent Use and Departure for Tourism Facilities on Portions 13 of the Farm Sandies Glen 129, Laughing Waters Farm, Stanford - Napier (Overstrand Municipality ref: Ptn 13 of Farm 129, GRBRE Caledon (3647))

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 proposal is for consent use and departure for tourism facilities on the subject property. The elongated property is bisected by the Wabooms River, with Critical Biodiversity Areas (CBAs) demarcated over nearly all of the section south of the river and in three small sections north of the river, according to the Western Cape Biodiversity Spatial Plan (WCBSP). The original natural vegetation over the southern two thirds consists of Overberg Sandstone Fynbos and Elim Ferricrete Fynbos over the northern third, both listed as Critically Endangered. The property is bordered by the Sandies Glen Private Nature Reserve to the west.

The proposed activities are clustered into three nodes. The main node is adjacent to the public road and will consist of conversion of three existing buildings into a function and workshop venue and two tourism accommodation cottages. This node is mainly consists of Ecological Support Area (ESA): Restore according to the WCBSP as it is within the buffer of the Wabooms River. The additional hydroponic tunnels will be located on existing agricultural infrastructure.

The only activity that will result in an increase in the built footprint is the proposed parking adjacent to the hydroponic tunnels north of the public road. Based on the information the parking may encroach within 32 m of the Wabooms River and associated riparian wetlands. Therefore the proposed parking may result in an impact on the freshwater system and could result in triggering of a NEMA listed activity. The same applies to the existing hydroponic tunnels in this location, although these are existing structures.

Two new tourism accommodation cottages are proposed in a node in the northern section of the property. The two footprints are located in areas classified as No Natural on the WCBSP, with CBA located to the east. Historical Google Earth imagery indicates disturbance on the footprints which appears to be ploughing. The crop census 2013 on CapeFarmMapper indicates the No Natural areas as cultivation for fodder crops which would

The Western Cape Nature Conservation Board trading as **CapeNature**
Board Members: Ms Merle McOmbring-Hodges (Chairperson), Dr Colin Johnson (Vice Chairperson), Mr Mervyn Burton, Prof Deriver Hendricks, Dr Bruce McKenzie, Adv Mandla Mdludlu, Mr Danie Nel, Prof Aubrey Redlinghuis, Mr Paul Slack, Prof Kamilla Swart-Arries

SCIENTIFIC SERVICES

postal Private Bag X5014 Stellenbosch 7599
physical Assegaibosch Nature Reserve Jonkershoek
website www.capenature.co.za
enquiries Rhett Smart
telephone +27 21 866 8017 fax +27 21 866 1523
email rsmart@capenature.co.za
reference SSD14/2/6/1/7/2/129-13_cons&dep_Sandies Glen
date 4 October 2017

TP-A Theart
(S v d Marine)

FILE NO:	Ptn 13/129
SCAN NO:	10
COLLABORATOR NO:	1098983

2017/11/07

ANNEXURE J 2/3

support the interpretation of land ploughed within the last 10 years. Based on this information, the cottages will not result in the loss of vegetation of high conservation value and will not trigger a listed activity, however the applicant should provide further verification regarding the cultivation history.

A new manager's house is proposed in the southern section of the property. The manager's house is not included within the application, presumably because this falls within the existing rights for the property according to the zoning. The footprint of the manager's house is located in CBA and based on the information available is located in intact Overberg Sandstone Fynbos.

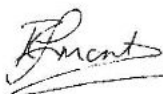
NEMA would still be relevant for development of the proposed new manager's house, and therefore if more than 300 m² of vegetation is cleared, a listed activity would be triggered. The text indicating the footprint size on the layout map is illegible. CapeNature further wishes to note that it would be preferred that a disturbance footprint is selected for the dwelling rather than to be located in good condition natural vegetation.

