

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

9.

ERF 1300, 130 DE VILLIERS STREET, DE KELDERS, OVERSTRAND MUNICIPAL AREA : PROPOSED CONSENT USE AND REMOVAL OF RESTRICTIVE TITLE CONDITIONS : MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF PC SIPPEL

1300 GDK (3067)

SW van der Merwe

7 July 2016

(028) 313 8900

Hermanus Administration

1. Executive Summary

To consider an application received on 23 September 2015 from Messrs Plan Active Town- and Regional Planners on behalf of the owner of Erf 1300, De Kelders, PC Sippel, for the following:

- consent use in terms of Section 2.2 of the Overstrand Municipality Zoning Scheme Regulations to conduct a five (5) bedroom guest house from the property, and
- removal of restrictive title conditions in terms of the Removal of Restriction Act 84 of 1967 (as amended), namely condition C(10) on pages 4 and 7 of Title Deed T96099/2002.

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

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Town- and Spatial Planning

3. Compliance with Strategic Priorities

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

4. Delegated Authority

Executive Mayor

5. Legal Requirements

- Section 2.2 of the Overstrand Municipality Zoning Scheme Regulations

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

- Removal of Restrictions Act 84 of 1967 (as amended)

6. Background/Discussion/Motivation/Evaluation

Background

The applicant proposes to operate a five (5) bedroom guest house from the subject property. The property being situated in the second row of erven offers spectacular views across Walkerbay including “Die Plaat”, rendering it the ideal location for a guest house. The surrounding area comprises single residential properties with several successful accommodation establishments elsewhere in De Kelders.

The subject property is situated in De Villiers Street, De Kelders and currently comprises a vacant stand. The property is a consolidated erf measuring 991m² in extent.

The applicant proposes to construct a six (6) bedroom dwelling situated over three (3) storeys in accordance with the primary rights applicable to Residential Zone 1 in terms of the Zoning Scheme Regulations. The lower level will mainly be utilised for covered parking (five (5) bays), a double garage and laundry room comprising two (2) parking bays. The ground floor will consist mostly of communal facilities such as the kitchen, dining room, lounge, covered veranda and office with the bedrooms on the top floor. One (1) bedroom will be reserved for the owner.

Discussion

The application was advertised in the prescribed manner and registered notices were served onto surrounding potentially affected property owners. Five (5) letters of objection were received from adjoining property owners, namely MJ Kemp (Erf 1170), AB MacQueen (Erf 1140), C Dreyer (Erf 1153), Al Lourens (Erf 1141) and P Matlakala (Erf 1171). The objections are attached as Annexure D. It should be noted that three (3) of the five (5) objections were the same, but only signed by different owners. The main grounds of objection can be summarised as follows:

Objection

The proposed guest house (and specifically the height / three storeys) will obstruct the sea views of some of the neighbouring property owners.

Town Planner’s comment

The zoning of the subject property is Residential Zone 1: Single Residential (SR1). The construction of a dwelling is a primary right in terms of the Zoning

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

Scheme Regulations. The applicable secondary rights or consent uses in terms of the Scheme Regulations allows for guest houses. The implication is that the property will be developed in accordance with the development parameters pertaining to Residential Zone 1 as provided for in the Scheme Regulations pertaining to height, building lines, coverage, etc. As such, the utilization of the dwelling for guest house purposes will not impact on views. The design of the building is such that it will make use of the natural slope of the land to provide parking and a laundry room on the lower ground level, thereby minimising the visual impact of the proposed development when seen from De Villiers Street and behind.

Objection

The associated loss of sea views will result in the loss of property value.

Town Planner's Comment

The development of the subject property will be in accordance with the development parameters, applicable in terms of the zoning. Accordingly, the use of the property as a guest house will not result in the "upgrading" of development parameters over and above that applicable to Residential Zone 1. Thus, the argument that the proposed guest house will result in loss of sea views and accordingly a loss in property value cannot be justified.

Objection

The bulk and overlooking of the proposed guest house will have a negative impact on the adjacent property owner's privacy and the property values.

Town Planner's Comment

It is acknowledged that the development of the subject property will result in some degree of overlooking, specifically to Erven 1440 and 1141 situated in front of the subject property. The proposed guest house will not overlook Erf 1153 since the proposed guest house on Erf 1154 (same applicant) following re-development will obscure the subject property. The remaining two (2) objectors, namely Erven 1170 and 1171 is situated rear of the subject property on the opposite side of De Villiers Street, with only one (1) guest room facing towards them and as such is not likely to be adversely impacted.

The fact of the matter is that the impact of the proposed guest house will be no different compared to that of a dwelling house, utilised to its full potential under the applicable primary rights in terms of the Scheme Regulations.

The facilities offered on site (i.e. restaurant) will be available for paying guests only and not the general public. The guesthouse will consist of five (5)

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

bedrooms for guests only and not six (6) as per the objection letters. Four (4) guestrooms will have sea views and one (1) will face inland, whilst the remaining bedroom (sixth) that has a double aspect (sea and mountain views) will be reserved for use by the property owner. As such the opinion is held that the perceived impact in terms of overlooking and loss of privacy is an over exaggeration, especially borne in mind the applicable primary rights in terms of the Scheme Regulations. Furthermore, Council's Policy on accommodation establishments requires that the property owner/manager resides on the premises and will be incorporated in the conditions of approval, thereby ensuring that the establishment is managed so that the residential amenity of the area is not adversely affected.

Objection

This specific area currently accommodates no guest houses and the surrounding property owners want to keep it that way. The objectors are of the opinion that the tranquil environment will be negatively influenced by the proposed guesthouse (noise pollution by guests, vehicles, etc.)

Town Planner's Comment

Although no guest houses exist in the immediate vicinity various guest houses exist in De Kelders in close proximity to the subject property. This is especially due to the fact that De Kelders, apart from a retirement and holiday destination is a popular tourist destination. Various other well managed guest house establishments in the area proofed to be popular and do not give rise to complaints with regard to noise and disturbance given strict control in terms of the conditions of approval that will be applicable in terms of Council's Policy pertaining to accommodation establishments. Amongst others it will be a requirement for the owner/manager to reside on the premises whilst facilities may not be open for the general public. Furthermore, Council will reserve the right to rescind the approval should the operation of the guest house give rise to justified complaints with regard to noise and disturbance which is deemed to detract from the residential amenity of the surrounding properties.

Objection

The proposed guest house will generate additional traffic to the area and specifically to Erf 1300, De Kelders. The position of the proposed garages, parking bays and driveway will add to the noise pollution that adjacent property owners have to endure.

Town Planner's Comment

Parking will be provided at the lower ground level, rear of the dwelling and make use of the natural slope of the land. The parking area will not encroach

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

the applicable rear- or lateral building lines and will be situated $\pm 12,8$ m from the rear property boundary. This will allow manoeuvring of vehicles to take place away from the rear building line. Furthermore, sufficient space will be available at the front of the property for servicing and deliveries. The proposed use of the premises for overnight accommodation is still residential in nature. Due to the limited scale of the development the proposed guest house will not generate significant amounts of traffic. It should also be borne in mind that guests are not likely to arrive and depart at the same time.

