

**AGENDA of the  
Portfolio Committee : Infrastructure and Planning  
14 February 2017  
(Also the agenda for the Mayoral Committee Meeting : 22 February 2017)**

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**2.**

**ERVEN 1138 & 1179, EASTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: PROPOSED CONSOLIDATION, CONSENT USE AND DEPARTURE: MESSRS WRAP CONSULTANCY ON BEHALF OF THE UNIT 121 LEISURE BAY TRUST**

**1138 & 1179 HEC (3237)**

**P Roux**

**13 December 2016**

**(028) 313 8900**

**Hermanus Administration**

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**1. Executive Summary**

To consider an application received from Messrs WRAP Consulting on behalf of the property owners, The Unit 121 Leisure Bay Trust, on Erven 1138 and 1179, Hermanus (Eastcliff) for the following:

- consolidation in terms of Section 2.3 of the Overstrand Municipality Zoning Scheme Regulations in order to create one (1) erf of approximately 1784m<sup>2</sup> in extent.
- consent use in terms of Section 2.2 of the Overstrand Municipality Zoning Scheme Regulations in order to establish a guest house on the consolidated property.
- departure in terms of Section 15 of Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) in order to relax the eastern lateral building line with Erf 1139 from 2m to 0m to accommodate a proposed new second dwelling unit, and to relax the western lateral building line with Erf 1180 from 2m to 0m to accommodate a pergola.

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 Priority**

Provision of democratic and accountable governance

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**4. Delegated Authority**

Executive Mayor

**5. Legal Requirements**

Section 2.2 & 2.3 of the Overstrand Municipality Zoning Scheme Regulations  
Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)

**6. Background/Discussion/Motivation/Evaluation**

**Background**

The applicant states that the owners of Erf 1138 intend to operate a five (5) bedroom guest house. Parking on Erf 1138 is limited due to the structures on the property. It is therefore proposed to consolidate Erf 1138 with Erf 1179 in order to provide sufficient parking on the consolidated erf. This will also ensure that the pergola and open area on Erf 1179 is accessible to the guests of the guest house.

The dwelling house on Erf 1138 consists of four (4) bedrooms. The existing garage was converted and it is the intention of the owners to utilise it as a second dwelling which has two (2) bedrooms and two (2) bathrooms which is to be let as part of the guest house. One (1) of the rooms will be occupied by the owners/manager. The cottage is to be used as an office.

The kitchen in the dwelling will be used in order to prepare meals for guests; all facilities provided in the guest house will be available to the guests alone.

Seven (7) parking bays in total are required by the applicant in order to conduct the five (5) bedroom guest house, two (2) parking bays will be available on Erf 1138 for the owners/manager and five (5) will be available on Erf 1179.

The consolidated erf will measure approximately 1751m<sup>2</sup> in extent.

The garage on Erf 1138 is situated on the eastern boundary, the garage was converted illegally into a second dwelling and therefore a departure application is required. Similarly a pergola was constructed on the western boundary without approval from the Municipality, this also needs to be legalised; therefore a departure application was submitted for the relaxation of the western lateral building line.

The applicant motivates that the proposed application will be in keeping with the character of the area due to the proposed use taking place in a residential dwelling. Furthermore, it is maintained that the guest house is ideally located

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next to the main road and located close to commercial activities, which is fitting for the proposed land use.

Concerning the conversion of the garage which is situated on the eastern boundary, the applicant motivates it will not make economic sense to demolish the conversions, but rather utilise it as part of the guest house, and therefore more feasible to apply for a departure application.

The application was circulated to all relevant municipal departments and the Ward Councillor. Notices were served on adjoining property owners by registered mail and three (3) letters of objection were received. The objections can be summarised as follows (detailed objections are attached as Annexure F).

**The objections can be summarized as follows**

Objections were received from the adjacent property owners namely: Mrs EJ Webb, B & E James, GFN Shreeve, G Dicey and H & K Coetzee.

Some of the issues which were raised in the objections from the various property owners have similarities and will therefore be summarized and discussed as one (1) issue.

**Objection**

G Shreeve and H & K Coetzee

There are two (2) applications, one on Erf 1178 and the second one on Erven 1138 and 1179 which should actually be one (1) application.

**Applicant's Comment**

The two (2) houses were dealt with in two (2) applications on request of the Municipality as this is in their policy.

**Town Planner's Comment**

It should be noted that the applications received will be able to function separately and it involved two (2) separately registered erven. The town planning application form does not allow two (2) separate applications to be submitted as one (1), due to the payment method used. Thus, it was requested that the two (2) applications be processed separately.

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**Objection**

EJ Webb, B & E James, GFN Shreeve and H & K Coetzee

The area is characterised as a quiet residential area and the proposed guest house will destroy the ambiance, no matter how upmarket it is. There are already a number of guest houses and therefore the area does not need another.

**Applicant's Comment**

It is inevitable that in residential areas situated close to the Central Business District (CBD) of developing town developments such as this will occur. There are a number of similar applications approved in the past in this area. The Overstrand Growth Management Strategy (GMS) proves this point. The statement that the proposed guest house will destroy the ambiance, no matter how upmarket it is not true and a well-run guest house can be quieter than a normal house.

The owner of the property did extensive research into the demand for tourist accommodation in Hermanus before they invested into developing the property; they are therefore convinced that there is a demand.

It is not proven that the upmarket guest house will destroy the ambiance of a residential area and whether or not there is a need for another guest house is just an opinion.

**Town Planner's Comment**

It should be noted that the application area is situated in Zone 15 (between Mitchell Street and Main Road) earmarked for high density development in accordance with the GMS. However, in order to obtain the development right an application process will need to be followed, thus an owner of a property cannot do anything that is contradictory to the zoning requirements before he/she obtains approval from the Municipality. The current area between Mitchell Street and Main Road has received numerous applications in the past for guest houses, this is due to the proximity of the CBD and the amenities provided in and around Hermanus. Furthermore, Hermanus is regarded as a favoured holiday destination and guest houses will not develop if it weren't so.

The above being stated it should be noted that the area in Zone 15 (Mitchell Street and Main Road) is not identified for densification to such a degree that the character of the area is negatively impacted upon and therefore the proposed developments in Zone 15 must still respect the character of the residential area. A condition will be imposed that the majority of the business

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must be done from Main Road in order to protect the residential character of Zone 15 in Mitchell Street.

**Objection**

EJ Webb, GFN Shreeve, H & K Coetzee

The application states that the owner intends to operate a guest house, however the guest house has been in operation since December 2015. They therefore apply retrospectively for permission.

**Applicant's Comment**

The owners rented out two (2) bedrooms in each of their houses during the holiday season of December 2015, which they can legally do as a trial run to establish whether it will be a viable proposition. The owner needed to test the market first. Only after this period they decided to go ahead with the application.

**Town Planner's Comment**

The above statement of that the guest house operated two (2) bedroom is not correct. The official page of the guest house indicated that all the rooms were rented out during the December 2015 holiday. After a complaint was received the Town Planning Department indicated that the owner is only allowed to rent two (2) guest rooms on a single residential zone as a primary right. Only after that did the owner comply with the zoning parameters. That being said the owner intends to use the guest house with five (5) rooms thus the reason for the application.

**Objection**

EJ Webb, B & E James, GFN Shreeve

The existing garage on Erf 1138 was converted illegally, without the necessary approval. This seems contradictory with the planning principles. This affects the existing rights of owners. It is further understood that the garage was illegally extended. Furthermore, it is not guaranteed that the rooms will be used for guests alone and may be used for staff accommodation. It is believed that a hairdresser and spa are to be operated from these rooms. Noises generated from these rooms are unacceptable. Rain water also discharges into GFN Shreeve's property.

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**Applicant's Comment**

The garage has been converted into two (2) bedrooms and will be used as part of the guest house as stated in the motivation.

Due to the response received during the December holiday the owner decided not to use the garage area as a spa or hairdresser. This is built onto the erf boundary and no windows are located in the wall facing the adjacent property. The objector should welcome this because it introduces less noise as opposed to windows and doors being situated 2m away from the boundary. Noise from the main dwelling will be no more than from a normal five (5) bedroom dwelling.

Any owner can convert their garage into bedrooms as long as it complies with the regulations; therefore the relaxation application was submitted.

Sufficient parking is provided.

**Town Planner's Comment**

It should be noted that the garage was renovated and changed illegally. The applicant wishes to address this conversion through the proposed application. However, the proposed development must still respect the rights of the adjoining property owners; this is made very clear in terms of planning law. The desirability of this issue will be further addressed in the Evaluation heading.

It should be noted that the Municipality in general is not supportive of living quarters/habitable areas on the property boundary.

**Objection**

EJ Webb, B & E James, GFN Shreeve, G Dicey, H & K Coetzee

Parking is provided for on Erf 1179 which is a distance from the reception area and thus it is not convenient. Therefore the consolidation is only to meet the parking requirement. The entrance from Main Road does not have a bell or sign and is thus not considered as the main entrance. Guests will surely use Mitchell Street as the main entrance as occurred in the past five (5) months. The operation of the guest house via Mitchell Street will impact on the safety and welfare of the members of the community. Parking has occurred on both sides of Mitchell Street, with entrances and driveways being parked closed. Delivery trucks and noise caused by the number of vehicles in Mitchell Street negatively affects noise levels, safety and welfare. The courtesy vehicle parks in the entrance of Mitchell Street along with the owner's car.

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**Applicant's comment**

The two erven will be consolidated and only two (2) parking bays will be used in Mitchell Street and five (5) bays from Main Road. Guests will be compelled to use the five (5) parking bays from Main Road. The necessary signage will be erected after the approval has been given. Provision is made on site for enough manoeuvring space so that cars can turn around on site.

Regarding the inconvenience of the parking for clients the owners intend to deliver a five (5) star guest house rating to their clients and will therefore not allow their clients to carry the luggage more than 50m. Therefore, they will have porters or a drop and go facility from Mitchell Street.

The parking arrangements depicted in the proposed application will be applied and strictly implemented, as soon as this application is approved. It should be noted that there are other residence in the area which conduct group sessions from their homes. These groups also park in Mitchell Street, but is not affiliated with the proposed guest house.

No proof has been provided that guests from the guest house park in front of other residences' entrances.

The issue of rain water must be discussed with the owner of the property.

**Town Planner's Comment**

A condition will be imposed that the main access and entrance to the guest house must be from Main Road; this is to ensure that the issues regarding traffic in Mitchell Street is circumvented. The two (2) parking bays in Mitchell Street will have to be clearly marked to be used for the sole use of the owner/manager. A drop and go facility as suggested by the applicant will not work as there is no space in Mitchell Street for an additional on-site parking bay.

The consolidation of the two (2) erven will allow sufficient onsite parking from Main Road. The application was circulated to the Department of Transport and Public Works who indicated that they have no objection against the onsite manoeuvring.

**Objection**

EJ Webb, B & E James

The residents of Mitchell Street ensure that vehicles of a certain weight cannot use Mitchell Street in order to ensure that it continues to be a quiet and pleasant residential area. Delivery trucks and noise caused by the

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number of vehicles in Mitchell Street negatively affects noise levels, safety and welfare.

**Applicant's Comment**

Deliveries to a five (5) bedroom guest house are not done by heavy vehicles and the situation regarding traffic in Mitchell Street will not change. Deliveries will most likely be done from Main Road as it has direct access to the parking area.

**Town Planner's Comment**

Deliveries will have to be done by small 3500kg trucks as there is not sufficient space for large vehicles to park. This will be imposed as a condition.

**Objection**

B & E James

Services (water, electricity and sewerage) will also be negatively affected.

**Applicant's Comment**

It must be kept in mind that this is an existing dwelling and whether there are two (2) adults or children staying in each room, it will make little difference to the services used.

**Town Planner's Comment**

The comment received from the Engineering Department indicates that the services will not be affected. If the property owner wishes to utilise additional capacity than what is provided then they will have to apply for it on their cost.

**Objection**

G Dicey

The small opening which is identified for garbage will attract rats and be inviting for vagrants. Furthermore, it is ill equipped to handle the refuse accumulated by the business. Could this be serviced via Main Road?

**Applicant's Comment**

It is more convenient for the owners of the guest house to use the refuse in Mitchell Street than in Main Road. This is only a five (5) bedroom guest

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house and the refuse will not be substantially higher than a normal dwelling with five (5) bedrooms. The owners will conduct a top class business and will ensure the refuse yard is managed well.

**Town Planner's Comment**

The Town Planning Scheme Regulations allows a refuse yard to be situated on the property. The opinion is held that a refuse yard is more fitting with the aesthetics of the dwelling and area. Allowing the refuse to be removed from Mitchell Street will also be a similar process as Mitchell Street is not as busy as Main Road.

**Objection**

G Dicey

Other deliveries will not require service deliveries such as the proposed guest house will require.

**Applicant's Comment**

The guest house will not require additional services or deliveries compared to any other guest house. Deliveries will probably take place from Main Road. This will not have an impact on the safety and welfare of the community.

**Town Planner's Comment**

Deliveries to the property will be restricted in 3500kg delivery trucks.

**Objection**

B & E James and G Dicey

This establishment is the Gregoire Hotel. If noise of an unacceptable level and other nuisances occur, what can a neighbour do in order to have the complaint attended to? Noise from guests and staff is already an unpleasant feature.

**Applicant's Comment**

The name of the guest house is only an umbrella name under which the applicant will conduct the guest house; the application is only for a guest house and not a hotel. If there are high levels of noise and if of an unacceptable level and other nuisances occur, then the Municipal By-laws and Regulations make provision for people to complain.

