

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
16 February 2016
(Also the agenda for the Mayoral Committee Meeting : 24 February 2016)**

**5.
ERF 2093, 40 ROOS STREET, GANSBAAI (BLOMPARK) : PROPOSED
DEPARTURE (LIQUOR STORE) : MESSRS BLUEPRINT SA ON BEHALF OF GC
AND GSP VALENTINE**

2093 GBP (3016)

SW van der Merwe

(028) 313 8900

Hermanus Administration

5 January 2016

1. Executive Summary

An application has been received on 14 August 2015 from Messrs Blueprint SA on behalf of the owners of Erf 2093, Gansbaai (Blompark), GC and GSP Valentine, for a departure from the Scheme Regulations in order to legalise an existing liquor store on the property.

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

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Town- and Spatial Planning

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Promotion of tourism, economic and social development

4. Delegated Authority

Executive Mayor

5. Legal Requirements

Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)

6. Background/Discussion/Evaluation/Conclusion

Background

The applicant currently conducts a liquor store from the premises without the relevant statutory approvals in terms of the Land Use Planning Ordinance or the National Building Regulations. The current application seeks to legalise

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the unauthorised liquor store by means of a temporary departure, valid for a period of five years.

Discussion

The application was advertised in the prescribed manner and registered notices were served on adjoining property owners. No objections were received.

Evaluation

Erf 2093, Gansbaai (Blompark) is zoned Less Formal Development Zone and measures 212m² in extent. Originally the property was developed with a low cost housing unit measuring 23m² in extent which had more recently been extended into a two storey dwelling unit adding a further 152m². The original dwelling measuring 23m² in extent is currently utilised as a liquor shop. Although located in an area zoned for less formal development purposes the subject property is located in a formalised residential area developed with roads, services and dwelling houses located on surveyed erven.

The current application seeks to legalise the existing liquor shop which is currently open from 08h00 to 20h00, Mondays to Sundays. The applicant is also in possession of a liquor licence, although the Municipality in a letter dated 21 July 2010 objected to the application for a liquor licence.

The subject property is located in a residential area which in terms of the Overstrand Zoning Scheme Regulations, Overstrand Wide Spatial Development Framework and Growth Management Strategy did not identify any business erven in the vicinity of the subject property, whilst adequate provision for business erven have been made elsewhere in the Blompark neighbourhood.

A site inspection was conducted and the following was found:

- original dwelling illegally utilised as liquor store without approval in terms of the applicable town planning and building legislation;
- storage facilities are not sufficient;
- no on-site parking provision for customers; and
- no provision for a loading bay.

Liquor stores are a business type that in terms of the applicable policy documents and Zoning Scheme should be located within the Central Business District (CBD) or a business node, since there are special requirements applicable to the operation thereof, i.e pertaining to on-site parking provision, loading bays, storage and deliveries. Further concern is the noise pollution generated by customers during normal trading hours. The liquor store will

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trigger deliveries of liquor, which, together with illegal signage pertaining to the business on the property is not deemed compatible with the character of the surrounding residential area.

The approval of the liquor store will introduce a commercial activity in a residential area. Given the special requirements pertaining to the type of business elaborated upon above the opinion is held that the approval of the liquor shop would impact negatively on the vested rights of adjoining property owners by reason of noise and disturbance as well the character and appearance of the surrounding area and cannot be supported from a planning point of view. Furthermore, provision is not made for loading bays or parking for customers. Although an argument is to be made that vehicle ownership is low, some customers make use of private transport and thus parking must be made available. Due to the location of the property in a residential area and the location of the existing dwelling in close proximity of the street- and lateral property boundaries, on-site parking provision cannot be made available in accordance with the required parking standards. Given the location of the liquor shop in a residential area and the trading hours that are in conflict with trading hours of the Zoning Scheme Regulations the opinion is held that the trading hours are not conducive to a quiet residential neighbourhood, especially since there is school going children.