It should furthermore be noted that some of the objectors states that De Villiers Street is a still and quiet residential street, whilst others state that it is a busy street, presumably due to the fact that this street is utilised as link/short cut towards Guthrie Street.

Objection

Both Erven 1300 and 1154, De Kelders are owned by the same applicant and when considering the impact of the combined guest houses it is clear that this will only be a disaster. The objectors feel that there are more appropriate sites for these types of developments (perhaps commercial sites?).

Town Planner's Comment

The applicant also owns the adjoining property, Erf 1154, which is also subject to an application to conduct a three (3) bedroom guest house. The applicant does not propose to rezone or consolidate the two (2) properties. As such, each application is dealt with separately on the basis of its individual merit. If supported, each property will have to comply with Council's Policy pertaining to accommodation establishments that will be incorporated in the conditions of approval. It should furthermore be noted that the Scheme Regulations allow for guest houses as a consent use, i.e. a secondary right without the need of rezoning or a commercial zoning, which in terms of Council's Policy is restricted to a maximum of five (5) bedrooms.

Objection

The objectors have concerns with regard to the aesthetics (architectural style) of the proposed guesthouse.

Town Planner's Comment

The development of the subject property will require approval of building plans in terms of the National Building Regulations (NBR) prior to the commencement of development. In terms of the NBR regard is amongst others taken to the aesthetics of the proposed development, thereby ensuring that it does not detract from the character of the area. Furthermore, it should

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

be noted that De Kelders is not subject to any development rules/guidelines or a registered conservation/heritage area as far as the built environment is concerned. The Overstrand Heritage Survey did not indicate any buildings of heritage significance in close proximity of the subject property, whilst a variety of architectural styles are noted in and around the subject property. The proposed development will therefore not necessarily be out of keeping with the character of the area.

Objection

The objectors stipulate that the Title Deed laws were intended to protect the character of the suburb and the property owners' rights, therefore they are not in favour of the removal of the Title Deed conditions.

Town Planner's Comment

It is agreed that the purpose relaxation of Title Deed restrictions are generally to protect the character of the area and the rights of property owners. In connection with the subject property the developer of De Kelders, the De Kelders Syndicate Company imposed only two (2) conditions regarding the use, namely building lines in terms of paragraphs C(7) and C(8) as well as the right to conduct a business in terms of paragraph C(10) stating the following:

".....Die transportgewer behou alle handelsregte in die dorp voor. Nòg die Transportnemer nòg die bewoner van die bogenoemde erf of erwe sal aansoek doen of 'n lisensie verkry om sake te doen as algehele handelaar, venter, drankverkoper, hotelhouer of vir enige ander besigheid binne die dorpsgebied sonder vooraf die skriftelike goedkeuring van die Transportgewer te verkry."

Having had regard to the above it is clear that the guest house may be conducted with permission of the De Kelders Syndicate Company, hence the application for removal of the relevant restrictive title condition. The opinion is held that the proposed guest house will not adversely impact on the character of the area or De Kelders as a whole. It should also be noted that various other guest houses are successfully being conducted in De Kelders without complaints regarding noise and disturbance, thus without having an adverse impact on the character of De Kelders or the rights of adjoining property owners.

Objection

Questions are raised whether the proposed guest house will contribute towards tourism in the area? According to the objectors the applicant's contribution will go unnoticed.

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

Town Planner's Comment

The guest house will attract tourists to De Kelders and will most definitely have a positive contribution in addition to the financial benefits for the owner. It will contribute to the promotion of tourism to the area and the wider Overstrand region as a whole as well as contributing to the local economy of the greater Gansbaai area, whilst at the same time create additional employment opportunities.

Objection

The objectors state that there is no accountability to the claim that the proposed guesthouse will not have a negative impact on the character and land values of the area.

Town Planner's Comment

The proposed guest house will have to comply with the conditions of approval, as stipulated in this report as well as Council's Policy on accommodation establishments. Non-compliance will be enforceable in terms of the relevant planning legislation. As such it is farfetched to say there will be no accountability.

The comment from the applicant on the objections received is agreed and supported by the Town Planning Department and as such the applicant's response to the objections is attached as Annexure E.

The application was also circulated to all relevant internal departments. No objections were received.

Evaluation

The applicant proposes to develop the subject property with a six (6) bedroom house. Five (5) bedrooms will be utilised for guests, whilst the remaining bedroom will be reserved for use by the property owner. The property will be developed in accordance with the development parameters for single residential erven applicable in terms of the Scheme Regulations. Access will be obtained from De Villiers Street, whilst parking will be provided in accordance with Council's Policy pertaining to accommodation establishments. Facilities will be restricted for paying guests of the establishment.

The Spatial Development Framework, 2006 (SDF) earmarks the subject property for residential purposes, whilst also encouraging local economic development and tourism into the area. The subject property is located in the second row and offer spectacular views across Walker Bay and is ideally

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

located for whale watching purposes in season. The opinion is thus held that the proposal is in line with the forward planning vision for the area, whilst at the same time promoting tourism and will create employment opportunities.

The proposal will not adversely impact on the character of the area since the development of the subject property will comply with the development parameters applicable to single residential properties. In addition to the aforementioned, Council's Policy on accommodation establishments will be applicable, thereby ensuring that the residential amenities of adjoining properties will be protected.

The guest house application complies with the Policy for Accommodation Establishments on residential properties, which will be incorporated within the conditions of approval. The dwelling has been designed as such, that should the guest house cease to operate in future it could be utilised as a single residential dwelling. Approval of the consent use application will therefore not adversely impact the potential of the property to be utilised in terms of its primary uses under the zoning.

The subject property contains a restrictive title condition that reserve business rights to the developer. As such, the proposed development requires the removal of the relevant restrictive title condition. The opinion is held that the removal of the aforementioned condition will not have a negative impact on the character of the area and the rights of property owners. It should also be noted that various other guest houses are successfully being conducted in De Kelders without complaints regarding noise and disturbance, thus without having an adverse impact on the character of the area or the vested rights of adjoining property owners.

Having had regard to the evaluation above, the application for consent use and removal of restrictive title conditions is considered to be desirable and is supported for the following reasons:

- ❖ the proposal is in line with the forward planning vision for the area having had regard to the SDF;
- ❖ the proposal will promote tourism into the area;
- ❖ the proposal will provide employment opportunities and thereby contribute to local economic development;
- ❖ the proposal will not unacceptably detract from the character of the area;
- ❖ the proposal will not unacceptably detract from the residential amenities of adjoining properties;
- ❖ approval of the consent use application will not adversely impact the potential of the property to be utilised in terms of its primary uses under the Scheme Regulations;

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

- ❖ the removal of restrictive title conditions will not have an adverse impact on the safety and wellbeing of the local community.

Conclusion

The application is considered desirable and is supported.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Electro Technical Services

Erf 1300 currently has no electricity connection. A standard 60 Amp single phase connection will be available at the prescribed Municipal tariffs. Should any additional capacity be required, the standard application procedure will apply. All investigation- and upgrading fees will be for the client's account.

Building Department

No objection.

Fire Department

Attached as Annexure F.

Environmental Section

No objection.

Operational Services

Attached as Annexure G.

Engineering Services

Attached as Annexure H.