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**Town Planner's Comment**

Any issues which are out of bounds of any law must and can be reported to the relevant authority. In case of noise it must reported to the police and law enforcement.

**Objection**

H & K Coetzee

The applicant seeks to establish a six (6) to 8 (eight) bedroom through consolidation. In future the applicant can rent out even more rooms.

**Applicant's Comment**

The application is only for two (2) guest houses that will be operated separately and each one complies with the provisions applicable to a guest house as stated in the Overstrand Municipal Zoning Scheme Regulations.

**Town Planner's Comment**

The guest house will be limited to the amount of rooms which is stated in its approval. If the owner seeks to operate more guest rooms then another application will have to be submitted and evaluated.

**Objection**

H & K Coetzee

There are no facilities for people with disabilities.

**Applicant's Comment**

The owners are in the process of addressing this issue.

**Town Planner's Comment**

No comment

**Objection**

H & K Coetzee

No mention is made of the spa/salon facilities situated within the dwelling.

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**Applicant's Comment**

These facilities will only be accessible to the guests and not the general public.

**Town Planner's Comment**

Amenities may be provided to the lodgers as long as the provisions of the Zoning Scheme are complied with. A similar objection was addressed by the applicant and it was stated that the spa and salon will be removed. Therefore the response given against the objection is contradictory to the previous response.

**Objection**

H & K Coetzee

The swimming pool and reception area are opposite the objectors' bedrooms. Loud music is played at night and noise is created by guests.

**Applicant's Comment**

There are two (2) swimming pools available to the guests. The owner can only recall one time when music was played for a birthday party. There is adequate legislation which deals with the noise levels.

**Town Planner's Comment**

The property owner will have to ensure that the noise regulations are complied with.

**Objection**

H & K Coetzee

Workers going to and from the guest house are upsetting dogs in the neighbourhood and causing them to bark.

**Applicant's Comment**

Barking of dogs take place in any neighbourhood and here again the authorities will act if it is out of control.

**Town Planner's Comment**

If dogs barking are an issue then the relevant authority must be contacted.

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**Objection**

H & K Coetzee

The access from Main Road is too steep and does not adhere to the road curve camber of 1:40. There was an objection from a person in a wheel chair that they cannot use the side walk.

**Applicant's Comment**

The driveway was constructed by the Overstrand Municipality. The Municipality must be notified if this is not to regulations.

**Town Planner's Comment**

This objection does not relate to the application at hand and therefore the objection should be lodged to the Municipality on a separate occasion.

**Objection**

H & K Coetzee

Seven (7) parking bays are not enough for staff and guests.

**Applicant's Comment**

The number of parking bays is adequate in terms of the Municipal Zoning Scheme.

**Town Planner's Comment**

The number of bays provided is adequate for the operation of a guest house. The Municipal Zoning Scheme does not require that additional parking bays be provided for staff.

**Objection**

H & K Coetzee

Visitors, personnel, deliveries and contractors pose a security risk.

**Applicant's Comment**

Visitors and personnel bring eyes and ears to the neighbourhood which should improve security. Deliveries normally take place during the day and contractors are no longer on site.

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**Town Planner's Comment**

This statement is only speculative; furthermore one would think a quieter area where there are fewer activities is more likely to be targeted by criminals.

**Objection**

H & K Coetzee

The guest house does not fit in with the character of the area.

**Applicant's Comment**

Guest houses are considered compatible with residential areas and can therefore also be granted under a consent use application. Therefore guest houses are situated in most of the residential suburbs and especially in Eastcliff.

**Town Planner's Comment**

The character of the residential area and the compatibility of the proposed application will be discussed in the Evaluation.

**Discussion/Evaluation**

First point to be discussed is the proposed consolidation. Both Erven 1138 and 1179 is zoned as Residential Zone 1. Erf 1138 is developed with a main dwelling and outbuildings; Erf 1179 is developed with a pergola. Both erven measure 892m<sup>2</sup> and the consolidated erf will measure 1784m<sup>2</sup>. The consolidation will allow the property owner to provide additional parking on the consolidated erf for the proposed guest house. None of the objections received are specifically aimed at the consolidation of the two (2) properties. Furthermore, the opinion is held that the consolidation will not have a negative effect on the character of the area. Similar applications have been approved in the past.

As stated in the Background the proposed application is for a consent use in order to operate a five (5) bedroom guest house. The guest house was operated illegally for several days in December 2015. Various objections were received against the proposed guest house which, as seen in the previous heading, are mainly aimed at how the guest house is being managed, various aspects (i.e. parking, noise) associated with the guest house and the proposed departures associated with the illegal construction and conversion of two (2) buildings on the property (i.e. the cottage and garage). Therefore the evaluation of the consent use will be discussed in five

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(5) sub-headings namely: Departures, Character of the Area, Access and Parking, and Services.

**Departures**

As stated in the Background the garage on Erf 1138 is situated on the eastern boundary, the garage was converted illegally into a second dwelling and therefore a relaxation application is required. It should be stated that the illegal building work is not limited to the conversion of the garages to bedrooms, but also an extension has been built onto the garage.

From the objections against this conversion and illegal building work it is evident that the neighbours are not in favour of the proposed departure. In general Council is not supportive of habitable areas on the property boundaries as it infringes on the rights and amenity of the adjacent property owners. Section 36 of the Land Use Planning Ordinance (LUPO) clearly states that when considering an application the relevant authority must have regard for the desirability of the contemplated utilisation of land concerned.

The applicant states that the proposed departure is desirable because “it makes economic sense” and it will have no negative impact on the neighbours because the guests will be transient and only spend the night in the guest room. However, the applicant also states that the proposed conversion of the garage is to create a second dwelling. It should be noted that a second dwelling can be used for permanent lodging. Furthermore, the applicant does not discuss or motivate the illegal extension of the garage. The proposed conversion and extension clearly impact the neighbour as can be seen throughout the objections received. The motivation rendered that “it makes economic sense” does not indicate whether the proposed use/structure is desirable. Case law demonstrates that when a court decides to warrant a demolition the courts would not necessarily refuse to grant a demolition order purely on the basis of the inconvenience or harm for the owner or builders (i.e. financial loss or impact) and in adopting this stance it protects authorities in upholding the law (AJ van der Walt, *The Law of Neighbours* p 341-344, Juta: 2010). The property owner should have had regard for the planning and building regulations before commencing with construction.

The conversion of the existing cottage into an office is not discussed or motivated throughout the application. An approval letter dated 1969, for amendments to the existing structure, states that there are two (2) dwellings on Erf 1138, thus the cottage was considered as a second dwelling. The cottage encroaches over the street building line and this means that the applicant should have applied for departure of the street building line in order to permit the use of the office. Even though the office is not motivated or part of the application, it is clear from the objections received that the office operated from Mitchell Street causes issues such as parking on the street.

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Furthermore, only two (2) dwellings are permitted in terms of the Zoning Scheme therefore if the cottage is considered a second dwelling then no other second dwelling will be permitted on the property. Thus the proposed second dwelling in the garage area is not permitted in terms of the Zoning Scheme.

Considering the abovementioned the proposed departure from the eastern building line is not supported and considered undesirable. The new extension of the garage will have to be used as a true extension of the garage in order to comply with the parameters of the zoning scheme. Furthermore the existing cottage must also be restored to its cottage status and a separate application must be submitted to legalise the extension of the garage.

An illegal pergola is situated on the western boundary of Erf 1179. The structure was built in late 2015 and measures 2,7m in height. Only a small portion edges over the existing boundary wall therefore the impact of the structure is minimal. The proposed departure from the western lateral building line is therefore supported and recommended for approval.

#### **Character of the area**

It must be stated that even though a guest house is considered in line with the general character of a residential area it is still considered a consent use, because the consent use must be tested against the characteristics of each area.

It must be noted that a five (5) bedroom guest house consent use application have been received and approved on Erf 1180, which is right next to the subject properties. No objection was received against the application. One can there come to the conclusion that the guest house application itself is not considered a problem, but the way it is managed and because of the conversion of the garage. Therefore it is also suggested that administrative/office component must be operated from the main dwelling and accessed from the main road in order to lessen the effect of the guesthouse on Mitchell Street.

As previously stated the departure of the eastern building line is not supported. Therefore the applicant will only be allowed to operate three (3) bedrooms from the main dwelling. This will help ensure that the character of the area is maintained and that the impact of the consent use is scaled down.

#### **Access and Parking**

Access and parking from Mitchell Street poses various issues. It is therefore recommended that the main entrance for guests is obtained from Main Road. Clear signs must be erected to indicate this. Parking in front of the garage

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must designate the parking for the owner/manager. No on street parking can be provided from Mitchell Street.

**Services**

Sufficient services are provided. The property owner will have to comply with the requirements as stated in the Services Report.

**Conclusion**

The conclusion of the above mentioned evaluation can be summarized as follows:

The proposed departure from the eastern building line cannot be supported due to the illegal building work which was done to extend the existing garage and the impact of the proposed conversion on the neighbours. A separate application will have to be submitted for the legalisation of the illegal building work.

The outside office must be turned into an approved cottage. Any change of use will require a separate application.

The proposed departure from the western building line can be supported due to the minimal impact on the neighbours.

The consent use to operate a five (5) bedroom guest house will be partially approved. Only three (3) bedrooms can be operated from the main dwelling. This will allow the impact of the proposed use to be less and in line with the character of the area.

Guest may only access the property from Main Road. Clear signs must be erected to indicate this. No on street parking will be allowed in Mitchell Street.

**7. Financial Implications**

None

**8. Staff Implications**

None

**9. Comments from other Departments, Divisions and Administrations**

**Engineering Services Department**

See Annexure F.

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**Fire Department**

See Annexure G.

**Building Department**

Low impact. Building plans to be submitted to comply with SANS 10400.

**Local Heritage**

Supported.

**Operation Department**

No objection.

**Western Cape Department of Transport and Public Works**

No objection.

**10. Annexures**

- Annexure A: Locality Plan
- Annexure B: Motivation Report
- Annexure C: Site Development Plan
- Annexure D: Objections
- Annexure E: Applicant's comment on the objections
- Annexure F: Services Report
- Annexure G: Comments: Fire Department

**RECOMMENDATION:**

1. that the objections **be noted**;
2. that, in terms of Section 15 of Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) the application for departure in order to relax the eastern lateral building line with Erf 1139 from 2m to 0m to accommodate a proposed new second dwelling, **not be approved**;

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3. that, in terms of Section 2.2 of the Overstrand Municipality Zoning Scheme Regulations of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) the application for a consent use on Erven 1138 and 1179, Hermanus to operate a five (5) bedroom guest house on the property concerned, **be partially approved;**
4. that, in terms of Section 2.3 of the Overstrand Municipality Zoning Scheme the application for the consolidation of Erven 1138 and 1179, Hermanus in order to create one (1) erf approximately 1784m<sup>2</sup> in extent, **be approved;**
5. that, in terms of Section 2.2 of the Overstrand Municipality Zoning Scheme the application for consent use in order to establish a guest house on the consolidated property, **be approved;**
6. that, in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) the application to relax the western lateral building line with Erf 1180 from 2m to 0m to accommodate a gazebo, **be approved;**
7. that the recommendation in 3., 4., 5. and 6. above be subject to the following conditions:
  - (a) that the facility be utilised as a **guest house only**;
  - (b) that a maximum of **three (3) bedrooms** to be let in the main dwelling, be permitted;
  - (c) that the owner/manager resides on the premises;
  - (d) that the guest house is utilized as such - no self-catering will be permitted;
  - (e) that no facilities (bar/restaurant or any other) be provided for non-residents of the accommodation establishment and that these facilities only be used by bona-fide guests of the establishment;
  - (f) that the selling or serving of liquor on the premises will be subject to the applicant obtaining the necessary liquor licence;
  - (g) that a minimum of one (1) permanently demarcated parking bay per guest room (as indicated on the Site Plan submitted) and two (2) for the owner/manager be provided within the erf boundaries;
  - (h) that commercial rates and service tariffs, as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;

**AGENDA of the  
Portfolio Committee : Infrastructure and Planning  
14 February 2017  
(Also the agenda for the Mayoral Committee Meeting : 22 February 2017)**

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- (i) that the accommodation facility complies with Health and Safety Legislation and that this approval will be subject to regular inspections by the Fire Control Co-ordinator and the Health Inspector;
- (j) that a single non-illuminated sign that complies with the Municipal By-Law on signage, may be displayed on the premises;
- (k) that guests of the guest house and delivery trucks can only obtain vehicular access onto the new consolidated erf from Main Road;
- (l) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
- (m) that building plans must be submitted to the Building Department for approval;
- (n) that all signage and advertisement are indicative that the main access to the guest house and office area is obtained from Main Road;
- (o) that no on street parking is permitted from Mitchell Street;
- (p) that the garage is converted back to a garage and that a separate application is submitted for the extension of the garage over the building line within sixty (60) days of the notice of decision of this application;
- (q) that the cottage is converted back to a cottage as indicated on the approved building plans within sixty (60) days of the notice of decision of this application;
- (r) that deliveries to the guest house can only be made with a 3500kg truck;
- (s) that all the conditions in the Services Report (attached as Annexure F), be complied with;
- (t) that all conditions complied by the Fire Department is adhered to (attached as Annexure G);
- (u) that a Site Plan be submitted showing the three (3) rooms that will be utilized for guest rooms, for record purposes;
- (v) that it is the responsibility of the owner/applicant to register the approved consolidation within five (5) years from the date of approval;
- (w) that the consolidation be registered before the rights to operate the three bedroom guest house can be acted upon;

**AGENDA of the  
Portfolio Committee : Infrastructure and Planning  
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(Also the agenda for the Mayoral Committee Meeting : 22 February 2017)**

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- (x) that this approval does not absolve the applicant from compliance with any other relevant legislation; and
  - (y) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
8. that the applicant be notified of his/her right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above conditions of approval.