Conclusion

That the application not be supported as per the recommendation below.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Services Report

Attached as Annexure D.

Fire Department

“This application is not supported due to the proposed occupancy being a high fire risk within a residential property and direct access to the dwelling.”

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Building Control

“No objection to temporary departure for a liquor shop. Building plan to be submitted for approval for the change of garage to shop. Parking to be provided.”

Electro Technical Services

“No objection. Erf 2093 currently has a 30 Amp connection. Should any additional capacity be required the standard application procedures will be applicable. All investigation and upgrading will be for the client’s account.”

Operational Services

Attached as Annexure E.

10. Annexures

- Annexure A: Locality Plan
- Annexure B: Site Development Plan
- Annexure C: Motivation Report
- Annexure D: Services Report
- Annexure E: Comment: Operational Services

RECOMMENDATION:

1. that the application for departure to legalise the existing liquor shop in terms of the provisions of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), **not be approved** due to the following reasons:
 - (a) the land use for a liquor shop is not in line with the Scheme Regulations and the Overstrand Municipal Growth Management Strategy;
 - (b) the land use is not conducive to the residential character of Blompark in terms of National Building Regulations, Fire Regulations, noise pollution, trading hours and commercial signage;
 - (c) the hours of trading for business on residential erven in terms of the Zoning Scheme Regulations does not allow the trading hours proposed by the applicant in order to accommodate residents, especially school going children of the area; and
 - (d) due to the proposed occupancy being a high fire risk within a residential property and direct access to the dwelling.

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2. that the applicant be notified of its right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above decision.

RESPONSIBLE OFFICIAL : SW VAN DER MERWE

TARGET DATE FOR IMPLEMENTATION : 9 MARCH 2016

TARGET DATE TO INFORM APPLICANT : 9 MARCH 2016

TARGET DATE TO INFORM OBJECTORS : N/A

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DEPARTURE (LIQUOR STORE) : MESSRS BLUEPRINT SA ON BEHALF OF GC
AND GSP VALENTINE**

**2093 GBP (3016)
SW van der Merwe (028) 313 8900 Hermanus Administration
5 January 2016**

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
16 FEBRUARY 2016, WHICH COMMITTEE SUPPORTED THE RECOMMENDATION**

RESPONSIBLE OFFICIAL :	SW VAN DER MERWE
TARGET DATE FOR IMPLEMENTATION :	9 MARCH 2016
TARGET DATE TO INFORM APPLICANT :	9 MARCH 2016
TARGET DATE TO INFORM OBJECTORS :	N/A