An important aspect for consideration is the potential risk of fire to the structures on site, particularly the northern and southern nodes which are surrounded by fynbos. It should be noted that the disturbance footprint for control of fire must also be counted in calculating the area of removal of natural vegetation. We have noted that the applicant is a member of the Greater Overberg Fire Protection Association and therefore is likely to be compliant with the relevant requirements for fire management.

In conclusion, further verification is required regarding the potential NEMA triggers as mentioned above. Regardless of the NEMA triggers, CapeNature does not support the location of the parking adjacent to the Wabooms River, however the other components related to this application are acceptable. As mentioned above the new manager's house does not form part of this application, but may still trigger a NEMA listed activity.

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

Yours sincerely



Rhett Smart
For: Manager (Scientific Services)

cc. Merike Lerm, PlanActive Town & Regional Planners



SCIENTIFIC SERVICES

*TP - A Theart
C. veld Merwe*

Postal Private Bag X5014 Stellenbosch 7599
 physical Assegaaibosch Nature Reserve Jonkershoek
 website www.capenature.co.za
 enquiries Rhett Smart
 telephone +27 21 866 8017 fax +27 21 866 1523
 email rsmart@capenature.co.za
 reference SSD14/2/6/17/2/129-13_cons&dep_Sandies Glen

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

Attention: Petrus Roux
 By email: alida@overstrand.gov.za

date	3 November 2017
FILE NO:	Ptn 13/129 - STF
SCAN NO:	09
COLLABORATOR NO:	1098980

Dear Alida

Amendment to the Application for Consent Use and Departure for Tourism Facilities on Portions 13 of the Farm Sandies Glen 129, Laughing Waters Farm, Stanford - Napier

(Overstrand Municipality ref: Ptn 13 of Farm 129, GRBRE Caledon (3647))

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.

Following on from CapeNature's comments, the application has been amended and further information provided regarding potential concerns.

CapeNature had indicated concern regarding the proximity to the river of the proposed parking adjacent to the hydroponic tunnels and recommended it should be relocated. The parking has been relocated to the south of the road adjacent to the carport and shed on a transformed footprint far from the river. The revised location is much preferred to the previous location and based on this we do not have any objections to the application.

The manager's house did not form part of the application as this is considered part of the existing rights, however the proposal is still included to provide a full project description. CapeNature had indicated that a disturbed footprint is preferred to intact natural vegetation, however confirmation has been provided that the footprint will be less than 300 m², therefore no listed activities will be triggered.

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

Yours sincerely

Rhett Smart
 For: **Manager (Scientific Services)**
 cc. Merike Lerm, PlanActive Town & Regional Planners

The Western Cape Nature Conservation Board trading as **CapeNature**
 Board Members: Ms Merle McOmbring-Hodges (Chairperson), Dr Colin Johnson (Vice Chairperson), Mr Mervyn Burton, Prof Denver Hendricks, Dr Bruce McKenzie, Adv Mandla Mdludlu, Mr Danie Nel, Prof Aubrey Reddinghuis, Mr Paul Slack, Prof Kamilla Swart-Arries

7 NOV 17



ANNEXURE K 1/3



TRATheart
(Siddhartha)

OVERSTRAND MUNICIPALITY
P.O. Box 20
HERMANUS
7200

Date:
25.07.2017

Enquires:
Phumeza Qwashu
Tel: 021 980 3269
Fax: 021 980 3053

ATTENTION: LORIAAN ISAACS

SIR/MADAM

PROPOSED CONSTRUCTION: PROPOSED CONSENT AND DEPARTURE, FARM 129, PRTION 13, OVERSTRAND MUNICIPALITY.