<b>RESPONSIBLE OFFICIAL :</b>	<b>P ROUX</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>8 MARCH 2017</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>8 MARCH 2017</b>
<b>TARGET DATE TO INFORM OBJECTORS :</b>	<b>8 MARCH 2017</b>

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
14 February 2017  
(Also the agenda for the Mayoral Committee Meeting : 22 February 2017)**

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**2.**

**ERVEN 1138 & 1179, EASTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA:  
PROPOSED CONSOLIDATION, CONSENT USE AND DEPARTURE: MESSRS  
WRAP CONSULTANCY ON BEHALF OF THE UNIT 121 LEISURE BAY TRUST**

**1138 & 1179 HEC (3237)**

**P Roux**

**13 December 2016**

**(028) 313 8900**

**Hermanus Administration**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
14 FEBRUARY 2017, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION:**

that the item **be referred** to the forthcoming Mayoral Committee meeting for the Executive Mayor to take a decision.

**RESPONSIBLE OFFICIAL :**

**P ROUX**

**TARGET DATE FOR IMPLEMENTATION :**

**8 MARCH 2017**

**TARGET DATE TO INFORM APPLICANT :**

**8 MARCH 2017**

**TARGET DATE TO INFORM OBJECTORS :**

**8 MARCH 2017**



WRAP

EXECUTIVE SUMMARY

## I. SUMMARY

Erven 1138 and 1179 Hermanus, are located in the neighbourhood of Eastcliff and are zoned Residential Zone 1: Single Residential (SR1) in terms of the Overstrand Zoning Scheme.

Erf 1138, Hermanus is developed with a double storey dwelling house, a second dwelling unit and an outbuilding.

Erf 1179, Hermanus is vacant except for a gazebo that was erected in the north western corner. (refer Plan 6)

The owners intend to operate a guest house on Erf 1138 Hermanus. They also want to consolidate Erven 1138 and 1179 Hermanus in order to provide sufficient parking on the consolidated erf and also to ensure that the gazebo, currently situated on Erf 1179, Hermanus, can also be used by the guests.

The dwelling house located on Erf 1138, Hermanus has a total floor area of 342 m<sup>2</sup> and consists of four bedrooms, of which one is upstairs, three bathrooms, lounge, kitchen, terrace with swimming pool and a separate cottage that will be used by the owners as an office. The existing garage was converted and will be used by the owners as a second dwelling unit consisting of two bedrooms and two bathrooms which will also be let as part of the guest house. Five of the bedrooms will thus be rented out to guests and the owner/manager will reside on the premises.

The kitchen in the guest house will be utilised for the preparation of guest's meals, which meals will only be served to residents of the establishment. All facilities will only be for the use of guests and no facilities will be open to the general public. The proposal therefore complies with the policy for conducting an accommodation establishment of the Overstrand Municipality.

A total of seven (7) parking bays are required for the guest house and are calculated as follows:

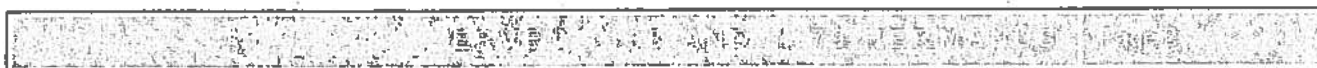
1. Five rented bedrooms on Erf 1138, Hermanus will require 5 parking bays;
2. The owners/manager on Erf 1138, Hermanus requires 2 parking bays;

Two (2) parking bays will be provided on Erf 1138, Hermanus and the balance of five (5) will be provided on Erf 1179, Hermanus which will be consolidated with Erf 1138, Hermanus as shown on Plan 1.

These parking proposals comply with the policy for conducting an accommodation establishment of the Overstrand Municipality dated 31 May 2001.

The existing garage on Erf 1138, Hermanus was converted into a second dwelling unit and being on the eastern boundary, a relaxation of the building line is applied for.

In light of the above, WRAP Consultancy was appointed for the compilation and submission of the following town planning applications (refer Annexure A):



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**WRAP**

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**EXECUTIVE SUMMARY**

**CONSOLIDATION** of Erven 1138 and 1179 Hermanus in terms of Section 2.3 of the Overstrand Municipality Zoning Scheme of June 2013;

**CONSENT USE** on the consolidated Erf 1138 and Erf 1179, Hermanus for a guest house in terms of section 2.2 of the Overstrand Municipality Zoning Scheme of June 2013;

**DEPARTURE** from the 2 meter building line along the eastern boundary of Erf 1138, Hermanus to 0 meters to accommodate the proposed second dwelling unit in terms of Section 15(1)(a)(i) of the Land Use Planning Ordinance, 1985; and

**DEPARTURE** from the 2 meter building line along the western boundary of the consolidated Erf 1138 and 1179, Hermanus to 0 meters to accommodate the gazebo in terms of Section 15(1)(a)(i) of the Land Use Planning Ordinance, 1985.



WRAP

MOTIVATION

## 2. PROJECT DESCRIPTION

Erven 1138 and 1179, Hermanus are located in the neighbourhood of Eastcliff, Hermanus and are zoned Single Residential Zone 1: Single Residential (SR1) in terms of the Overstrand Municipal Zoning Scheme.

Erf 1138, Hermanus is developed with a double storey dwelling house and the owners intend to operate a three (3) bedroom guest house from this dwelling house and two en-suite bedrooms in the second dwelling unit. The one bedroom will be used by the owners/manager.

The owners have furthermore indicated that two of the rooms in the guest house will be developed with an en-suite bathroom and the other two will share a bathroom. Building plans illustrating the above were approved by the municipality.

The owners/manager will operate and manage the guesthouse and will reside in one of the bedrooms in the dwelling house on Erf 1138, Hermanus.

Erf 1179, Hermanus is vacant except for a gazebo that was erected in the north western corner.

## 3. THE APPLICATION

**CONSOLIDATION** of Erven 1138 and 1179, Hermanus in terms of Section 2.3 of the Overstrand Municipality Zoning Scheme of June 2013;

**CONSENT USE** on the consolidated Erf 1138 and Erf 1179, Hermanus for a guest house in terms of section 2.2 of the Overstrand Municipality Zoning Scheme of June 2013;

**DEPARTURE** from the 2 meter building line along the eastern boundary of the consolidated Erf 1138 and 1179 Hermanus, to 0 meters to accommodate the proposed second dwelling unit in terms of Section 15(1)(a)(i) of the Land Use Planning Ordinance, 1985; and

**DEPARTURE** from the 2 meter building line along the western boundary of the consolidated Erf 1138 and 1179 Hermanus, to 0 meters to accommodate the gazebo in terms of Section 15(1)(a)(i) of the Land Use Planning Ordinance, 1985.

## 4. PROPERTY DETAILS

The characteristics of the subject properties, as contained in the relevant title deeds, can be summarised as follows:

<b>PROPERTY DESCRIPTION:</b>	Erf 1138 Hermanus, in Overstrand Municipality, District Caledon, Western Cape Province.
<b>EXTENT:</b>	892 m <sup>2</sup> (Refer Plan 3)
<b>OWNERSHIP:</b>	The Unit 121 Leisure Bay Trust (Reg No 3031/97)
<b>TITLE DEED NUMBER:</b>	T75565/2016

WRAP

MOTIVATION

PROPERTY DESCRIPTION: Erf 1179 Hermanus, in Overstrand Municipality, District Caledon, Western Cape Province.  
 EXTENT: 892 m<sup>2</sup> (Refer Plan 4)  
 OWNERSHIP: The Unit 121 Leisure Bay Trust (Reg No 3031/97)  
 TITLE DEED NUMBER: T68749/2007

#### 5. TITLE DEED

Copies of the title deeds of the subject properties are attached as Annexure B and C.

A study of the deeds revealed that no restrictive conditions have been registered that may prohibit the approval of this application. A bond has been registered over Erf 1138, Hermanus and the necessary consent has been received from the bondholders. (Refer Annexure D)

#### 6. LOCATION IN THE LANDSCAPE

Erf 1138, Hermanus is located in Mitchell Street, Eastcliff, Hermanus. The property is bound by Mitchell Street to the north, Erf 1139, Hermanus to the east, Erf 5671, Hermanus to the west and Erf 1179, Hermanus to the south. (Refer Plan 2)

Erf 1179, Hermanus is located in Main Road, Eastcliff, Hermanus. The property is bounded by Main Road to the south, Erf 1178 to the east, Erf 1180 to the west and Erf 1138 to the north. (Refer Plan 2)

#### 7. SITE ACCESS

Access to the properties is obtained directly from Main Road and Mitchell Street by means of an existing access point. It is proposed to utilise this specific access points for the purposes of the application. No additional access points will therefore be created.

#### 8. LAND USE AND STATUS QUO

##### 8.1 Zoning (See Plan 5)

The zoning of the properties is Single Residential Zone 1: Single Residential (SR1) in terms of the Overstrand Municipality Zoning Scheme of 2013. The land use parameters associated with this zoning is therefore as follow:

Primary use: Dwelling house, day care centre, guest rooms, home occupation and second dwelling unit.

Consent uses: Crèche, guest house, green house, house shop, institution, place of instruction, place of worship, residential building and tourist accommodation.

Street building line: 4 metres to any street boundary provided that in the case of a corner site with an average depth of 20m or less has a 3m street building line.



WRAP

MOTIVATION

Side and Rear building lines for erven greater than 400m<sup>2</sup> are 2m.

Coverage: 50%

Height: 8m measured from the base level to the top of the roof.

#### 8.2 Services

All the necessary services are already installed that includes electricity, water and sewerage infrastructure.

#### 8.3 Surface water

No surface water is present on the property.

### 9. LAND USE CHARACTER OF THE SURROUNDING AREA

The character of the surrounding area is predominantly residential in nature. The land use of Residential Zone 1: Single Residential (SR1) is therefore considered to be compatible with single residential land uses. The subject properties are also located close to commercial activities located in Main Road. Being located in and close to the main road of Hermanus, it is maintained that the properties are ideally located for the proposed land use. A number of accommodation establishments are already operating in the immediate surrounding area. It is therefore evident that the location of land use proposals as contained in this application does not have a negative impact on residential land use activities.

The properties furthermore enjoy excellent accessibility, due to its location close to Main Road and Mitchell Street. Access to both the properties will be via an existing access point.

### 10. SPATIAL PLANNING INITIATIVES

Spatial planning initiatives that were considered for the purposes of this application include the Western Cape Provincial Spatial Development Framework and the Overstrand Municipal Spatial Development Framework.

None of these documents make specific provision for the land use as proposed in this application. However, the proposal was measured against the principles of these documents and it was found that it is consistent therewith. In light of the above, the documents as mentioned previously will not be discussed in any further detail.

### 11. DEVELOPMENT OBJECTIVES

The first objective of this application is to establish the land use rights for the operation of a guest house on the property. As mentioned previously, five (5) bedrooms will be made available to guests and one (1) room will be used by the owners/manager. The guest house will furthermore consist of a television lounge, dining area as well as a kitchen. Meals will only be provided to guests of the

WRAP

MOTIVATION

establishment as well as all the other facilities will be provided for. Liquor will only be provided to guests, as per the guest house policy of the Overstrand Municipality. As mentioned previously, seven (7) parking bays can be provided on the two sites. All the necessary health and safety certificates will be obtained upon approval of this proposal. The parking layout is attached to this report as Plan 1.

## 12. NEED AND DESIRABILITY OF THE LAND USE PROPOSAL

Hermanus is a typical coastal tourism town and the need for overnight accommodation for tourists always exists. As the town of Hermanus is also locally and internationally known for whale watching and many visitors and even overseas tourists consider this as a "bucket list must do" to visit Hermanus. For this reason the proposed facilities will provide for a definite need. It is our opinion that the land use proposal is also desirable. A dwelling house can at any time be used for single residential purposes. The facility will therefore not have the appearance of an accommodation establishment (for example a hotel, etc) and will still appear as a single residential unit, blending in with the existing neighbourhood. It is furthermore maintained that the proposed land use will not have a negative impact on the surrounding area as the land use proposed is essentially residential in nature.

As far as the relaxation of the 2m side building line on the consolidated Erf 1138 and Erf 1179, Hermanus, is concerned it can be motivated that the existing garage, which can and was approved on the boundary was converted into a second dwelling unit to be used as part of the guest house. It would not make economic sense to break this down and a relaxation of the building line is considered much more feasible.

As mentioned previously, guest house land use is regarded in the same category as residential land use. The reason for this being that guests usually only sleep at the facility. For the greater part of the day, they will spend their time in Hermanus, the beach, or the surrounding area, only returning late afternoon. There is no noise impact associated with guest houses and the proposed structure will be orientated in such a manner that the privacy of surrounding property owners will not be infringed upon.