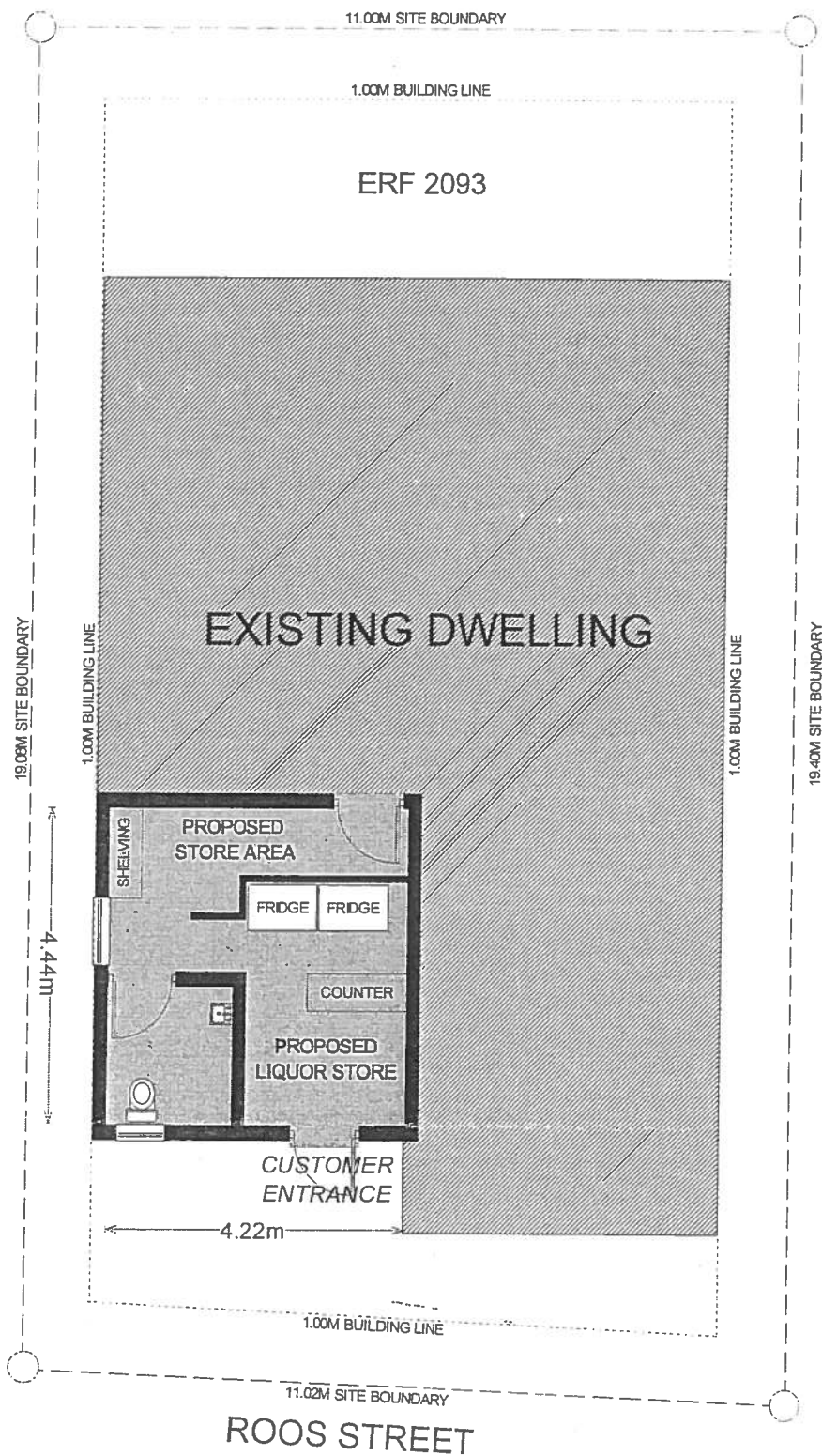


LIGGINGSPLAN / LOCALITY PLAN
Erf 2093 Gansbaai (Blompark)




ALL STRUCTURES INCLUDING PROPOSED SHOP ON THE PREMISES ARE SHOWN AS-BUILT

COVERAGE CALCULATIONS	
ERF SIZE	212 SQM
EXISTING BUILDING	169 SQM
COVERAGE	80 %



SCALE 1:100

DRAWING :	SITE LAYOUT PLAN	BUSINESS AREA :	19 m ²	11 %	 TEL : 082 2986122
APPLICANT :	GORDON CORNELIUS	RESIDENTIAL AREA :	150 m ²	89 %	
ADDRESS 1 :	ERF 2093, 40 ROOS STREET,	DRAWING # :	SOC1	7/07/2015	
ADDRESS 2 :	BLOMPARK, GANSBAAI				



40 ON ROOS

TP- A Theart
(S vld merke)

Application to the Overstrand Municipality for:

**TEMPORARY DEPARTURE IN TERMS
OF
THE LAND USE PLANNING ORDINANCE NO.15 OF 1985, IN
RESPECT OF ERF 2093, GANSBAAI, TO PERMIT A
LIQUOR SHOP FROM A PORTION OF THE RESIDENTIAL
PROPERTY FOR A TERM OF 5 YEARS.**