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

10. Annexures

- Annexure A: Locality Plan
- Annexure B: Proposed Site Development Plan
- Annexure C: Motivation Report
- Annexure D: Objections
- Annexure E: Applicant's comment to objections
- Annexure F: Comment Fire Department
- Annexure G: Operational Services
- Annexure H: Services Report
- Annexure I: Council's Policy: Accommodation Establishments

RECOMMENDATION:

1. that the application for the removal of restrictive title conditions applicable to Erf 1300, De Kelders (condition C(10) on pages 4 and 7 of the Title Deed, T96099/2002), in terms of the provisions of the Removal of Restrictions Act 84 of 1967 (as amended) **be recommended** for approval to the Provincial Government: Western Cape;
2. that, subject to the approval in recommendation 1 above be granted, in terms of Section 2.2 of the Overstrand Municipality Zoning Scheme Regulations the application for a consent use on Erf 1300, De Kelders in order to operate a five (5) bedroom guest house on the property, **be approved**;
3. that the approvals in Paragraphs 1. and 2. be subject to the following conditions:
 - (a) that the facility be utilized as a **guest house only**;
 - (b) that a maximum of five (5) bedrooms to be let, be permitted, only if all the required parking standards are adhered to;
 - (c) that the owner/manager resides on the premises;
 - (d) that a detailed Site Development Plan (SDP) be submitted for municipal approval prior to the submission of building plans indicating rooms to be used for guests and the owner/manager, access, elevations ect.;
 - (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;

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting : 27 September 2016)**

- (f) that a minimum of one (1) permanently demarcated parking bay per guest room and two (2) for the owner/manager be provided within the erf boundaries, subject to the approval of the Senior Manager: Town- and Spatial Planning;
 - (g) 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;
 - (h) 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;
 - (i) that a single non-illuminated sign that complies with the Municipal By-Law on signage, may be displayed on the premises;
 - (j) that the selling or serving of liquor on the premises will be subject to the applicant obtaining the necessary Liquor Licence;
 - (k) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
 - (l) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
 - (m) that the accommodation facility complies with Council's Policy with regard to accommodation establishments;
 - (n) that all the conditions in the Services Report (attached as Annexure H), be complied with, and
 - (o) that the approval of this application is not transferable.
4. that the applicant be notified of its right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above conditions of approval.

RESPONSIBLE OFFICIAL :	SW VAN DER MERWE
TARGET DATE FOR IMPLEMENTATION :	12 OCTOBER 2016
TARGET DATE TO INFORM APPLICANT :	12 OCTOBER 2016
TARGET DATE TO INFORM OBJECTOR :	12 OCTOBER 2016

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
26 September 2016
(Also the agenda for the Mayoral Committee Meeting : 26 September 2016)**

**9.
ERF 1300, 130 DE VILLIERS STREET, DE KELDERS, OVERSTRAND MUNICIPAL
AREA : PROPOSED CONSENT USE AND REMOVAL OF RESTRICTIVE TITLE
CONDITIONS : MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON
BEHALF OF PC SIPPEL**

**1300 GDK (3067)
SW van der Merwe (028) 313 8900 Hermanus Administration
7 July 2016**

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
26 SEPTEMBER 2016, WHICH COMMITTEE SUPPORTED THE
RECOMMENDATION**

RESPONSIBLE OFFICIAL :	SW VAN DER MERWE
TARGET DATE FOR IMPLEMENTATION :	12 OCTOBER 2016
TARGET DATE TO INFORM APPLICANT :	12 OCTOBER 2016
TARGET DATE TO INFORM OBJECTOR :	12 OCTOBER 2016

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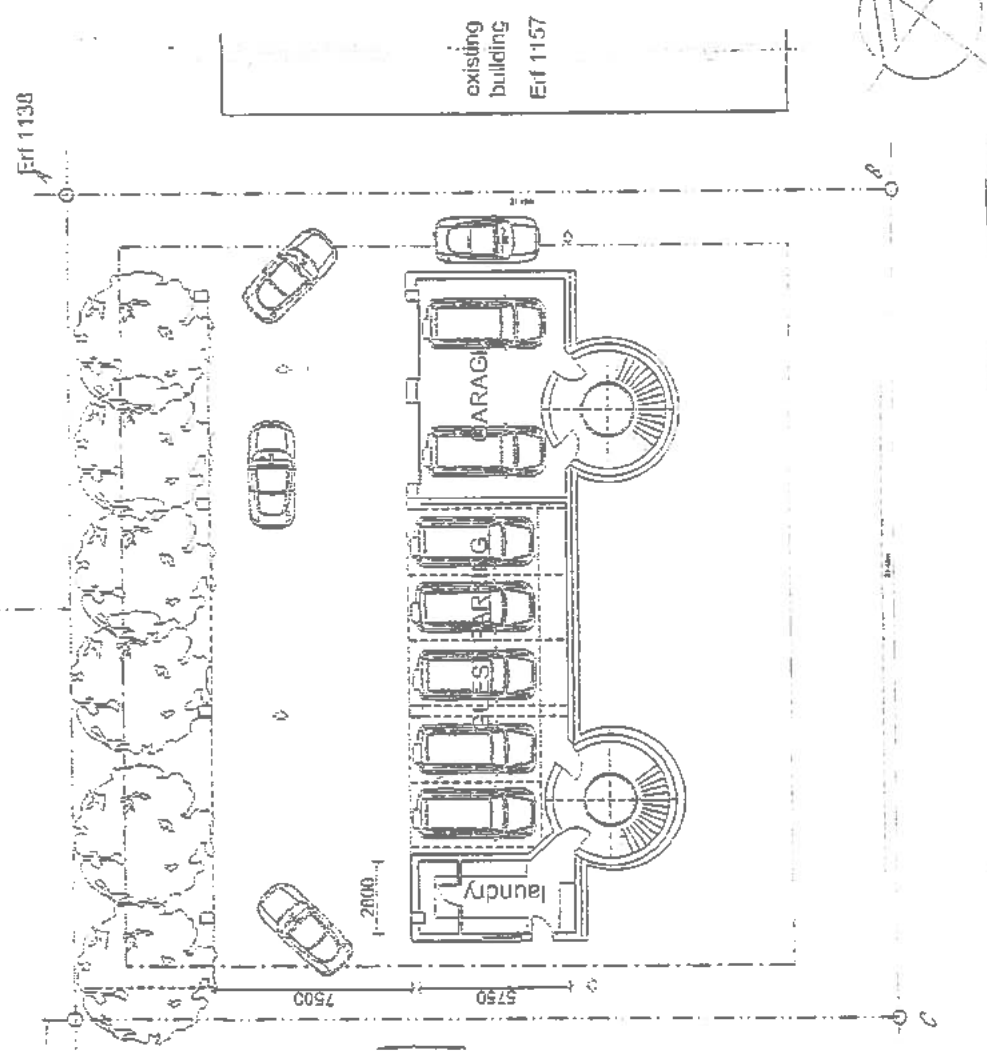
Area of Site 492,25m²
 Coverage allowed 496,12m²
 Proposed Coverage 475m²
 Ground Floor Area 475m²
 Lower Floor Area 433m²
 Upper Floor Area 355m²

LOWER FLOOR PLAN
 Erf 1300,
 De Villiers Street
 De Kelders

SKETCH PLAN
 PROPOSED
 GUEST HOUSE
 FOR
 PERLE SIPPEL

Maurice Wolbers
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Scale: 1:200
 Date: Sept 2015
 Draw No. 081.102