The additional land use rights that will be established with the approval of this application, is the operation of a guest house on the properties concerned. The zoning will remain unchanged. The application is furthermore for a consent use and is permanent in nature. Should the land use however have one or other negative impact on the surrounding neighbourhood during its operations, the Municipality can enforce the conditions of approval. It is however maintained that no negative impacts on existing land use rights will result with the approval of this application.

With the consolidation of Erven 1138 and 1179, Hermanus most of the parking for the guest house on the consolidated erf will be provided on the Main Road side of the consolidated erf. This proposed consolidation will provide more space for the guest house as far as open areas, pedestrian movement and parking are concerned.

WRAP

MOTIVATION

### 13. IMPACT ON SERVICE INFRA-STRUCTURE

#### Roads

No new roads will be constructed for the purposes of this application.

#### Water

No additional impact on water supply is anticipated.

#### Electricity

No additional impact on electricity supply is anticipated.

#### Sewerage

No additional impact on sewage infrastructure is anticipated.

### 14. GRANTING AND REFUSAL OF APPLICATION

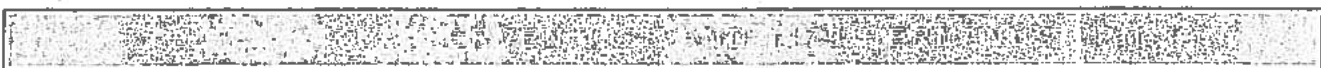
The Land Use Planning Ordinance, 1985 (no 15 of 1985) in Section 36 stipulates that:

- o "any application shall be refused solely on the basis of a lack of *desirability* of the contemplated utilization of land concerned including the guideline proposals included in a relevant structure plan in so far as it relates to desirability, or on the basis of its effect on existing rights concerned", and
- o "regard shall be had, in considering relevant particulars to only the *safety and welfare of the members of the community* concerned, the conservation of the natural and developed environment concerned or the effect of the application on existing rights concerned".

The acceptance of land use on a specific land portion must be tested in accordance with the physical characteristics of the property, existing planning in the area, and the character of the environment, the potential, location and accessibility of the property as well as the provision of service infrastructure to the proposed development.

It has been motivated in the above sections that the proposal as contained within this application is indeed desirable and that it is consistent with the principles of the applicable structure plan and other spatial initiatives. It was also shown that the proposal will not have any negative impact on existing land use rights of surrounding property owners or of the land use rights associated with the existing zoning of the property. Lastly it was proven that the proposal will not have a negative impact on the safety and welfare of the members of the community and will not have any detrimental impact on the natural or developed environment.

In light of the above it is maintained that this application complies with the provisions of Section 36 of the Land Use Planning Ordinance, 1985 (no.15 of 1985) and therefore it is our recommendation that this application be approved.



WRAP

RECOMMENDATION

**15. RECOMMENDATION**

This motivational report has provided a clear and complete analysis of the land use proposal. It was shown that the proposal is indeed consistent with existing spatial planning initiatives and that there is a definite need for development such as this to be approved. This application furthermore attempts to establish the land use in the most desirable manner. Being located close to the central business area and beach of Hermanus and enjoying excellent accessibility, it is maintained that the subject properties are perfectly located for the proposed development. It was also shown that the proposed land use is compatible with the character of the surrounding area and that the approval of this application will not result in negative impacts on existing land use rights. Lastly it was shown that the impact of the development on service infrastructure will be minimal.

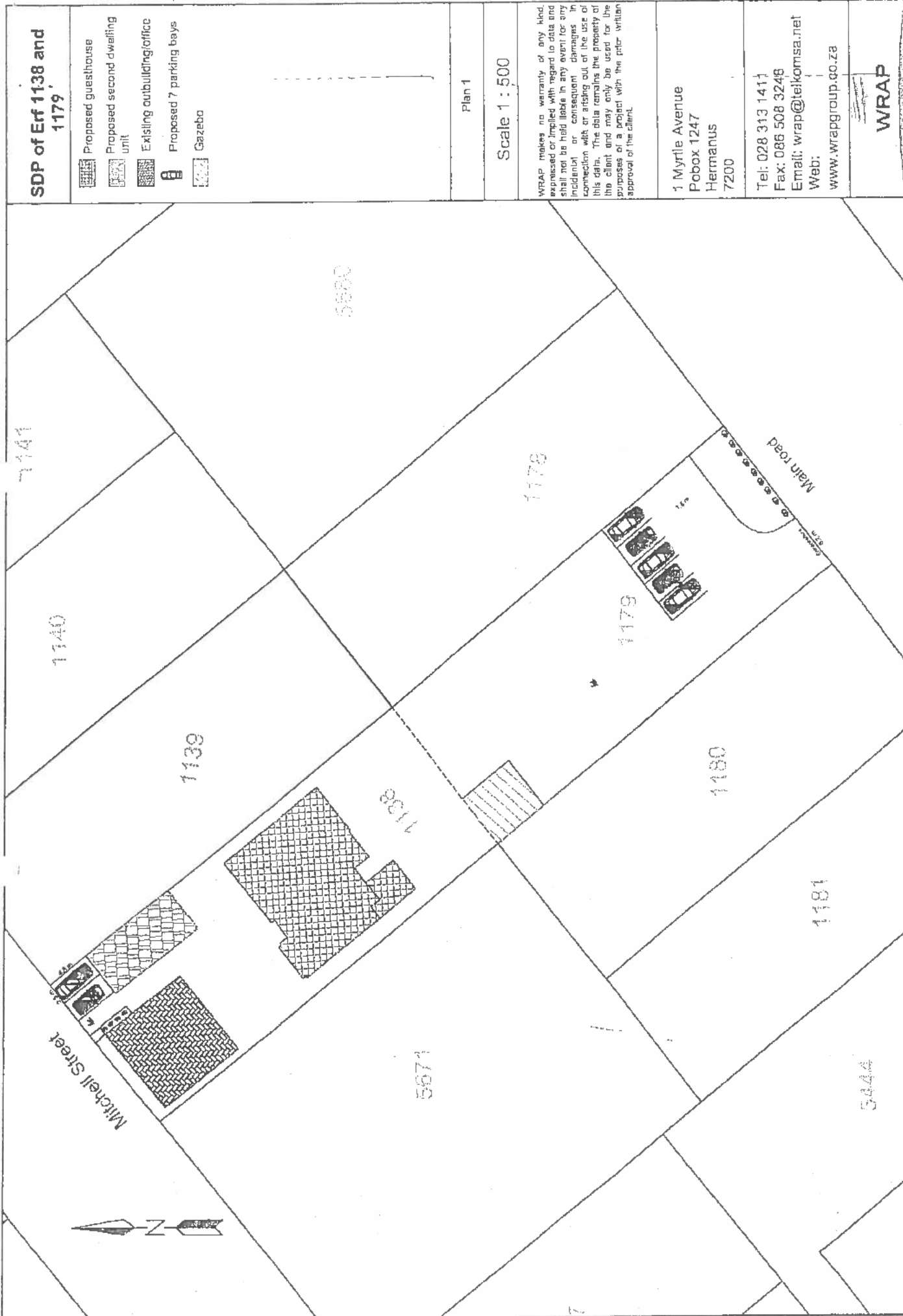
In light of the above, it is our recommendation that the following applications be approved:


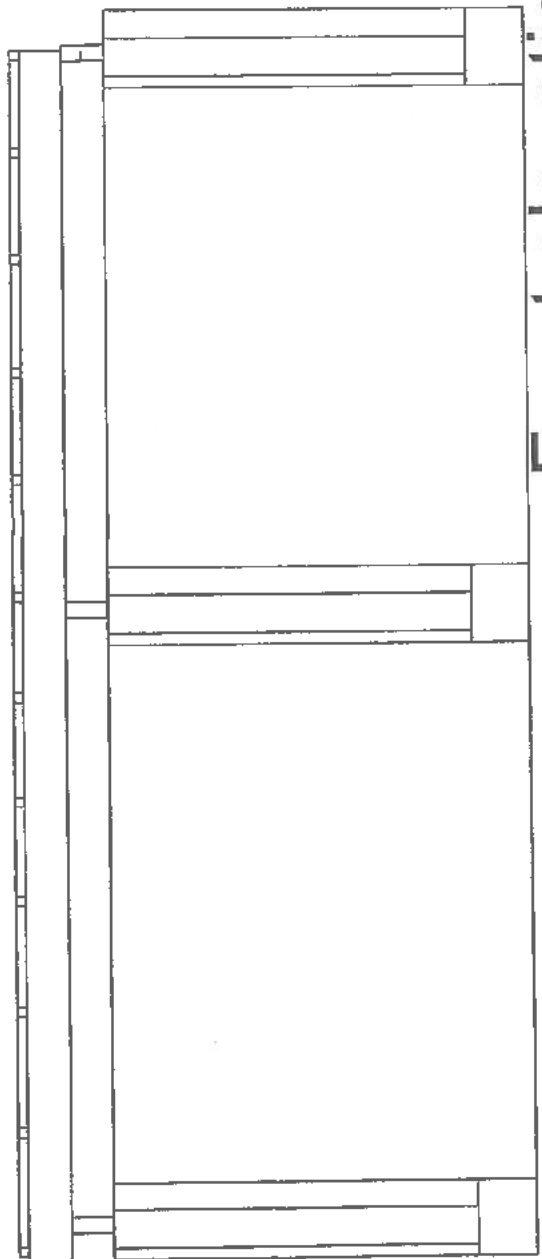
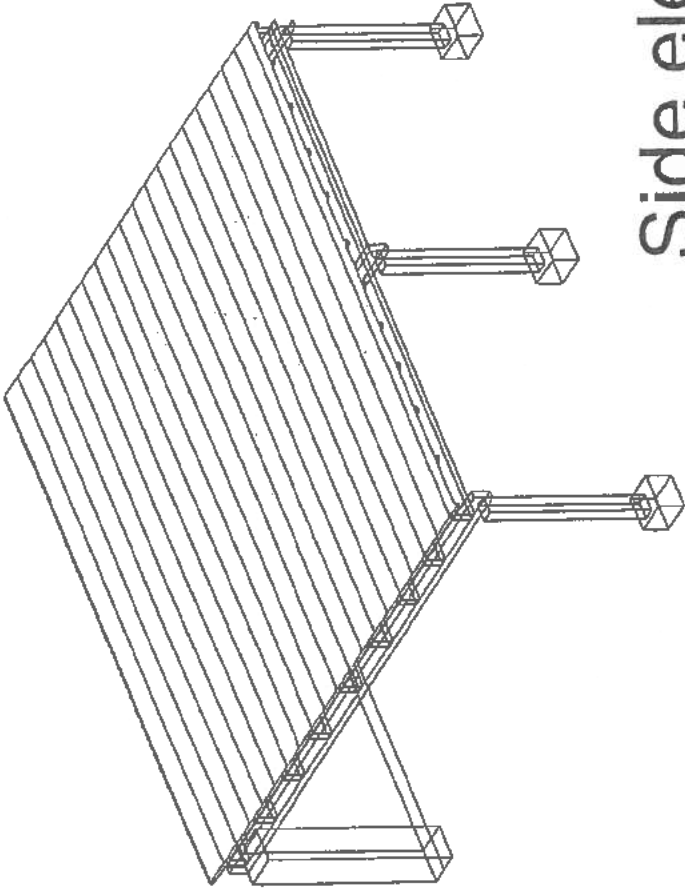
**CONSOLIDATION** of Erven 1138 and 1179, Hermanus in terms of Section 2.3 of the Overstrand Municipality Zoning Scheme of June 2013;

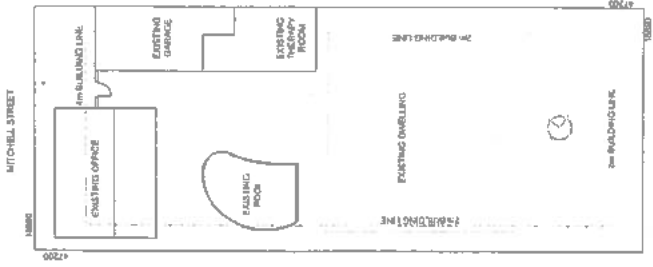
**CONSENT USE** on the consolidated Erf 1138 and Erf 1179, Hermanus for a guest house in terms of section 2.2 of the Overstrand Municipality Zoning Scheme of June 2013;

**DEPARTURE** from the 2 meter building line along the eastern boundary of the consolidated Erf 1138 and Erf 1179, Hermanus to 0 meters to accommodate the proposed second dwelling unit in terms of Section 15(1)(a)(f) of the Land Use Planning Ordinance, 1985; and

**DEPARTURE** from the 2 meter building line along the western boundary of the consolidated Erf 1138 and 1179, Hermanus to 0 meters to accommodate the gazebo in terms of Section 15(1)(a)(i) of the Land Use Planning Ordinance, 1985.