OUR REF: 02204 - 17

Eskom has no objection to the proposed work as indicated in your application provided that the following conditions are adhered to:

- I. No building may be erected within **9 (NINE) metres** from either side of the centre line from any Eskom **11 / 22kV power line** crossing the property involved or within **6 (SIX) metres** from any structure supporting mechanism.
- II. No building may be erected within **3 (THREE) metres** from any Eskom underground cable.
- III. The location of the cable from the Eskom transformer to the distribution box must be pointed out to the contractor by the owner and is the owner's responsibility.
- IV. A copy of this letter / documentation must be handed to the contractor who must have it available on site.
- V. That existing Eskom power lines and infrastructure are acknowledged as established infrastructure on the properties and any rerouting or relocation would be for the cost of the applicant/developer.

That Eskom rights or servitudes, including agreements with any of the landowners, obtained for the operation and maintenance of these existing power lines and infrastructure be acknowledged and honoured throughout its lifecycle which include, but are not limited to:

- i. Having 24 hour access to its infrastructure according to the rights mentioned in (a) above.
- ii. To perform maintenance (structural as well as servitude – vegetation management) on its infrastructure according to its maintenance programmes and schedules.
- iii. To upgrade or refurbish its existing power lines and infrastructure as determined by Eskom.
- iv. To perform any other activity not listed above to ensure the safe operation and maintenance of the Eskom power lines or infrastructure.

Western Region
Eskom Road, Brackenfell, 7560
PO Box 222, Brackenfell, 7561

Eskom Holdings SOC Limited Reg No 2002/015527/30

FILE NO:	Prtn 13 / 129
	SIF
SCAN NO:	27
COLLABORATOR NO:	1067403

ESKOM (WESTERN REGION)

OCCUPATIONAL HEALTH AND SAFETY ACT (Act No 85 of 1993) WITH REGULATIONS

D16 (7) Excavations

"The builder or excavator shall ascertain as far as possible the location and nature of underground services likely to be affected by the excavation and take such steps as may be necessary to prevent danger to persons".

THE ELECTRICITY ACT (Act No 41 of 1987)

Section 27 (3) : Offences and Penalties

"Any person who without legal right (the proof of which shall be upon him) cuts or damages or interferes with any apparatus for generating, transmitting or distributing electricity, shall be guilty of an offence and liable on conviction to a fine not exceeding R2 000,00 or to imprisonment for a period not exceeding twelve months".



TP-AtHeart
(P Roux)



FILE NO:	Ptn 13/129
SCAN NO:	STF ✓
COLLABORATOR NO:	1077513

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_WNPR2944_17
Your Ref.: 3647

18 September 2017

Attention: S Muller

Overstrand Municipality
HERMANUS

WAYLEAVE: PROPOSED CONSENT USES AND DEPARTURES: PORTION 13 OF THE FARM SANDIES GLEN NO 129 BREDASDORP DIVISION

With reference to your application dated July 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,
Private Bag X881, Pretoria, Gauteng, 0001



ANNEXURE L 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 / FrederikS@openserve.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


pp _____
Selwyn Bowers
Operations Manager
Wayleave Management: Western Region

This wayleave, Reference Number WWIP WNPR2944 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 existance 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.