Edge of lot

De Villiers Street 12,59m

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Area of Site 992,25m²
Coverage allowed 416,12m²
Proposed Coverage 475m²
Ground Floor Area 475m²
Lower Floor Area 425m²
Upper Floor Area 395m²

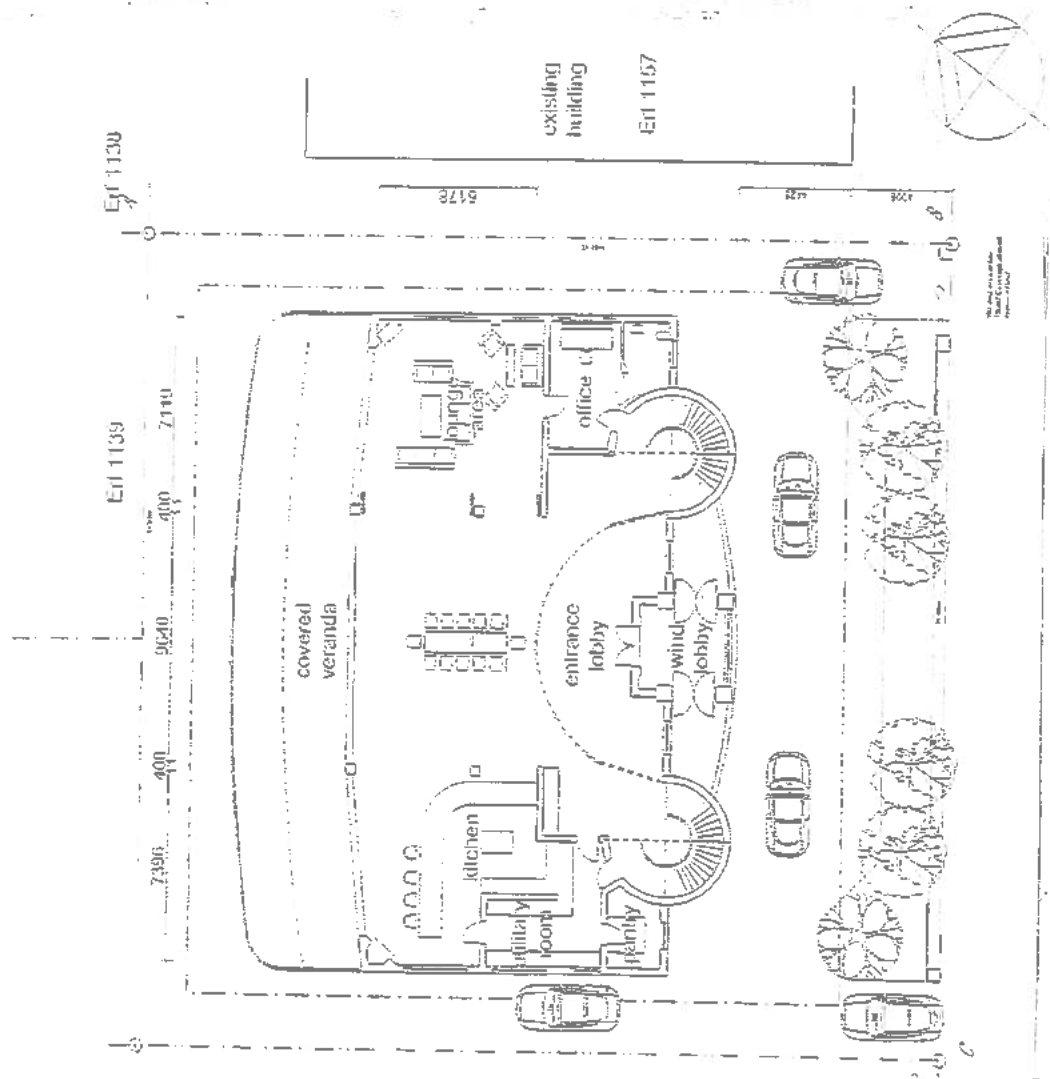
GROUND FLOOR PLAN
Erf 1300,
De Villiers Street
De Klerkers

**SKETCH PLAN
PROPOSED
GUEST HOUSE
FOR
PERLE SIPPEL**

*Maurice Mollers
Architect*

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scale: 1:200
date: Sept 2015
Dep. no: 011/02/12



City of Durban

De Villiers Street 12.59m

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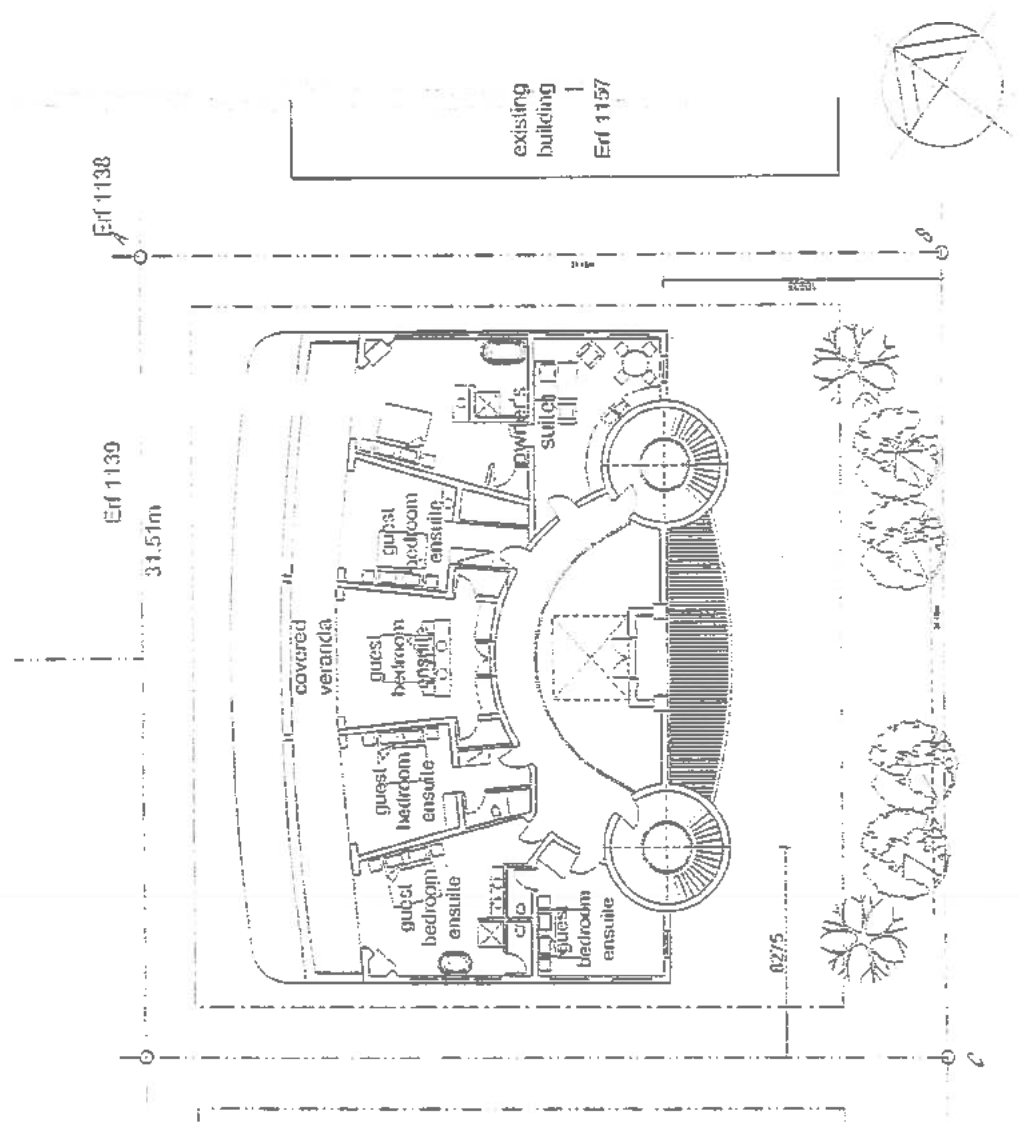
Area of Site 592.25m²
 Coverage allowed 490.13m²
 Proposed Coverage 475m²
 Ground Floor Area 475m²
 Lower Floor Area 475m²
 Upper Floor Area 355m²