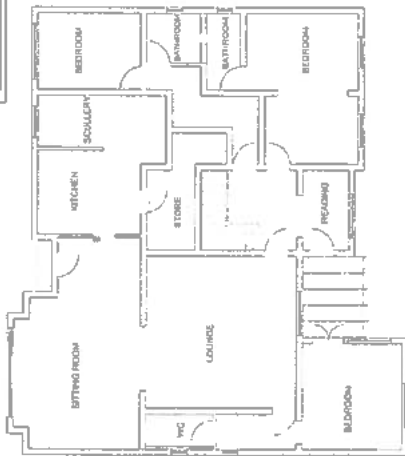
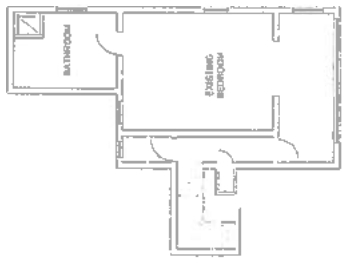
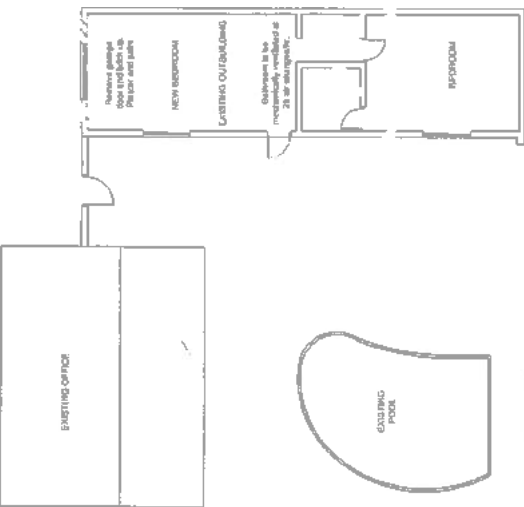
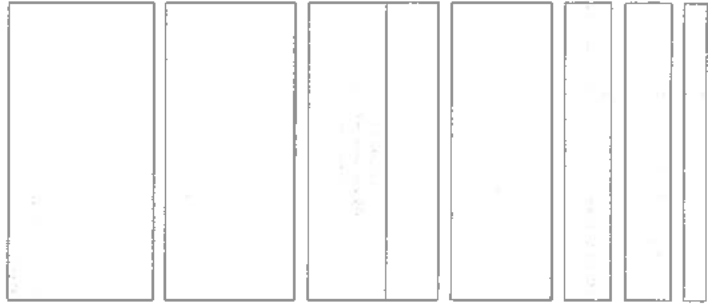
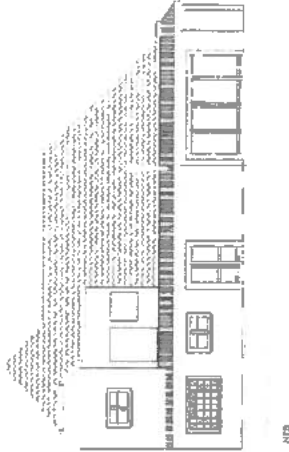


<p><b>Gazebo drawing</b></p> <p>Below are all the measurements of the gazebo</p> <p>Height: 2.7 m  Length: 6.5 m  Width: 6.2 m  Area: 40.3 m<sup>2</sup></p> <p>Picture of the gazebo</p> 	<p>Plan 6</p> <p><b>NTS</b></p> <p>WRAP makes no warranty of any kind, expressed or implied with regard to data and shall not be held liable in any event for any accidental or consequent damages in connection with or arising out of the use of this data. The data remains the property of the client and may only be used for the purposes of a project with the prior written approval of the client. The architectural drawing of the gazebo will be submitted upon the approval of the application. The purpose of this drawing is to provide the footprint of the development.</p> <p>1 Myrtle Avenue  Pobox 1247  Hermanus  7200</p> <p>Tel: 028 313 1411  Fax: 086 508 3248  Email: <a href="mailto:wrap@telkomsa.net">wrap@telkomsa.net</a>  Web: <a href="http://www.wrapgroup.co.za">www.wrapgroup.co.za</a></p> <p><b>WRAP</b></p>
 <p><b>Front elevation</b></p>	 <p><b>Side elevation</b></p>



**ENERGY EFFICIENCY**  
 OUTBUILDING FLOOR AREA = 75sqm  
 GLAZING AREA = 10,6sqm = 14% (XA Compliant)

**AREAS**  
 PLOT = 889,7sqm  
 EXISTING MAIN DWELLING = 210,4sqm  
 EXISTING OUTBUILDING = 84,8sqm  
 EXISTING RECEPTION = 78sqm  
 COVERAGE = 373,2sqm = 42%



NTS

NTS

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TP- A Theart  
(H Olivier)

FILE NO: Erven 1138 & 1179 - HM
SCAN NO: 31
COLLABORATOR NO: 933907

Brian and Eva James  
9 Talbragar Place  
Craighall  
2196

Tel 077 787 4880  
Cell 083 630 2057  
e-mail [brianj@imagine.co.za](mailto:brianj@imagine.co.za)

24 August 2016

Hermanus Town Planning,  
16 Paterson St,  
Hermanus

Dear Sirs,

We refer to your email relating to Erven 1138 and 1179.

We think that there has been a typing error in your notice as we are sure that Erf 1138 is 86 Mitchell St not 87.

We bought our retirement house at 75 Mitchell St some time ago and for the last 8 years have spent the first 6 months of each year in Hermanus. We have enjoyed the fact that Mitchell Street had become particularly quiet, peaceful, and safe and largely traffic free, since the street was closed off. Our property, Erf 1121, is opposite Erf 1138 (86 Mitchell St) and will we believe, be seriously negatively affected by a Guest House.

We object to the consolidation of Erven 1138 and 1179.

The consolidation appears to have been applied for after the Guest House, which was already completed and operating, to correct the violation of the required on site parking requirements. It is clear to us that the indicated parking area is not in convenient proximity to the proposed Guest House or the Administration Office ("Reception Area"). The checking in and out administration office is on Mitchell St, a long way away from the proposed parking area, but near the proposed Guest House. The office in our view should be located on Erf 1179 (226 Main Rd) close to the parking.

We object to the Consent Use application for the following reasons:

As the proposed / existing Reception Area is directly on Mitchell St where guests have already street parked while checking in and out, and carrying their luggage to and from their nearby rooms

Because of the convenience of Mitchell St in relation to the Reception Area and their accommodation, we have already seen that Mitchell St, on both sides of the road, is the preferred parking spot for guests and delivery vehicles.

12 SEP 2016 TP



TP - A Theart  
(H Olivier)

FILE NO: Erven 1138 & 1179 - HM
SCAN NO: 31
COLLABORATOR NO: 933907

Brian and Eva James  
9 Talbragar Place  
Craighall  
2196

Tel 077 787 4880  
Cell 083 630 2057  
e-mail [brianj@imagine.co.za](mailto:brianj@imagine.co.za)

24 August 2016

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Because of the convenience of Mitchell St in relation to the Reception Area and their accommodation, we have already seen that Mitchell St, on both sides of the road, is the preferred parking spot for guests and delivery vehicles.

12 SEP 2016 TP

02 SEP 2016

The parking of a number of cars and / or delivery vehicles on Mitchell St, besides adding to the noise level, negatively affects the safety and welfare of ourselves and neighbouring residents, when entering Mitchell St from their properties. This is due to the fact that the visibility of the road is materially reduced by these vehicles. Although parking would be available on Erf 1179, we believe, from first-hand experience, that it is unlikely to be frequently used by guests or delivery vehicles, as that parking is significantly less convenient for them.

Noise levels from guests and staff is already an unpleasant feature and we expect continued outside entertaining to take place during the season.

It is hard to believe that Hermanus needs more tourist accommodation and we do not wish our quiet street to be over-run by money making accommodation facilities, at the expense of the comfort and safety of the permanent residents.

We object to the Departure from the 2 meter building line along the eastern boundary to 0 meters.

The existing structure was previously used as a garage, but to put bedrooms and bathrooms in the garage space, on the boundary, will affect the environment and seriously impact the existing rights of the next door property. We understand that to accommodate the 2 guestrooms the garage has already been extended, without the approval of even the direct neighbours or I am sure yourselves and have been equipped with the requisite plumbing and electricity services.

There is also no certainty that these rooms will not in future be used as staff accommodation, as we understand, that the same applicant has applied for a similar Consent Use on the adjoining property, Erf 1178.

Finally the submission made by WRAP Consultancy misrepresents to you the true position as it does not discuss in any detail either the Western Cape or the Overstrand Municipal Spatial Development Frameworks. They simply assume that this rezoning is good for us.

Finally it does not seem possible that 10 extra users will have no effect on the water, sewerage, electricity supply and noise levels and will certainly increase the traffic on our quiet Mitchell St.

Yours sincerely,



Brian and Eva James



P.S In the event that our objection is not successful, we request that positive steps are taken by the municipality to prevent guests and delivery vehicles from parking on Mitchell St for any reason.

1179 &amp; 1138 HEC

TR A Theart  
(C H Olivier)

Alida Calitz - FW: Infrastructure and Planning

From: "Shreeve" <shreeve@netactive.co.za>  
 To: <alida@overstrand.gov.za>  
 Date: 2016/09/14 10:41 AM  
 Subject: FW: Infrastructure and Planning  
 Cc: <ratepayers@hermanus.co.za>



Town Planner/Municipal Manager  
 Overstrand Municipality,  
 HERMANUS

Dear Sir,

I am in receipt of your registered letter of 19<sup>th</sup> August 2016 ref. 1179 & 1138. I have received a notice to this effect in April this year. Your latest notice appears to be an exact duplicate of the first notice. I have therefore attached below my reply to your first notice which still applies. It would appear that all affected parties as well as other residents of Mitchell Street oppose this application for the same reasons given in my original letter. I am sure that if these objections were dealt with by the applicant we would all be inclined to view the application differently.

I would appreciate acknowledgement of receipt of this letter.

Yours faithfully,

G.F.N. SHREEVE (Mrs)

From: Shreeve [shreeve@netactive.co.za]  
 Sent: 12 May 2016 09:24 AM  
 To: 'alida@overstrand.gov.za'  
 Subject: Infrastructure and Planning

FILE NO:	Even 1179 & 1138
SCAN NO:	Hermanus
	26
COLLABORATOR NO:	937411

Your registered letter of 11<sup>th</sup> April 2016 file ref 1138 & 1179 HEC (3242)

Also registered letter of 19<sup>th</sup> April 2016 file ref. 1178 HEC (3238) refers:

CONVERSION OF ERF 1139 INTO A GUEST HOUSE and THE CONSOLIDATION OF ERF 1138 AND ERF 1179

Sir,

With reference to the above I believe that the presentation by WRAP is actually a misrepresentation of the facts. In reality, these are the facts:

FACT # 1 It is not the *intention* of the owners to operate a guest house. The buildings in question have in fact been operating as a guest house for the last 5 months.

Fact # 2 Both houses mentioned have been rented out to guests under the same umbrella of operation and under the same name. Therefore the two applications: one dated 11th April File reference 1138 and the second 1179 (3242) of 19<sup>th</sup> April Erf 1178 (3238) should be considered as one application.

FACT # 3: Diagrams SDP of Erf 1138 and 1179 show five parking bays on Erf 1179. The entrance gate to the supposed parking has no bell, and no name of the business on the gate so this is obviously not intended to be the main entrance to the business.

FACT # 4: Cars exiting from this proposed parking area will almost certainly have to reverse out on to Main Road.

FACT # 5: This parking area is in reality extremely inconvenient to guests with regard to luggage. It is a long way from the Reception area, there are two flights of steps to carry luggage and the pathway is rough and uneven. There is no reception area off Main Road; the reception area/office has been positioned on Mitchell Street. A nameplate has been erected and an office furnished for this. It stands to reason therefore that guests are going to park in Mitchell

14 SEP 2016

13 SEP 2016

10:09:51 AM

Street where already paving has been laid for this. (This has indeed proved to be the case over the five months the guest house has been operating )

FACT # 6: The guest house courtesy vehicle (bus) parks in the entrance area on Mitchell Street. The staff park their cars there as well. The owners often park there as well. It is not uncommon for there to be up to 15 cars parked directly in front of 86 Mitchell Street, up and down the street and across the road. The result is that cars emerging from the residences on either side of the guest house have a very restricted view up and down Mitchell Street and there have already been occasions when collisions have been narrowly avoided. Even pedestrians (such as residents walking their dogs) have been compromised.

FACT # 7: We have even had guests of The Gregoire parking outside our garage thus blocking us in and preventing us from using our cars. All deliveries are also brought to this entrance and delivery vehicles add to the congestion. All this does not add anything positive to the security and character of our previously quiet street.

FACT # 8: The building described as "second dwelling" consisting of two en suite "bedrooms" which was previously a garage is built on the borderline of Erf 1138 and Erf 1139. The owners themselves have told us that they are already operating a health spa in this building and also intend running a hairdressing salon there. Whether it is used for these purposes or as bedrooms the fact remains the noise generated from this building right on our very border and from the nearby kitchen is already unacceptable.

FACT #9: We have invested a large amount of money in this particular area because it is quiet and off the "beaten track." The operation of a guest house is *already* proving to be disruptive, noisy and inconvenient. We are sure when there are 16 guests resident in the two buildings it must have an effect also on the water pressure, the sewer efficiency and the other services for our area.

FACT # 10: Rain water from the "second dwelling" is already being discharged into our property.

These are the facts about the situation as it is at present. Furthermore there is no guarantee that, were the present owners to sell the business, the new owners would be any more sympathetic to those of us living in this quiet residential neighbourhood and, in fact, might cause even more disruption and noise.

For these many palpable reasons listed above we cannot support the applications which have been carefully laid out in the WRAP application to give the impression that it is the intention of the owners - *in the future* - to operate a guest house. In actual fact, the guest house is already fully operational and the facts stated above already exist.

Yours faithfully,  
G.F.N.SHREEVE (Mrs)  
Erf 1139  
88 Mitchell Street,  
Eastcliff, HERMANUS  
082 8789 558



This email has been checked for viruses by Avast antivirus software.