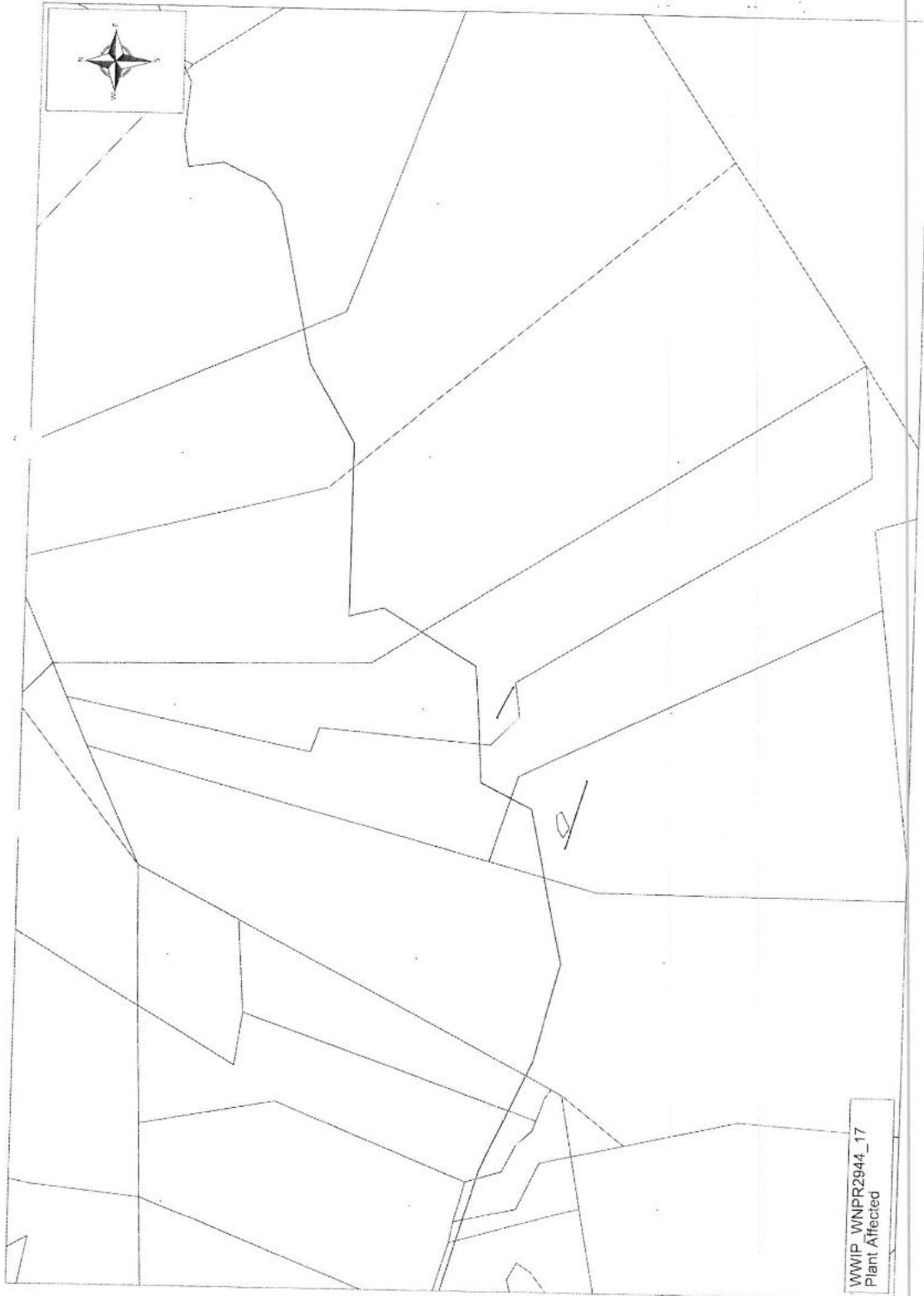
Date: 2017/09/19

By: C Spammer
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)	



ANNEXURE L 4/4



ANNEXURE M



File reference:	GRBRE 13/129 (3647)
Date:	7 July 2017

INTERNAL MEMORANDUM

From : Town Planning Department
Town Planner : Petrus Roux

TO:

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


Applicant	PLAN ACTIVE (obo TORMAY CC)
Property Details	PORTION 13 OF FARM 129, SANDIES GLEN, A DIVISION OF BREDASDORP
Application Description	PROPOSED DEPARTURE 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 Plans	
4. Motivation	

YOUR DEPARTMENT'S COMMENTS:

Applicant to apply for Health Certificate under new Municipal Health By-Law w.r.t. Accommodation facilities. If any food are to be prepared to guest at the facility (even on request), COA application also needs to be completed.