FILE NO: <u>EL 2093-GB</u>
<input style="width: 100%; height: 15px;" type="text"/>
SCAN NO: <u>18</u>
<input style="width: 100%; height: 15px;" type="text"/>
COLLABORATOR NO: <u>840726</u>
<input style="width: 100%; height: 15px;" type="text"/>

JULY 2015

18 SEP 2015

21 SEP 2015 ✓

APPLICATION DETAIL

REGISTERED OWNER: GORDON CORNELIUS

CONTACT PERSON: D. Pienaar

APPLICANT DETAILS: **Blueprint SA**
P o Box 13620
N1 City
7463

DATE: July 2015

APPLICATION PARTICULARS

Application for:

- Temporary Departure in terms of the Land Use Planning Ordinance in respect of Erf 2093, Gansbaai, to permit a liquor shop from a portion of the residential property for a term of 5 years.

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LIST OF ANNEXURES

Annexure A	Power of Attorney
Annexure B	Completed Application Form
Annexure C	Copy of Title Deed
Annexure D	Title Deed Perusal
Annexure E	Locality Map
Annexure F	Layout Plan
Annexure G	Diagrams

1.0 INTRODUCTION

Blueprint SA was approached by, Mr. Gordon Cornelius, as the owner of the subject property, to handle the necessary land use planning application for Erf 2093, Gansbaai. Copy of the Power of Attorney is attached in **Annexure A**.

2.0 OBJECTIVE

The purpose of this application is to apply for a Temporary Departure to use a portion of the subject property as a Liquor Shop for a term of 5 years in terms of the Land Use Planning Ordinance No. 15 of 1985. The completed application form is included in **Annexure B**.

3.0 BACKGROUND

According to the Overstrand Zoning Scheme, the subject property is currently zoned as a Less Formal Development Zone. The main use of the property is as a residential dwelling. A portion of the premises is utilised as an ongoing business.

4.0 THE PROPERTY

4.1 Property Description

The subject property is described in the Title Deed as:

Erf 2093, Gansbaai, in the Municipality of Overstrand, Administrative District of Herrmanus.

A copy of the title deed is attached as **Annexure C**.

Table 1: Property Description and Land Use Rights

Erf No.	2093
Extent of property	212 m ²
Application Zoning Scheme	Overstrand Zoning Scheme
Current Zoning	Less Formal Development Zone
Current land Use	Residential and Home –based business

4.2 Location

The subject property is located within the municipal boundaries of the Overstrand Municipality. All applications are subsequently handled by the municipality.

Coordinates for the property is:

- 34°35 '51.86" S
- 19°21' 0.37" E

Erf 2093, is located within the area of Gansbaai and situated at no. 40 Roos Street.

4.3 Ownership

Erf 2093, Gansbaai is owned by Mr. Gordon Cornelius in accordance with the Title Deed (see Annexure C).

5.0 EXISTING LAND USE AND SURROUNDING USES

Current Use:

The subject property is zoned as:

- Less Formal Development Zone

In terms of Less Formal Development Zone. The primary use of the property is residential. Less Formal Development Zone means the following:

"Less Formal Development Zone are designed to provide locations for predominantly single-family dwelling houses in low to medium density neighbourhoods. There are controlled opportunities for home employment, additional dwellings and low intensity mixed-use development on a single residential property.

The surrounding zonings mainly consists of residential dwellings and home based businesses.

The following uses are permissible as uses under the Less Formal Development Zone and may be applied for:

"Bed and breakfast establishments, lodging establishments, home day care centre, home occupation practice, house shop, house tavern, guesthouse, boarding house, welfare institution, community residential, extramural facility, place of education, place of worship."

6.0 PROPOSED LAND USE

Application for Temporary Departure to use a portion of the subject property as a Liquor Shop for a term of 5 years in terms of the Land Use Planning Ordinance No. 15 of 1985.