[www.avast.com](http://www.avast.com)



ANNEXURE D 6/12

FILE NO:	Erven 1138 & 1179
SCAN NO:	Herm
	45
COLLABORATOR NO:	939203

TR A Theart  
(H Olivier)

Jennifer Webb  
69 Mitchell Street  
Eastcliff  
Hermanus  
7200

Tel: (028) 312-1831  
Cell: 072 824 5783

email: [jwebb@overstrand.gov.za](mailto:jwebb@overstrand.gov.za)

~~14 May 2016~~

22nd September 2016

Mr S Muller M.A. S. Muller  
Town Planning department  
Overstrand Municipality

Your ref: 1138 & 1179 HEC (3242)

Dear Sir

ERVEN 1138 AND 1179 EASTCLIFF HERMANUS: PROPOSED CONSOLIDATION, CONSENT USE AND DEPARTURE

Your letter dated 11 April in this regard refers. I object to the application on the following grounds:

1. I own and reside in No 69 Mitchell Street (Erf 331), which is diagonally opposite Erf 1138 and which I bought over ten years ago. I invested in this property because it was in a quiet residential area. I do not wish this ambience to be destroyed by yet another guest house, no matter how upmarket. There are already a number of guesthouses in Mitchell Street and the area does not need another.
2. You state that the owners intend to establish a guesthouse on the consolidated erven. However, they have been operating a guest house on Erf 1138 since December 2015. They therefore seem to be applying retrospectively for permission to continue doing what they are doing already. If this is not in contradiction to your planning principles, I would appreciate an explanation as to why this is acceptable.
3. Please note in this regard that the existing garage on Erf 1138 was converted into a second dwelling some time ago. As far as I am aware, no application was made at the time for a relaxation of the building line and this use would therefore also seem to be in contravention of your planning principles.
4. With regard to the consolidation of the two erven, please note that the proposed parking area, to be situated on Erf 1179, is some distance away from the reception area on Erf 1138. Frequent kerbside parking on Mitchell Street can therefore be expected. It appears that the consolidation is being proposed as a mechanism to meet the minimum parking requirements for a guest house. Again, this begs the question of why this is being applied for retrospectively.
5. The residents of Mitchell Street have worked hard to make sure that vehicles over a certain weight cannot use the road, in order that it continues to be a quiet and pleasant residential area. I for one certainly would wish this to continue and am sure that this application would place this character of the area in jeopardy.

22 SEP 2016

collab 902386

23 Sep 2016

There are many other aspects of this application with which I take issue, but will leave those residents directly affected by these aspects to raise them with your office. The Town Planning department should apply its planning principles and regulations fairly and without bias. The retrospective nature of this application in particular raises doubt as to whether this is the case in this instance, and I would appreciate your assurance that you will give attention to this in your assessment of its merits.

Yours sincerely

Mrs EJ (Jennifer) WEBB

TP-AT (H Olivier)

Petrus Roux - Fwd: Erven 1179 & 1138 HEC - CONSOLIDATION, CONSENT USE AND DEPARTURE APPLICATION



From: Michelle Dicey <michdicey@gmail.com>  
To: <petrusroux@overstrand.gov.za>  
Date: 2016/09/23 07:32 AM  
Subject: Fwd: Erven 1179 & 1138 HEC - CONSOLIDATION, CONSENT USE AND DEPARTURE APPLICATION

----- Forwarded message -----

From: **Gregory E. Dicey** <gregd@procbroc.co.za>  
Date: Fri, Sep 23, 2016 at 5:15 AM  
Subject: RE: Erven 1179 & 1138 HEC - CONSOLIDATION, CONSENT USE AND DEPARTURE APPLICATION  
To: [michdicey@gmail.com](mailto:michdicey@gmail.com)

Re Amended notice

Erven 1179 and 1138, 229 Main Road and 87 Mitchell Street, Hermanus (eastcliff) Overstrand Municipal Area;

Proposed Consideration, consent use, and departure wrap on behalf of CM Barry and BM Cooper

I Gregory Edward Dicey have earlier provided my and my wife's previous report detailing our reasons of objection pertaining to the operation of such a hotel/guesthouse in this location!

The time that the hotel quieted its operation, due to the fact that correct application procedure not having been adopted, highlighted the fact that Mitchell Street is a residential area and DOES NOT need an operation of this nature! It in no way enhances the area! There are more than enough such establishments in Hermanus, MOST Definitely Mitchell Street and Eastcliff

The applicant did not follow the correct procedure, and most surely believed that as us neighbours were never approached, we would have no option or time to object!

In terms of above we object to the usage of the said properties operating as a hotel or guest house or any commercial operation in its entirety!

Gregory E. Dicey

Cell: +27 82 551 2501

Email: [gregd@procbroc.co.za](mailto:gregd@procbroc.co.za)

FILE NO:	Erven 1138 & 1179
SCAN NO:	Hermanus
	21
COLLABORATOR NO:	939588

From: Gregory E. Dicey [mailto:[gregd@procbroc.co.za](mailto:gregd@procbroc.co.za)]  
Sent: Thursday, 22 September 2016 7:49 PM

TP 23 SEP 2016

~~32 SEP 2016~~

26 SEP 2016

To: 'michdicey@gmail.com' <michdicey@gmail.com>

Subject: FW: Erven 1179 & 1138 HEC - CONSOLIDATION, CONSENT USE AND DEPARTURE APPLICATION

Please find attached!and please make a copy of the e"mail

Gregory E. Dicey

Cell: +27 82 551 2501

Email: [gregd@procbroc.co.za](mailto:gregd@procbroc.co.za)

**From:** Petrus Roux [<mailto:petrusroux@overstrand.gov.za>]

**Sent:** Monday, 22 August 2016 4:03 PM

**To:** [gregd@procbroc.co.za](mailto:gregd@procbroc.co.za)

**Subject:** RE: Erven 1179 & 1138 HEC - CONSOLIDATION, CONSENT USE AND DEPARTURE APPLICATION

Dear Mr Dicey

The above mentioned application has reference.

Please find attached an amended notice for your perusal. Please provide comment on or before the date as specified there in.

Kind Regards

*Petrus Roux*

TOWN PLANNER

OVERSTRAND MUNICIPALITY

Tel: 028 313 8983

Fax: 028 313 2093

151  
C Holivier



FILE NO: 1138  
SCAN NO: 1138  
COLLABORATOR NO: 9440

Aansoek van The unit 121 The Leisure bay Trust

Ons erf no.5671 is geleë direk langs die hotel op erf 1138 in Mitchell straat.

Ons maak baie sterk beswaar teen die aansoek vir gastehuis van Erf 1178, sowel as die konsolidasie van erf 1179 en 1138 en die verslapping van die boulyne en die aansoek om gastehuis te bedryf op 1178 en 1138 en versoek dat dit afgekeur word.

Eastcliff is 'n stil residensiële area en moet so bly. Die eienaars probeer met konsolidasie nou een groot hotel met 6 - 8 kamers te bedryf op al die eiendomme gesamentlik. Indien die aansoek goedgekeur word, mag hulle in die toekoms nog meer akkommodasie bou en dit is 'n residensiële area.

Die feit dat die eienaars reeds begin bou het en reeds 'n hotel bedryf het in Desember 2015 op die erf 1138, is 'n oortreding van die munisipale regulasies -nog voordat hulle toestemming of aansoek gedoen het, en mag nie hierdie besluit beïnvloed in hulle guns nie. 'n Skrywe met 'n klagte hieroor is reeds gerig aan die Munisipale Bestuurder in 2015.

Ons verneem graag watter stappe teen hulle geneem is en of boetes opgelê is?

Daar is nie genoeg inligting beskikbaar in hierdie aansoek omtrent die 2 erwe en 2 huise wat aangrensend is en tans deur die eienaars gebruik word as **een eiendom** nie. Die een huis is geleë in Main rd en die ander huis in Mitchell straat.

Die eienaar het persoonlik die eiendom aan my gewys en aan my verduidelik dat albei huise verhuur word aan gaste – dus nie net 3 kamers nie, maar 6 kamers. Dit word **adverteer as 'n HOTEL**.

1. Ek het self die eiendom besigtig en daar is **NIE fasiliteite vir gestremdes** soos beweer word in die aansoek nie. Volgens die NBR moet een kamer versiening maak vir geriewe vir gestremdes.
2. Geen melding word gemaak van die **spa- salon** wat gebou is in die huis en wat kliënte van die publiek gaan bedien nie. Waar gaan die kliënte parkeer? Daar is reeds deur die eienaars gesoek vir 'n skoonheidsterapeut vir die spa-salon.
3. Daar is **nie genoeg parkering by die Mitchell str huis** nie en voertuie staan gereeld op al die bure se sypaadjies of in die straat en belemmer ons uitsig op aankomende verkeer. Die gaste wat

TP 23 SEP 2016

- kwansuis in die Main road huis oomag het, het ook in Mitchell straat parkeer aangesien daar nie 'n toepaslike parkeerarea voor die hek in Main rd is nie en ook geen naambord nie. Gaste ry dus om die blok na die Mitchell straatv ingang en parkeer daar.
4. Daar parkeer gereeld **afloweringsvoeruite en kontrakteursvoertuie op die sypaadjies** in Mitchell straat.
  5. Die huis in Mitchellstr het 'n swembad en **onthaal area waar saans harde musiek gespeel** word en die gaste geraas maak en partytjie hou. Die geraasvlakke is definitief meer as 'n standard gastehuis. Die gaste van albei die 2 geboue gebruik hierdie area. Ons slaapkamers is reg bokant hierdie geraas en my hoërskooldogter kan nie studeer nie. Soms is die geraas so erg en laat in die nag dat sy na 'n ander deel van huis moet gaan om te slaap.
  6. Die gedurige beweging van werkers en mense in hul erf is ontstellend vir al die honde in die buurt wat nou gereeld blaf – dit is veronderstel om 'n **stil residensiële woonbuurt** te wees.
  7. Die eienaar het sonder toestemming in Desember gedurende die **bouers vakansie** aan die eiendom gebou. Hulle het tot laat snags, soms tot 23h gesaag en gewerk en nie die bure in ag geneem nie. Verskeie versoeke van al die bure om nagtelike bouwerk te staak, is ge-ignoreer. Wetstoepassing moes geskakel word om in te gryp. Daar is selfs Oukersaand tot laatnag gebou. **Dit wys duidelik dat die eienaar nie respek het vir sy bure en munisipale regulasies nie.**
  8. Die **voertuig oprit in Main road is te steil** en voldoen nie aan die munisipale regulasies vir 'n **sypaadjie camber van 1 :40** nie. Daar was reeds klagte van 'n gestremde persoon met 'n rystoel dat hulle nie die sypaadjie voor die huis kan gebruik nie. Die eienaar het voorheen die oprit en sypaadjie self oorgebou.
  9. Sewe parkeerplekke is nie genoeg nie want daar is **personeellede** van die hotel wat ook op die eiendom parkeer.
  10. Erf 1178 en Erf 1138 word gesamentlik deur die eienaars gebruik **as een hotel** en die gaste gebruik albei erwe – dit kan dus nie gesien word as 2 aparte gastehuis nie.
  11. Die eienaar behoort aansoek te doen vir konsolidasie van erf 1178 en 1179 aangesien dit as een eiendom bedryf word.
  12. Hierdie ontwikkeling maak direk inbreuk op ons reg om in 'n stil straat te woon en 'n **residensiële atmosfeer** en stilte in die aand te geniet.
  13. Dit is definitief **“no desirability”** in ons woonbuurt.

14. Dit bring ook mee dat ons verdere **sekuriteits risiko** in ons straat het vanweë die baie besoekers en personeel, afweringsvoertuie en kontrakteursvoertuie.
15. Die ontwikkeling is nie in pas met die **bestaande karakter** en beplanning van die woonbuurt nie.
16. Die eienaar het reeds probeer om aangrensende erwe te koop en beplan om nog verdere uitbreidings te doen.

Dr Hannes en Mev Karin Coetzee  
Mitchell straat 82  
Erf nommer 5671  
Cell 082 9233 201




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2002

Town and  
Regional  
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Municipal  
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Local Economic  
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35 Duiker Street  
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Email:  
[wrap@telkomsa.net](mailto:wrap@telkomsa.net)

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

Wright Approach  
Investments 136 CC

Reg No  
CK 2002/060745/23

Our Reference: 15/31  
Your Reference: 1138 & 1179 HEC (3242)

6 October 2016

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

Attention: Mr Petrus Roux

**ERVEN 1138 AND 1179 HERMANUS: APPLICATION FOR CONSENT USE,  
CONSOLIDATION AND DEPARTURE**

Your letter dated 30 September 2016 has reference.

We hereby respond to the letters of objection that was submitted to the above application. We will deal with each objection separately and our comments will follow after each point of the specific objection:

**Objection 1: G E Dacey:** In his letter dated 23 September 2016 the objector stated that he has outlined his objection in his previous letter dated 5 May 2016 and we again respond on the different points raised previously.

1.1 *It appears the existing garage has also been converted to contain a spa and hair salon. Is this for the sole usage of the hotel patrons? As there is insufficient parking on Erf 1138 for outside clientele and Mitchell Street is not a street catering for such business enterprise.*

The existing garage will be converted into a second dwelling with two interleading bedrooms with two bathrooms and as clearly stated in the application and will be used as part of the guest house. Sufficient parking has been provided on site for the number of rooms that will be rented out.