UPPER FLOOR PLAN
 Erf 1300,
 De Villiers Street
 De Kelders

SKETCH PLAN
 PROPOSED
 GUEST HOUSE
 FOR
 PERLE SIPPEL

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 Architects
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ANNEXURE B 3/3
 scale: 1:200
 date: Sept 2011
 fig no. UPT.0.0.0



Edge of ker

De Villiers Street 12,59m

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**PROPOSED CONSENT USE & REMOVAL OF
RESTRICTIVE TITLE DEED CONDITIONS**

ERF 1300 DE KELDERS

DIVISION: CALEDON

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

P.C. Sippel, the owner of erf 1300 De Kelders, has instructed the company Plan Active to apply for the consent use and removal of restrictive title deed conditions of erf 1300 De Kelders.

Erf 1300 De Kelders is 991m² in extent and is held by title deed number T96099/2002. It is the intention of the owner of erf 1300 De Kelders to establish a five bedroom guest house on the subject property.

2. APPLICATION DETAILS

Application is made in terms of:

- Section 6.1.1 (b) of the Overstrand Zoning Scheme Regulations for the consent use of erf 1300 De Kelders to allow for the establishment of a five bedroom guest house on the subject property;
- The Removal of Restrictions Act, Act 84 of 1967 as amended, for the removal of the restrictive title deed conditions.

3. NEED AND DESIRABILITY

3.1 PROPERTY DESCRIPTION

Erf 1300 De Kelders is situated at 130 De Villiers Street, De Kelders. Please refer to the locality plan attached. Erf 1300 De Kelders is 991m² in extent and is situated in a residential environment.

3.2 ZONING

Erf 1300 De Kelders is zoned Residential Zone 1: Single Residential. Please refer to the zoning certificate dated 26 June 2015 attached.

Surrounding properties are zoned for Residential Zone 1: Single Residential purposes.

3.3 LAND USE

Erf 1300 De Kelders is a vacant portion of land. Please refer to the photograph below:



Land uses that surround erf 1300 De Kelders are mostly single residential dwellings, guest houses / bed-and-breakfast establishments and vacant erven.

3.4 PROPOSAL

- The consent use of erf 1300 De Kelders in terms of Section 6.1.1 (b) of the Overstrand Zoning Scheme Regulations to allow for the establishment of a five bedroom guest house on the subject property;
- The removal of the restrictive title deed conditions in terms of the Removal of Restrictions Act, Act 84 of 1967, as amended.

It is the intention of the owner of erf 1300 De Kelders to establish a five bedroom guest house on the subject property. A guest house can be accommodated as a consent use under the Residential Zone 1: Single Residential zoning. Application is therefore made for a consent use to establish a five bedroom guest house on erf 1300 De Kelders.

The subject property is set back only one street from the Ocean and offers spectacular views across the bay to Hermanus and Die Plaat – making this property an ideal location for whale watching in season.

The subject property is currently a vacant portion of land. The owner intends to construct a three levelled six bedroom dwelling house on the subject property. The lower level will mainly be used for parking purposes. This level will consist of five covered parking bays, a double garage and a laundry room. The ground floor level will consist of communal facilities: a lobby, a kitchen (with utility room and pantry), a spacious dining room, a lounge area, an office and a covered veranda. Lastly, the upper level will consist of six on-suite bedrooms and a covered veranda.

The architectural style of the proposed guest house will be medieval with an African Renaissance twist. This would explain the tower like features at the front of the proposed dwelling. Please refer to the site development plan attached.

It is proposed to use five of the six bedrooms on the upper level for guest accommodation purposes. The sixth bedroom will be the owner's suite. Please refer to the site development plan attached.

The guests will have access to all the communal facilities on the ground floor. Meals will be served at the proposed guesthouse on request of the guests. The meals will be prepared by the owner / guesthouse manager on the premises.

The parking policy for the Overstrand area determines that one parking bay per guest room has to be provided on site and an additional two parking bays for the owner / manager. Provision is made for five covered parking bays for guests on the lower level of the proposed dwelling. All parking bays adhere to the minimum requirements (2,5m x 5m and manoeuvre space of at least 7,5m behind each parking bay). The new double garage will be used by the owner of the proposed guest house.

A total of seven parking bays are therefore provided on site. Vehicular access is gained from De Villiers Street. The proposed guest house is a low impact development and consequently the proposed parking bays will not adversely affect traffic flow, the streetscape or the general character of the area.

All the guest rooms on the upper level will be interleading. The proposed guest house can therefore easily be converted into a single dwelling house again in future.

The Overstrand Zoning Scheme Regulations stipulate the following land use restrictions for Residential Zone 1: Single Residential properties (larger than 400m²):

Coverage:	50%
Building lines: street:	4m
rear	2m
lateral	2m

The area schedule for the proposed guest house is as follow:

Lower floor area	±435m ²
Ground floor area	±475m ²
Upper floor area	±355m ²

The proposed coverage for the new dwelling house (guest house) will be ±48%. The

proposed coverage is therefore consistent with the allowable coverage for Residential Zone 1: Single Residential properties. The proposed dwelling also adheres to all other land use restrictions (building lines, height, etc.) as specified in the scheme regulations.

The proposed guest house will be used for accommodation purposes only and no conference facility or place of entertainment is proposed. The proposed land use will therefore not result in any noise pollution to the adjacent residential area.

The proposed guest house will employ three permanent staff members that will be responsible for the overall cleaning, cooking and managing of the proposed guest house.

Title deed no. T96099/2002 has title deed conditions that will prohibit the proposed consent use. Application is therefore made for the removal of restrictive title deed conditions. Please refer to Section 3.7 of this report for the full description of the proposed removal of restrictions application.

The proposed consent use and removal of restrictive title deed conditions application does not have a negative impact on the surrounding erven as the subject property's zoning will remain unchanged, an aesthetically pleasing guest house will contribute towards the residential and tourism character of the area and the provision of parking were done in accordance with the relevant parking policy.

The proposed consent use and removal of restrictive title deed conditions of erf 1300 De Kelders are not in contrast to the existing land uses tendencies in the surrounding environment and we therefore do not foresee any problems with the proposed application.