The portion of the existing property will be used for the proposed business area. The proposed business area will consist of a public sales area and adequate service and storage facilities. The proposed business area can be converted to an additional bedroom or family room after the lapse of the Temporary Departure. No new building additions will be required to host the business. (Attached **Annexure E** depicts the proposed layout of the facility)

Extent of the Property:

Residential Use:	89% (150 m ²)
Business Use:	11% (19 m ²)
Total Property Extent:	212m ²

7.0 MOTIVATION

The desirability of the proposed development is supported by the following motivating factors:

The proposal will have no negative impact on the natural environment.

The proposal will have no negative impact on the surrounding owners.

The proposed use supports the existing uses on the property.

7.1 Title Deed

The title deed for the property was inspected and there are no restrictive conditions contained within the deed that prohibits the envisaged use. (Annexure D provides declaration of the perusal of the title deed and pivot deeds).

7.2 Zoning Scheme Regulations

The subject application meets all the requirements as described in the applicable Zoning Scheme regulation.

7.3 Location, Access and Parking

Due to the limited size of the property on-site parking is not feasible.

The property is located in a low income area with low vehicle ownership, therefore the patrons/ customers visiting the business do not utilise vehicles.

7.4 Operating Hours (Proposed)

- Monday till Thursday: 8h00 till 20h00
- Friday till Saturday: 8h00 till 20h00
- Sundays: 8h00 till 20h00

7.5 Desirability

The desirability of the proposed development is evident from the following motivating factors:

- To offer a convenience of trade close to the residential suburb.
- To conduct the business responsibly with consideration of the surrounding property owners.
- It is not economically feasible for the owner to rent or buy a business property.
- The application is in the interest of the public and is supported by the community.

- To conduct the business responsibly at all times and be compliant with the requirements of the Liquor Act and the guidelines of the Overstrand Municipality.
- To support the community by offering a more positive and safer alternative than illegal liquor shops thereby adding positively to the decrease of alcohol abuse.

8.0 SUMMARY

The proposed Temporary Departure is not restrained by any conservation worthy elements, environmental issues, title deed restrictions or any other restraints, is in compliance with the Zoning Scheme.

From a land use perspective, the proposed application will not have any impact on the residential neighbourhood, as successfully incorporated into the proposed application.

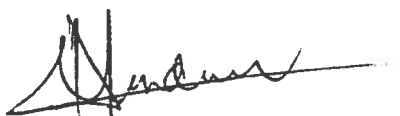
On this basis this application is hereby submitted for Council's favourable consideration.

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR DEPARTURE: ERF 2093, GANSBAAI (3016)**

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 stormwater be allowed to discharge through Erf 2093, Gansbaai, unobstructed;
4. that any additional and / or extended vehicle entrances will be for the owner's account;
5. that no on-street parking be allowed.



**DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES**

10/12/2015
DATE

Munisipaliteit – U-Masipala – Municipality
OVERSTRAND

INTERNAL MEMORANDUM

Aandag / For Attention:	Town Planning department: S. van der Merwe	Van / From:	J. de Villiers
Afskrif / Copy:	15/3/10/1	Datum / Date:	11 November 2015

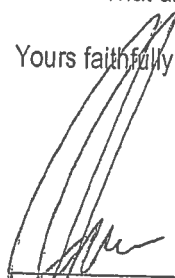
RE: APPLICATION FOR DEPARTURE (BUILDING LINES) ON ERF 2093, BLOMPARK

The request for comment from the Department: Operations (Gansbaai) dated 3 November 2015 with regard to the abovementioned proposal refers.

The Department: Operations (Gansbaai) has no objection to the application for departure with regard to building lines on Erf 2093, Blompark as indicated in the application, subject to the following conditions:

1. That the applicant must comply with all statutory requirements that may be applicable to the undertaking of the proposed development on Erf 2093, Blompark.
2. That the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 140400 – P: 2010: Drainage.
3. That on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Directorate: Operations.
4. That any additional and / or extended vehicle entrances will be for the owner's account.

Yours faithfully



J. de Villiers Pr. Eng.
 Senior Manager: Operations
 Gansbaai