1.2 *It is apparent from the manner in which the Gregoire Hotel has operated to date that it is the intention and practice of the guests to utilize the parking in Erf 1138 as opposed to that of Erf 1179.*

Erven 1138 and 1179 will be consolidated and the guest house will be operated from the consolidated erf and parking has been provided by means of two bays in Mitchell Street which is the quieter street and five bays entering from Main Road and guests will be compelled to use it as such.

TP- A Theart  
(P Roux)

FILE NO:	Erven 1138 &
SCAN NO:	1179-Herm
	03
COLLABORATOR NO:	965529

TP 28 OCT 2016

28 OCT 2016



- 1.3 *It is my opinion that the refuse area is insufficient and ill equipped to handle the refuse accumulated by such a business. There is a small area opening up to Mitchell Street that will attract rats if the garbage is stored here for the normal waste removal as provided by the municipality, as well as inviting vagrants. Could this refuse facility be located to be serviced via Erf 1179, being on the main road?*

It will be more convenient for the owners of the guest house to use the refuse area in Mitchell Street than in Main Road. It must be borne in mind that this is only a five bedroom guest house and the refuse will not be substantially more than a normal dwelling of five bedrooms or even bigger than what exists in the neighbourhood. The owners operate a top class guest house and the objector can be assured that they will operate the refuse area in a similar manner.

- 1.4 *There are bed and breakfast establishments in the area, however these do not require the service deliveries that such a hotel as the Gregoire would require! It would be preferable that these service deliveries be delivered via the entrance on the Main Road via Erf 1179. The accommodation establishment needs and services are by no means the same as this.*

Again this is only a five bedroom guest house and deliveries as well as the need for services will not differ from that of any other guest house. Deliveries will most probably take place from Main Road once the guest house is fully operational after approval and the parking areas are demarcated with the entrance and exit in place.

- 1.5 *I believe this establishment is THE GREGOIRE HOTEL. In the event of noise of an unacceptable level and maybe other nuisances that may be associated with the operation of a Hotel? What action can a neighbour exercise in order to have a reasonable complaint attended to?*

The name Gregoire Hotel is used by the owners as an umbrella brand name for all their accommodation establishments and this does not imply that this particular guest house is now considered to be a hotel. If this was a hotel it would mean that the application is incorrect as the application was only made for a guest house and that is all that the Municipality will consider for approval. As far as any possible noise is concerned, the Municipal By-laws and regulations make provision for people to complain if necessary.

- 1.6 *The establishment and operation of a hotel serviced via Mitchell Street will impact the safety and welfare of the members of the community in Mitchell Street and I as such request that these services and facilities be accessed and managed via the Main Road and Erf 1179.*

As stated previously the erven will be consolidated and deliveries can take place from either streets and again deliveries to a five room guest house are minimal and cannot have an impact on the safety and welfare of the communities living in Mitchell Street.

**Objection 2: GFN Shreeve:** In her letter dated 14 September 2016 Mrs Shreeve stated that her previous comments in her letter dated 12 May 2016 still stands and we again submit our comments on the different points raised.

- 2.1 *With reference to the above I believe that the presentation by WRAP is actually a misrepresentation of the facts. In reality, these are the facts:*

**FACT # 1:** *It is not the intention of the owners to operate a guest house. The buildings in question have in fact been operating as a guest house for the last 5 months.*

The true fact is that the owners have over the holiday season of December 2015 rented out two bedrooms in each of their two houses which they can legally do as a trial run.

**2.2 FACT # 2:** *Both houses mentioned have been rented out to guests under the same umbrella of operation and under the same name. Therefore the two applications: one dated 11th April File reference 1138 and the second 1179 should be considered as one application.*

The two houses were dealt with in two applications on request of the Municipality as this in their policy in such cases.

**2.3 FACT # 3:** *Diagrams SDP of Erf 1138 and 1179 show five parking bays on Erf 1179. The entrance gate to the supposed parking has no bell and no name of the business on the gate so this is obviously not intended to be the main entrance to the business.*

The two erven will be consolidated and the guest house will be operated on the consolidated erf and the necessary signage will be erected after approval as the owner is not legally entitled to do so yet.

**2.4 FACT # 4:** *Cars exiting from this proposed parking area will almost certainly have to reverse out on to Main Road.*

Provision will be made for a proper entrance and exit on erf 1179 as well as enough manoeuvring space so that cars can turn around.

**2.5 FACT # 5:** *This parking area is in reality extremely inconvenient to guests with regard to luggage. It is a long way from the Reception area, there are two flights of steps to carry luggage and the pathway is rough and uneven. There is no reception area off Main Road; the reception area/office has been positioned on Mitchell Street. A nameplate has been erected and an office furnished for this. It stands to reason therefore that guests are going to park in Mitchell Street where already paving has been laid for this. (This has indeed proved to be the case over the five months the guest house has been operating.)*

The owners intend to operate a five star guest house and will surely not expect guests to carry their luggage the mere 50m between the parking area and reception. They will either have porters carrying the luggage or have a drop off and go system from Mitchell Street.

**2.6 FACT # 6:** *The guest house courtesy vehicle (bus) parks in the entrance area on Mitchell Street. The staff parks their cars there as well. The owners often park there as well. It is not uncommon for there to be up to 15 cars parked directly in front of 86 Mitchell Street, up and down the street and across the road. The result is that cars emerging from the residences on either side of the guest house have a very restricted view up and down Mitchell Street and there have already been occasions when collisions have been narrowly avoided. Even pedestrians (such as residents walking their dogs) have been compromised.*

As soon as the application is approved the applicants will implement the entire parking arrangement as depicted in the application and none of the stated situations will occur and strict conditions will be implemented by the Municipality to prevent such contraventions. Under this point it can be mentioned that other residences from time to time also have group sessions and meetings at their houses and a lot of cars then park in Mitchell Street which is not related to the



operations of the guest house. The owners of the guest house also do not provide a courtesy bus service at this stage.

*2.7 FACT # 7: We have even had guests of The Gregoire parking outside our garage thus blocking us in and preventing us from using our cars. All deliveries are also brought to this entrance and delivery vehicles add to the congestion. All this does not add anything positive to the security and character of our previously quiet street.*

This is dealt with under Fact # 6 and there is no proof that this specific incident was caused by visitors of the guest house.

*2.8 FACT # 8: The building described as "second dwelling" consisting of two en suite "bedrooms" which was previously a garage is built on the borderline of Erf 1138 and Erf 1139. The owners themselves have told us that they are already operating a health spa in this building and also intend running a hairdressing salon there. Whether it is used for these purposes or as bedrooms the fact remains the noise generated from this building right on our very border and from the nearby kitchen is already unacceptable.*

Due to the good response the owners received over the December period for accommodation they decided not to use the garage area for a spa or hairdressing salon anymore but rather to convert this into a second dwelling with two bedrooms. As this is built onto the boundary there will be no windows or doors on that boundary which the objectors should welcome as this will limit noise in comparison with a situation where the bedrooms were built two metres away and fitted with windows opening towards the objector's erf. The kitchen existed in the original house and noise from this will be the same whether this is a five bedroom guest house or a five bedroom house occupied by a big family.

*2.9 FACT # 9: We have invested a large amount of money in this particular area because it is quiet and off the "beaten track." The operation of a guest house is already proving to be disruptive, noisy and inconvenient. We are sure when there are 16 guests resident in the two buildings it must have an effect also on the water pressure, the sewer efficiency and the other services for our area.*

It is inevitable that in residential areas situated close to the central business area of a developing town, developments such as this will occur and apart from this particular application there were quite a number of similar applications approved in this immediate area. The Overstrand Municipal Growth Strategy proves this point. The argument that a guest house is disruptive, noisy and inconvenient is simply not true and a well run guest house could be quieter than a normal house full of children.

*2.10 FACT # 10: Rain water from the "second dwelling" is already being discharged into our property. These are the facts about the situation as it is at present. Furthermore there is no guarantee that, were the present owners to sell the business, the new owners would be any more sympathetic to those of us living-in this quiet residential neighbourhood and, in fact, might cause even more disruption and noise. For these many palpable reasons listed above we cannot support the applications which have been carefully laid out in the WRAP application to give the impression that it is the intention of the owners – in the future - to operate a guest house. In actual fact, the guest house is already fully operational and the facts stated above already exist.*



We propose that the objector discuss the issue of the rainwater with the applicant. How future owners will conduct this business nobody can predict but they will be subjected to the same conditions and development rules as the present owner. The objector also objects to the consent use application for Erf 1178 but in fact none of the objections are applicable to this application. The heading of the letter refers to Erf 1139 which is presumably a mistake or typing error.

**Objection 3: BW & ES James:** In their letter dated 24 August 2016 Mr and Mrs James have submitted new objections that are basically the same as their objections in their previous letter dated 3 May 2016 but as it is differently stated we will deal with each of the points raised.

3.1 *We bought our retirement house at 75 Mitchell St some time ago and for the last 8 years have spent the first six months of each year in Hermanus. We have enjoyed the fact that Mitchell Street had become particularly quiet, peaceful, and safe and largely traffic free, since the street was closed off. Our property, Erf 1121, is opposite Erf 1138 (86 Mitchell St.) and will we believe, be seriously negatively affected by a Guest House.*

Addressed in 2.9

3.2 *We object to the consolidation of Erven 1138 and 1179. The consolidation appears to have been applied for after the Guest House, which was already completed and operating, to correct the violation of the required onsite parking requirements. It is clear to us that the indicated parking area is not in convenient proximity to the proposed Guest House or the Administration Office ("Reception Area"). The checking in and out administration office is on Mitchell Street, a long way away from the proposed parking area but near the proposed Guest House. The office in our view should be located on Erf 1179 (226 Main Rd) close to the parking.*

Addressed in 2.5

3.3 *As the proposed reception area is directly on Mitchell St where guests have already street parked while checking in and out, and carrying their luggage to and from their nearby rooms. Because of the convenience of Mitchell St in relation to their accommodation, it has already been shown that Mitchell St, on both sides of the road, is the preferred parking spot for guests and delivery vehicles. The parking of a number of cars and / or delivery vehicles on Mitchell St, besides adding to the noise level, negatively affects the safety and welfare of neighbouring residents when entering Mitchell St from their property. This is due to the fact that the visibility of the road is materially reduced by these vehicles. Although parking would be available on Erf 1179, we believe, from first-hand experience, that it is unlikely to be frequently used by guests or delivery vehicles, as that parking is significantly less convenient for them. Noise levels from guests and staff is already an unpleasant feature and we expect continued outside entertaining to take place during the season.*

This aspect has been dealt with extensively and it can only be said again that the owners manage this guest house at a high standard and will deal with these aspects as soon as their application is approved after which the Municipality will ensure that they operate the guest house according to the conditions of approval.

3.4 *It is hard to believe that Hermanus needs more tourist accommodation and we do not wish our quiet street to be over-run by money making accommodation facilities, at the expense of the comfort and safety of the permanent residents.*



The owners have done extensive research into the demand for tourist accommodation in Hermanus before they invested into developing these guest houses and they are convinced that a demand exists.

- 3.5 *We object to the Departure from the 2 meter building line along the eastern boundary to 0 meters. The existing structure was previously used as a garage, but to put bedrooms on-suite in the garage, on the boundary, will affect the environment and seriously impact the existing rights of the next door property. We understand that to accommodate the 2 guestrooms the garage has already been extended, without the approval of even the direct neighbours and I am sure yourselves and have been equipped with the requisite plumbing and electricity services. There is also no certainty that these rooms will not in future be used as staff accommodation, as we understand, that the same applicant has applied for a similar Consent Use on the adjoining property, Erf 1178.*

Addressed in 1.1.

- 3.6 *Finally the submission made by WRAP Consultancy misrepresents to you, the true position a does not discuss in any detail either the Western Cape or the Overstrand Municipality Spatial Development Frameworks. They simply assume that this rezoning is good for us. Finally it does not seem possible that 10 extra users will have no effect on the water, sewerage and electricity supply, on noise levels and will certainly increase the traffic on our quiet Mitchell St.*

In terms of Clause 10 in our submission report the Spatial Planning Initiatives were discussed and need not to be motivated any further. It must also be kept in mind that this was an existing dwelling on Erf 1138 and whether two guests stay in a room or two children of a normal household, it will make little difference to the use of water, electricity or sewerage. The cars will be parked in the designated areas.

**Objection 4: J Webb:** This objector has re-submitted his previous objections dated 14 May 2016 and we again submit our comments on the various objections.

- 4.1 *I own and reside in Mitchell Street, which is diagonally opposite Erf 1138 and which I bought over ten years ago. I invested in this property because it was in a quiet residential area. I do not wish this ambience to be destroyed by yet another guest house, no matter how upmarket. There are already a number of guest houses in Mitchell Street and the area does not need another.*

It is not a proven fact that an upmarket guest house will destroy the ambience of a residential area and whether there is not a need for another guest house is the opinion of the objector.

- 4.2 *You state that the owners intend to establish a guesthouse on the consolidated erven. However, they have been operating a guest house on Erf 1138 since December 2015. They therefore seem to be applying retrospectively for permission to continue doing what they are doing already. If this is not in contradiction to your planning principles, I would appreciate an explanation as to why this is acceptable.*

Addressed in 2.1

- 4.3 *Please note in this regard that the existing garage on Erf 1138 was converted into a second dwelling some time ago. As far as I am aware, no application was made at the time for a*



*relaxation of the building line and this use would therefore also seem to be in contravention of your planning principles.*

Any owner of a property can convert his garage into bedrooms as long as it complies with building regulations. In this case the relaxation of the building line was done simultaneously with the consent use application for a second dwelling.