3.5 ACCESS

Access to erf 1300 De Kelders will remain unchanged from De Villiers Street. It is proposed to provide a one way in, one way out on the subject property. The driveways on the eastern and western boundaries will be at least 3m wide.

Vehicles will take access from the entrance point on the eastern boundary and exit on the western boundary. Since the application does not propose to attract high volumes of traffic to the subject property, the width of the driveways should suffice. Please refer to the site development plan attached.

3.6 SERVICES

All services on the subject property already exist. Additional services (if required) will be provided to the satisfaction of the Overstrand Municipality.

3.7 TITLE DEED

Title deed T96099/2002 has title deed conditions that will prohibit the proposed consent use. Application is therefore made for the removal of restrictive title deed conditions.

It is proposed to remove the following restrictive title deed conditions to accommodate the proposed guest house on erf 1300 De Kelders:

Title deed no. T96099/2002, page 3, paragraphs I.C.10:

WAT BETREF die figuur AxyD op die gemelde kaart LG Nr. 1759/2002:

C. Onderhewig aan en geregtig op die voordele onder die volgende spesiale voorwaarde vervat in die gemelde transportakte nr. 1613/1936 opgelê vir die voordeel van die De Kelders Syndicate Limited en hul opvolgers in titel as eienaar van die restant van die eiendom gehou kragtens Transportakte Nr. 3733/1920 en Nr. 1255/1935:-

10. Die Transportgewer behou alle handelsregte in die hele dorp voor. Nog die Transportnemer nog die bewoner van die bogenoemde erf of erwe sal aansoek doen of 'n lisensie verkry om sake te doen as algehele handelaar, venter, drankverkoper, hotelhouer of vir enige ander besigheid binne die

dorpsgebied sonder vooraf die skriftelike goedkeuring van die Transportgewer te verkry.

Title deed no. T96099/2002, page 5, paragraph II.C.10:

WAT BETREF die figuur xBCy op die gemelde kaart LG Nr. 1759/2002:

C. Onderhewig aan en met die voordeel van die volgende spesiale voorwaarde vervat in die gemelde transportakte nr. 8375/1949 neergelê vir die voordeel van die Maatskappy De Kelders Syndicate Limited en sy regsopvolgers in titel as eienaars van die restant van die eiendom gehou deur hulle kragtens Transportakte Nr. 3733/1920, welke as volg lees:-

10. Die Transportgewer behou alle handelsregte in die hele dorp voor. Nog die Transportnemer nog die bewoner van die bogenoemde erf of erwe sal aansoek doen of 'n lisensie verkry om sake te doen as algehele handelaar, venter, drankverkoper, hotelhouer of vir enige ander besigheid binne die dorpsgebied sonder vooraf die skriftelike goedkeuring van die Transportgewer te verkry.

The reason for the proposed removal of the conditions stipulated above is, although the zoning of the subject property will remain unchanged (Residential Zone 1: Single Residential), the proposed consent use to accommodate a guest house on the subject property will change the land use of the subject property. The consent use will allow the owner to operate a guest house from the premises and therefore the conditions specified above will restrict the proposed guest house. We therefore request that the conditions be removed. The Department of Environmental Affairs and Development Planning should also remove all other conditions deemed necessary to allow the proposed guest house on the subject property.

There is no bond registered against erf 1300 De Kelders.

3.8 FORWARD PLANNING

The Overstrand Municipal Wide Spatial Development Framework (2006) recognises the Greater Gansbaai area as an area with high growth potential. The area's growing importance as a tourist destination and its recognised economic potential in terms of mari-culture and the fishing industry makes it imperative that adequate provision is made in the spatial planning of the area to adequately accommodate its future in an orderly and sustainable manner.

The Overstrand Municipal Wide Spatial Development Framework (2006) earmarks the area where erf 1300 De Kelders is situated, for residential purposes. Please refer to the Overstrand SDF Plan: Gansbaai attached. The aforementioned spatial development framework identifies tourism as a sector that should be promoted and developed in the Greater Gansbaai region. The application for a consent use and removal of restrictive title deed conditions to accommodate a five bedroom guest house is therefore within the goals stipulated in the Overstrand SDF and therefore falls within the existing planning for the De Kelders area.

The character (residential) and zoning (Single Residential) for the subject property will remain unchanged and therefore the subject property falls within the existing planning for the Gansbaai area.

Erf 1300 De Kelders forms part of Planning Unit no. 2 as identified by the Overstrand Municipal Spatial Growth Management Strategy (OMSGMS, 2010). Furthermore the OMSGMS (2010) stipulates that the area where erf 1300 De Kelders is situated does not allow for an increase in density of more than 17,7 density units per hectare. It is however not proposed to subdivide erf 1300 De Kelders and therefore the application will have no impact on the density of the area.

4. RECOMMENDATION

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

- The proposal is compatible with the existing built character and future planning policies of the area;

- Impact on the traffic and services will be kept to a minimum;
- Sufficient parking bays are provided on site for the proposed guest house;
- The guest house will be operated in a professional manner and according to international standards;
- The guest house does not negatively influence the existing character or land values in the area;
- The establishment of a luxury guesthouse in De Kelders will contribute to enhancing the greater Gansbaai area as one of the most sought after tourist destinations in the Overberg.

With regards to the above mentioned it would be appreciated if Council would approve the consent use application for erf 1300 De Kelders and recommend the removal of restrictive title deed conditions application for approval to the Department of Environmental Affairs & Development Planning.

Die Senior Stadsbeplanner
Overstrand Munisipaliteit
Hermanus



TP - A Theart
C. S. J. de Merwe

3 Maart 2016

Verwys die aansoek om opheffing van titelbeperking en vergunningsgebruik van erf 1154 De Kelders

Hiermee gee ek kennis dat ek beswaar maak teen die opheffing van titelbeperking en vergunningsgebruik van erf 1300 De Kelders. (Titel no : T96099/2002)

PA15028 gedateer 2 Februarie 2016

Ek besit Erf 1170 , de Kelders nou al 'n geruime aantal jare . Bestaande straat en omgewing is baie stil met GEEN Bed and Breakfast akkomodasies in die straat nie, Die bedryf van 'n Bed en Breakfast ontwikkeling gaan die totale "serendity" en rustigheid van die deel van die vakansie oord total versteur.

Die aanbou van 'n drie vlakgebou struktuur gaan erf 1170 se see aansig total wegneem wat my huis se waarde onmiddelik drasties verlaag. Ek sou nie erf 1170 gekoop het as ek geweet het dat 'n drievlak gebou toegelaat gaan word nie.

Om bogenoemde redes maak ek beswaar teen die opheffing.

Die uwe

MJ Kemp, Eienaar Erf 1170 De Kelders

Posbus 178, Gansbaai, 7220

FILE NO:	EL 1300 JK
SCAN NO:	ERF 1300
COLLABORATOR NO:	881923

3 MAR 2016

3 MAR 2016

ANNEXURE D 2/12

TP- A Theart
(S. J. de Merwe)



THE SENIOR TOWN PLANNER
OVERSTRAND MUNICIPALITY
HERMANUS ADMINISTRATIVE
P O BOX 20 HERMANUS 7220
FAX 028 313 2093
16-3-2016

ATT. MR VAN DER MERWE
RE: ERF 1300, 130 DEVILLIERS STREET, DEKELDERS,
OVERSTRAND MUNICIPAL AREA: PROPOSED REMOVAL OF RESTRICTIVE
TITLE DEED CONDITIONS AND CONSENT USE.