Signature:  Date: 17/08/2017

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

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

COMMENTS REQUIRED BY: 11 August 2017

ANNEXURE N 1/2



DIRECTORATE: DEVELOPMENT MANAGEMENT
(REGION 2)

REFERENCE: 16/3/3/6/1/E1/5/1064/18
ENQUIRIES: Lorretta Osborne
DATE OF ISSUE: 2018 -06- 0 6

The Municipal Manager
Overstrand Municipality
PO Box 20
HERMANUS
7200

Attention: P Roux

Tel: (028) 313 8900
Fax: (028) 313 2093

Dear Sir/Madam

THE APPLICABILITY OF THE NATIONAL ENVIRONMENTAL MANAGEMENT ACT, 1998 (ACT 107 OF 1998) ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS, 2014 (AS AMENDED): APPLICATION FOR CONSENT USE AND DEPARTURE ON PORTION 13 OF FARM SANDIES GLEN NO. 129, BREDASDORP

1. Your document and the letter dated 9 March 2018, as received by the Department on 20 March 2018 and the Departmental letter issued on 28 March 2018, refer.
2. Following review of the information submitted to this Department, the following is noted:
 - 2.1.1 The consent use of Portion 13 of the Farm Sandies Glen No. 129 in terms of Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, to accommodate tourist facilities, tourist accommodation and intensive horticulture.
 - 2.1.2 The departure of Portion 13 of Farm Sandies Glen No. 129 in terms of Chapter 4, Section 16(2)(b) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, to relax the lateral and road building lines to accommodate three of the existing structures to be used as tourist facility (one function/ workshop venue or cottage), tourist accommodation (two guest cottages) and two of the three existing hydroponic tunnels.
 - 2.1.3 The function/ workshop venue will be converted to a cottage when the need for additional accommodation exists.
 - 2.1.4 Only two new guest accommodation cottages of 70m² each will be constructed while the other buildings are existing.
 - 2.1.5 The buildings, services and access on the site are existing.
 - 2.1.6 According to the Department of Agriculture's Cape Farm Mapper, a Private Nature Reserve is located next to the farm, the Wabooms/ Uilkraal River and the Cape Lowland Freshwater wetland are in close proximity of the property.
 - 2.1.7 The site is zoned Agriculture Zone I.
3. Your attention is drawn to the listed activities in terms of the NEMA EIA Regulations, 2014 as defined in GN No. 327, 325 and 324 of 7 April 2017. Please be advised that, based on the information provided, the application for rezoning, consent use and departure on Portion 13 of

2nd Floor, 1 Dorp Street, Cape Town, 8001
tel: +27 21 483 3696/4349 fax: +27 21 483 3633
Lorretta.Osborne@westerncape.gov.za

Private Bag X9086, Cape Town, 8000
www.westerncape.gov.za/eadp

ANNEXURE N 2/2

Farm Sandies Glen No. 129 **does not** constitute any listed activities as defined in terms of the NEMA EIA Regulations, 2014 (as amended).

4. The above-mentioned is based on the following:
 - 4.1 The proposal does not trigger any thresholds of the listed activities as defined in terms of the NEMA EIA Regulations, 2014 (as amended).
 - 4.2 The area to be cleared for the two units is less than 300m².
 - 4.3 The addition of the two units will accommodate less than 15 people.
 - 4.4 The conversion of existing buildings will be undertaken.
5. However, should **any infrastructure (e.g. an access road) or structures be developed within the watercourse or within 32m from the watercourse**, listed activity(ies) in terms of the NEMA EIA Regulations, 2014 (as amended) as defined in GN No. 327, 325 and/or 324 will be triggered. 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 28(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. The applicant must comply with **any other statutory requirements** that may be applicable to the undertaking of the activity.
8. The Department reserves the right to revise or withdraw comments or request further information based on any information received.

Your interest in the future of our environment is greatly appreciated.

Yours faithfully



HEAD OF COMPONENT
ENVIRONMENTAL IMPACT MANAGEMENT SERVICES: REGION 2
DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING
 CC: paplon@overstrand.gov.za (Overstrand Municipality)