*4.4 With regard to the consolidation of the two erven, please note that the proposed parking area, to be situated on Erf 1179, is some distance away from the reception area on Erf 1138. Frequent kerbside parking on Mitchell Street can therefore be expected. It appears that the consolidation is being proposed as a mechanism to meet the minimum parking requirements for a guest house. Again, this begs the question of why this is being applied for retrospectively.*

Addressed in 2.1

*5 The residents of Mitchell Street have worked hard to make sure that vehicles over a certain weight cannot use the road, in order that it continues to be a quiet and pleasant residential area. I for one certainly would wish this to continue and am sure that this application would place this character of the area in jeopardy.*

As stated before, deliveries to a five bedroom guest house are not done by heavy vehicles and the situation regarding traffic in Mitchell Street will not change.

**Objection 5: Dr and Ms Coetzee.** Their objections are outlined in their undated letter received on the 23 September 2016:

*5.1 Ons maak baie sterk beswaar teen die aansoek vir gastehuis van Erf 1178, sowel as die konsolidasie van erf 1179 en 1138 en die verslapping van die boulyne en die aansoek om gastehuis te bedryf op 1178 en 1138 en versoek dat dit afgekeur word.*

The application is for a consent use for a guest house on Erven 1179 and 1138 Hermanus and was advertised as such and the objectors cannot at this stage object to the application for a guest house on Erf 1178 Hermanus. The objection period already closed.

*5.2 Eastcliff is 'n stil residensiele area en moet so bly.*

It is inevitable that in residential areas situated close to the central business area of a developing town, developments such as this will occur and apart from this particular application there were quite a number of similar applications approved in this immediate area. The Overstrand Municipal Growth Strategy proves this point. The argument that a guest house is noisy and inconvenient is simply not true and a well run guest house as this one would be could be quieter than a normal house full of children.

*5.3 Die eienaars probeer met konsolidasie nou een groot hotel met 6 – 8 kamers te bedryf op al die eiendomme gesamentlik. Indien die aansoeke goedgekeur word, mag hulle in die toekoms nog meer akkommodasie bou en dit is 'n residensiele area.*

Applications were made for two guest houses that will be operated separately and each one complies with the definition for a guest house in terms of the Overstrand Zoning Scheme which clearly state that a guest house is limited to five bedrooms only. It is



definitely not the owner's intension to operate a hotel on the erven as this would in any case require a different application.

- 5.4 *Die feit dat die eienaars reeds begin bou het en reeds 'n hotel bedryf het in Desember 2015 op die erf 1138, is 'n oortreding van die munisipale regulasies - nog voordat hulle toestemming of aansoek gedoen het, en mag nie hierdie besluit beïnvloed in hulle guns nie. 'n Skrywe met 'n klagte hieroor is reeds gerig aan die Munisipale Bestuurder in 2015. Ons verneem graag watter stappe teen hulle geneem is en of boetes opgelê is?*

The owners have over the holiday season of December 2015 rented out two bedrooms in each of their two houses which they can legally do as a trial run to establish whether it will be a viable proposition to convert both houses into guest houses at a huge expense. As responsible business entrepreneurs they had to test the market first and have also advertised the houses to see what the response will be. Only after this period they decided to go ahead and the application was submitted but they have not rented out more rooms as they await the outcome of the application. The Municipality will have to comment on the steps if any taken against the owner but as mentioned above he was legally entitled to rent out two rooms.

- 5.5 *Daar is nie genoeg inligting beskikbaar in hierdie aansoek omtrent die 2 erwe en 2 huise wat aangrensend is en tans deur die eienaars gebruik word as een eiendom nie. Die een huis is geleë in Main rd en die ander huis in Mitchell straat. Die eienaar het persoonlik die eiendom aan my gewys en aan my verduidelik dat albei huise verhuur word aan gaste - dus nie net 3 kamers nie, maar 6 kamers. Dit word adverteer as 'n HOTEL.*

As stated before, application was made for two separate guest houses and the Municipality will in any case not grant the rights for a hotel as it was not applied for. Again the advert under the name of a hotel was just a brand name that the owner uses for all his accommodation establishments.

- 5.6 *Ek het self die eiendom besigtig en daar is NIE fasiliteite vir gestremdes soos beweer word in die aansoek nie. Volgens die NBR moet een kamer voorsiening maak vir geriewe vir gestremdes.*

The owners are in the process of making the necessary alteration to comply with the requirement.

- 5.7 *Geen melding word gemaak van die spa- salon wat gebou is in die huis en wat kliënte van die publiek gaan bedien nie. Waar gaan die kliënte parkeer? Daar is reeds deur die eienaars gesoek vir 'n skoonheidsterapeut vir die spa-salon.*

The spa will be used by the guests staying at the guest house and will not be open for the general public.

- 5.8 *Daar is nie genoeg parkering by die Mitchell str huis nie en voertuie staan gereeld op al die bure se sypaadjies of in die straat en belemmer ons uitsig op aankomende verkeer. Die gaste wat kwansuis in die Main road huis oomag het, het ook in Mitchell straat parkeer aangesien daar nie 'n toepaslike parkeerarea voor die in Main rd is nie en ook geen naambord nie. Gaste ry dus om die blok na die Mitchell straat ingang en parkeer daar.*

As soon as the application is approved the applicant will implement the entire parking arrangement as depicted in the application and none of the stated situations will occur and strict



conditions will be implemented by the Municipality to prevent such contraventions. Under this point it can be mentioned that other residences in Mitchell Street from time to time also have group sessions and meetings at their houses and a lot of cars then park in Mitchell Street which is not related to the operations of the guest house.

*5.9 Daar parkeer gereeld afleweringvoertuie en kontrakteursvoertuie op die sypaadjies in Mitchell straat.*

As stated above, provision will be made for deliveries and the Municipality will monitor this and make sure that no contraventions in this regard will take place. The only deliveries currently taking place is the collection and delivery of linen, once a week.

*5.10 Die huis in Mitchellstr het 'n swembad en onthaal area waar saans harde musiek gespeel word en die gaste geraas maak en partytjie hou. Die geraasvlakke is definitief meer as 'n standaard gastehuis. Die gaste van albei die 2 geboue gebruik hierdie area. Ons slaapkamers is reg bokant hierdie geraas en my hoërskooldogter kan nie studeer nie. Soms is die geraas so erg en laat in die nag dat sy na 'n ander deel van huis moet gaan om te slaap.*

Each of the two guest houses has its own swimming pool and the situation as described by the objector should not occur. As far as the noise levels are concerned, there is more than adequate legislation that controls this and if reported the authorities, will deal with it. The owners can recall music being played at one of the birthday celebrations, but the allegation that it happens frequently, is not true.

*5.11 Die gedurige beweging van werkers en mense in hul erf is ontstellend vir al die honde in die buurt wat nou gereeld blaf - dit is veronderstel om 'n stil residensiële woonbuurt te wees.*

The barking of dogs take place in any neighbourhood and here again the authorities will act if it is out of control.

*5.12 Die eienaar het sonder toestemming in Desember gedurende die bouers vakansie aan die eiendom gebou. Hulle het tot laat snags, soms tot 23h gesaag en gewerk en nie die bure in ag geneem nie. Verskeie versoeke van al die bure om nagtelike bouwerk te staak, is geignoreer. Wetstoepassing moes geskakel word om in te gryp. Daar is selfs Oukersaand tot laatnag gebou. Dit wys duidelik dat die eienaar nie respek het vir sy bure en munisipale regulasies nie.*

As stated before, there are more than adequate legislation that controls this and the fact that the authorities were contacted to stop the contraventions prove this. If the authorities were not able to deal with the situation it cannot be used as an objection to the proposed consent use. The owners acknowledge that a contractor once worked after six and after being requested by municipal law enforcement to stop, the work was stopped.

*5.13 Die voertuig oprit in Main road is te steil en voldoen nie aan die munispale regulasies vir 'n sypaadjie camber van 1:40 nie. Daar was reeds klagte van 'n gestremde persoon met 'n rystoel dat hulle nie die sypaadjie voor die huis kan gebruik nie. Die eienaar het voorheen die oprit en sypaadjie selfoorgebou.*

The driveway referred to was constructed by the Overstrand Municipality on request of the owner. If the driveway does not comply with Municipal regulations then the owner must be notified to rectify the situation and as he strives to operate a top class guest house he will

surely attend to this relative small matter.

*5.14 Sewe parkeerplekke is nie genoeg nie, want daar is personeellede van die hotel wat ook op die eiendom parkeer.*

The number of parking bays provided is adequate in terms of the Municipal Zoning Scheme.

*5.15 Erf 1178 en Erf 1138 word gesamentlik deur die eienaars gebruik as een hotel en die gaste gebruik albei erwe – dit kan dus nie gesien word as 2 aparte gastehuis nie.*

This point was brought up a few times already and our response was that application was not made for a hotel but for two separate guest houses.

*5.16 Die eenaar behoort aansoek te doen vir konsolidasie van erf 1178 en 1179 aangesien dit as een eiendom bedryf word.*

It is not required for the owner to consolidate the two erven as they are used separately.

*5.17 Hierdie ontwikkeling maak direk inbreuk op ons reg om in 'n stil straat te woon en 'n residensiële atmosfeer en stilte in die aand te geniet.*

This point was already dealt with in the beginning of the objector's letter.

*5.18 Dit is definitief "no desirability" in ons woonbuurt.*

The desirability of this application was dealt with extensively in the motivation report.

*5.19 Dit bring ook mee dat ons verdere sekuriteits risiko in ons straat het vanweë die baie besoekers en personeel, afweringsvoertuie en kontrakteursvoertuie.*

Visitors and personnel normally bring eyes and ears to a neighbourhood and should therefore improve the security. Deliveries normally take place during the day and should not be a security risk and the contractors are no longer on site.

*5.20 Die ontwikkeling is nie in pas met die bestaande karakter en beplanning van die woonbuurt nie.*

As mentioned previously in our response and also in the motivation report, guest houses are considered to be compatible with a residential area and can therefore also be granted under a consent use application. Guest houses are therefore situated in most of the residential suburbs and especially in Eastcliff.

*5.21 Die eenaar het reeds probeer om aangrensende erwe te koop en beplan om nog verdere uitbreidings te doen.*

It is the prerogative of any person buy properties and develops them, but any change in land use is subject to applications and public participation and each one will be considered by the Municipality on its own merits.

The logo for WRAP (Water Resources and Assessment Programme) features a stylized graphic of three horizontal lines above the text "WRAP".

WRAP

Please accept the above as our response on the various objections received.

Yours faithfully

  
PINE PIENAAR (Pr.PIn A/409/1985)

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR CONSOLIDATION, CONSENT USE & DEPARTURE:  
ERVEN 1138 & 1179, EASTCLIFF (3242)**

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 developer'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 developer's cost;
3. that stormwater be allowed to discharge through proposed erven, Eastcliff, unobstructed;
4. that no on-street parking will be allowed.

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**DENNIS HENDRIKS  
SENIOR MANAGER:  
ENGINEERING SERVICES**

2016/2016  
**DATE**



File reference:	1138 & 1179 HEC (3242)
Date:	11 April 2016

## INTERNAL MEMORANDUM

<b>From</b>	: Town Planning Department
<b>Town Planner</b>	: Petrus Roux

**TO:**

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

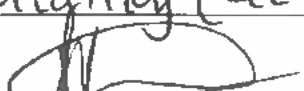
<b>Property Details</b>	<b>ERVEN 1138 &amp; 1179, EASTCLIFF, HERMANUS</b>
<b>Application Description</b>	<b>PROPOSED CONSOLIDATION, CONSENT USE AND DEPARTURE</b>

**ATTACHMENTS :**

<ol style="list-style-type: none"> <li>1. Notice</li> <li>2. Locality Plan</li> <li>3. Motivation</li> <li>4. Site Development Plans</li> </ol>	Should the information be insufficient for you to make an informative comment, please list any additional documentation that you would require to make informed comments.
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**YOUR DEPARTMENT'S COMMENTS:**

Consolidation is supported but approval to operate a guest house must be subject to compliance with National Fire Protection Regulations SANS 10400 T:2011 - Occupancy - H5 - Hospitality (See Attached Document)

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

MUNISIPALITEIT OVERSTRAND MUNICIPALITY 2016  
 FIRE BRIGADE / BRANDWESER

APPROVED / GOEDGEKEUR  
 20 MAY 2016

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.

**COMMENTS REQUIRED BY: 28 MAY 2016**

TPA Application Erf 1138 & 1179 HEC.

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

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

**Fire Extinguishers:**

SANS10400T:2011 – 4.37:

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

**Combustibility of Floor Coverings:**

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

**Combustibility of Wall Coverings:**

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

SANS10400T:2011 – 4.58 require the provision of:

- Escape route signs – Photoluminescent SANS1186-5 in all passages and corridors and also above all exit doors.
- Self-contained luminaires (automatic actuating battery operated lights) in all passages and corridors
- Stand-alone smoke alarms compliant with the requirements of European Standard EN14604 in each:
  - Sleeping room
  - Communal area
  - Passage or corridor leading to rooms
- Fire Hose Reels for premises larger than 250m<sup>2</sup> at a ratio of 1 per 500m<sup>2</sup> of the establishment.
- Doors leading to the outside of the building with single turn locks or any other lock device approved by the Fire Authority.

A 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