OBJECTION

This letter sets out our objection to the above proposal regarding the removal of restrictive Title Deed conditions. We shall address our objection, where applicable, in the order as set out in the proposal documents.

3.4 PROPOSAL

It is our view that a six suite guest house on this property is inappropriate, intrusive and inconsiderate.

The plans supplied indicate that our privacy will be non-existent and the peace and quiet that we value and which justifies our living here be compromised.

In confirmation of this view point we place on record the known facts.

Namely that this is a six suite guest house, three stories high, with a large viewing facility which is one of its main attractions. Added to this we note that this attraction is designed to overlook our properties.

From our calculations we conclude the following -

This viewing facility will at capacity be occupied by as many as twenty people when one takes into account children visitors and staff.

At best fully occupied it will house twelve people or more.

As already stated this viewing facility directly overlooks our properties and as such will be highly intrusive. It must be added that the design of the guest house is such that we would at no stage have any privacy, as by all accounts we will be in their line of sight whilst they are in bed. (It will be tantamount to living in a fish bowl)

Apart from our privacy these visitors will understandably be in a holiday and celebratory mood which invariably leads to noise pollution

Cont. P2

FILE NO:	ERF 1300-DK
SCAN NO:	40
COLLABORATOR NO:	885767

16 MAR 2016

TP

17 MAR 2016

Added to this we have the problem of seven vehicles which have been provided for in the application. From the plans supplied we note that the parking provided and the driveway to accommodate the vehicular traffic is virtually on our rear boundary. By the very nature of this enterprise it would be realistic to assume that vehicles will be coming and going at all hours of the night and day. (refer their claim of international standards) Added to our traffic problem there will be daily deliveries and visitors. Taking all this into account we are going to have a serious source of noise pollution.

For some unaccountable reason acoustics in the area are such that sound carries very well.

3.7 TITLE DEED

The institution of these Title Deed laws were intended to protect the character of the suburb and in turn the normal property owners right to the values we hold dear. The lack of adherence to these laws has seldom been to the advantage of the area as a whole. In conclusion let it be noted that we are not in favour of the Title Deeds being amended.

3.8 FORWARD PLANNING

The claims made regarding the "imperative" need to cater to tourism, mari-culture? and the fishing industry are a gross exaggeration. Two of the points raised require explanation as to how this guest house addresses the promotion of these industries. The applicants contribution to tourism would go unnoticed but not unfelt by those to which this mercenary pursuit of profit has impacted upon.

4 RECOMMENDATIONS

- 1) The proposals compatibility with future planning policies, is disputed. - The future planning policies constantly referred to were never intended to facilitate a free for all exploitation of our suburb. That is why we have Title Deed restrictions.
- 2) That the guest house will be operated in a professional manner and according to international standards - The claim to international standards should, in the absence of specifics be taken as window dressing.
- 3) That a guest house does not negatively influence the existing character and land values in the area - This claim is utter nonsense and is glibly made because there is no accountability. This development is going to have a drastic effect on its immediate surroundings, for the reasons already stated in this objection, and of consequence property values.

4) The enhancement to Gansbaai by the presence of this guest house - Our views on this claim have already been stated.

Summary

This whole proposal seems to imply that all we value with regard to living here should be disregarded in the interests of the applicants desire to resolve the commercial needs of the Councils future planning.

No concern is displayed for the existing residents, that their lives would be disrupted, that their property values be affected and the area as we know it destroyed.


It is difficult to join another objection with this one but the applicant has been careful to avoid mentioning that the adjacent erf 1154 owned by the same applicant has also been subject an application for a guest house. (We now have erf 1300 a double erf and joining it erf 1154, refer the attached town plan)

The application we are now addressing is in itself a blight on the area but when combined with the intended adjacent guest house we now have a total of twelve vehicles, plus deliveries and visitors - sixteen guests plus children visitors and staff and all the other associated problems. This development has the makings of a nightmare in which the Council will share.

The claims made regarding the inherent problems with the adjacent development have been adequately addressed in the separate objections submitted but we mention this for the record.

There are more appropriate sites for this type of development and there are certainly commercial or commercially inclined sites in Gansbaai desperately in need of the concern that the applicant claims to have for the well being of Gansbaai and its associated industries.

We respectfully request that this application be denied.


A B MacQueen
For ABM Family Trust
erf1140 - 109 Cliff St.
DeKelders Gansbaai - (P O Box 1510 G/baai 7220)

TR - A Theart
C Suid Merwe



=
THE SENIOR TOWN PLANNER
OVERSTRAND MUNICIPALITY
HERMANUS ADMINISTRATIVE
P O BOX 20 HERMANUS 7220
FAX 028 313 2093
16-3-2016

ATT. MR VAN DER MERWE
RE: ERF 1300, 130 DEVILLIERS STREET, DEKELDERS,
OVERSTRAND MUNICIPAL AREA: PROPOSED REMOVAL OF RESTRICTIVE
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At best fully occupied it will house twelve people or more.

As already stated this viewing facility directly overlooks our properties and as such will be highly intrusive. It must be added that the design of the guest house is such that we would at no stage have any privacy, as by all accounts we will be in their line of sight whilst they are in bed. (It will be tantamount to living in a fish bowl) Apart from our privacy these visitors will understandably be in a holiday and celebratory mood which invariably leads to noise pollution

Cont. P2

FILE NO:	E7-1300-DK
SCAN NO:	02
COLLABORATOR NO:	887308

Added to this we have the problem of seven vehicles which have been provided for in the application.

From the plans supplied we note that the parking provided and the driveway to accommodate the vehicular traffic is virtually on our rear boundary.

By the very nature of this enterprise it would be realistic to assume that vehicles will be coming and going at all hours of the night and day. (refer their claim of international standards) Added to our traffic problem there will be daily deliveries and visitors.

Taking all this into account we are going to have a serious source of noise pollution.

For some unaccountable reason acoustics in the area are such that sound carries very well.

3.7 TITLE DEED

The institution of these Title Deed laws were intended to protect the character of the suburb and in turn the normal property owners right to the values we hold dear.

The lack of adherence to these laws has seldom been to the advantage of the area as a whole.

In conclusion let it be noted that we are not in favour of the Title Deeds being amended.

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The claims made regarding the "imperative" need to cater to tourism, mari-culture? and the fishing industry are a gross exaggeration. Two of the points raised require explanation as to how this guest house addresses the promotion of these industries. The applicants contribution to tourism would go unnoticed but not unfelt by those to which this mercenary pursuit of profit has impacted upon.

4 RECOMMENDATIONS

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This claim is utter nonsense and is glibly made because there is no accountability. This development is going to have a drastic effect on its immediate surroundings, for the reasons already stated in this objection, and of consequence property values.

Cont P3

4) The enhancement to Gansbaai by the presence of this guest house - Our views on this claim have already been stated.

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This whole proposal seems to imply that all we value with regard to living here should be disregarded in the interests of the applicants desire to resolve the commercial needs of the Councils future planning.

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The claims made regarding the inherent problems with the adjacent development have been adequately addressed in the separate objections submitted but we mention this for the record.

There are more appropriate sites for this type of development and there are certainly commercial or commercially inclined sites in Gansbaai desperately in need of the concern that the applicant claims to have for the well being of Gansbaai and its associated industries.

We respectfully request that this application be denied.

Atreyen
Chadric Trust
Erf 1153
De Villiersstraat 134
De Kelders
 Sel No: 0833364492

TP- A Theart
(S vld Merwe)



THE SENIOR TOWN PLANNER
OVERSTRAND MUNICIPALITY
HERMANUS ADMINISTRATIVE
P O BOX 20 HERMANUS 7220
FAX 028 313 2093
16-3-2016

ATT. MR VAN DER MERWE
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Cont. B3

FILE NO: EL 1300-DK
SCAN NO: 70
COLLABORATOR NO: 887268

TP 22 MAR 2016

22 MAR 2016

ANNEXURE D 9/12

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We respectfully request that this application be denied.



A. J. LOURENS

CLIFFSTR 111

DE KELDERS

GANSBAAI 7220

ERF 1141

CELL. 0837100709.

22-3-2016

TR A T heart
(Suld Merwe)

P Matlakala
103 De Villiers Street
De Kelders



Residential Address: 20 Thermopylae Lane
Croydon Olive Estate
Somerset West
7130

Objection to the application for Erf 1300 De Kelders. Proposed removal of restrictive Title Deed conditions and Consent use

Before we register our objection, we think it is important to highlight a few important factors. De Kelders is a residential area. People chose to come to De Kelders either as permanent residents, as holiday residents or as a place they will retire to. The reason why they do this is because of the tranquillity and unspoilt natural surroundings. We think it is important for this to be borne in mind when considering the above application.

It is important to note that the residents around this specific area of De Kelders have lived there for many years and have lived harmoniously with one another without getting into each other's way.

We have been here for 13 years and our neighbours on both sides have been here since the early eighties.

We note that the schematic representation is not in line with the content of the application as they omitted to include a sketch of the lower level, which they intend using for parking and laundry purposes.

Hereunder, our objection to the application:

The applicant makes the point that the position of the property is one street from the ocean and offers spectacular views across the bay to Hermanus and De Plaat, making this property an ideal location for whale watching in season.

This is a second application of this nature, which will result in two guest houses right next to each other, with a total of ten bedrooms combined. The applicant makes a statement that the proposed land use and removal of restrictive title deed application does not have a negative impact on the surrounding erven. They further point that the guest house does not negatively influence the existing character and land values in the area.

Nothing could be further from the truth. It must be taken into consideration that we are already enjoying the spectacular views that the applicant is referring to and by acceding to this application, the existing residential restrictions will fall away and the proposed structure will interfere with the enjoyment of our property and the views.

FILE NO:	E2 1300-DK
SCAN NO:	42
COLLABORATOR NO:	887813

23 MAR 2016

TR

The application also states that it does not propose to subdivide erf 1300 De Kelders and therefore the application will have no impact to the density of the area. We disagree with this, as there will be increased traffic with the comings and goings of guests and delivery vehicles coming to the establishment to deliver supplies.

This is beside the fact that ordinarily, De Villiers street is a very busy street particularly during peak periods.

There are currently no guesthouses on our street and we want this to remain as is.

No public interest will be served as implied by this application. De Kelders and especially the surrounding area to De Villiers Street already has a number of Guest Houses on the sea front, as well as a big block of flats a few meters away from where they want to establish a guest house. It is instructive that some of them have already closed down presumably due to lack of business.

Contrary to what the application stated above, this development will take away from the character and value of the place we chose to invest, holiday and eventually retire in. Consequently, we strongly object to this application.

It is important to ensure that De Kelders is made a nice place to live for its residents as opposed to occasional visitors.

We rely on the Overstrand Municipality to heed these objections and support the existing owners.


P Matlakala

PLAN Active
Town & Regional Planners
Stads- en Streeksbeplanners



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

Our reference: PA15028ML
Your reference: 1300 GDK (3067)

21 APRIL 2016

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

FOR ATTENTION: MR. SCHALK VAN DER MERWE

Sir

**PROPOSED CONSENT USE AND REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS:
ERF 1300 DE KELDERS, CALEDON DIVISION**

- **P.C. SIPPEL**

Reference is made to our application dated 22 September 2015 and your letter with objections attached dated 4 April 2016.

Objections were received from M.J. Kemp, A.B. MacQueen, C. Dreyer (Chadré Trust), A.I. Lourens and P. Matlakala. It should be noted that three of the five objections were the exact same template but only signed by different owners. The objections can be summarized as follows:

- ***The proposed guesthouse (and specifically the height / three storeys) will obstruct the sea views of some of the neighbouring property owners.***

The subject property is zoned for Residential Zone 1: Single Residential (SR1) purposes. The property is currently vacant and can be developed to its full potential within the relevant scheme regulations for a dwelling house without requiring the consent from any of the adjacent property owners. Only a building plan submission will then be applicable. As mentioned in our motivation report it is not proposed to deviate from any of the land use parameters applicable to SR1 properties to accommodate the proposed dwelling (guest house). I.e. the maximum height of the proposed dwelling (to be used as a guesthouse) measured from the base level to the top of the roof will not be higher than 8,0m. Therefore, if the architect can fit three storeys in the aforementioned height restriction, the subject property can be developed with a three storey dwelling (since the limitation is not on the amount of storeys but the height in metres).

The impact of the proposed structure would have been exactly the same if the owner decided to approve the building plans for the dwelling first, construct the dwelling and apply for the land use rights to use the dwelling as a guesthouse thereafter. It is the owner's primary right to construct a dwelling on the subject property in line with the land use parameters, regardless if the dwelling is

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Vat. No. 4770250340

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

FILE NO:

TP A Theart
C Suld Merwe

EL 1300-DK

SCAN NO:

13

COLLABORATOR NO: 896413

TP
21 APR 2016

22 APR 2016

being used for guesthouse purposes or not. It is obvious that the objectors did not consider the aforementioned.

- ***The bulk and overlooking of the proposed guesthouse will have a negative impact on the adjacent property owner's privacy and the property values.***

The proposed coverage for the new dwelling house (guest house) will be $\pm 48\%$. The proposed coverage is therefore consistent with the allowable coverage for Residential Zone 1: Single Residential properties. The proposed dwelling also adheres to all other land use restrictions (building lines, height, etc.) as specified in the scheme regulations. Therefore, the relevant building lines are adhered to and ensure the privacy of the adjacent property owners. The owner can therefore develop the subject property as proposed since she is within her primary right to do so. The building plan for the dwelling can still be approved regardless of it is being used for guesthouse purposes or not and as previously mentioned the impact of the building / structure would therefore have been the same, regardless of the use of the proposed structure.

- ***This specific area currently accommodates no guesthouses and the surrounding property owners want to keep it that way. The objectors are of the opinion that the tranquil environment will be negatively influenced by the proposed guesthouse (noise pollution by guests, vehicles, etc.).***

De Kelders is a popular tourism destination and although there may be no other guesthouses in this street there are in the street behind and in other parts of De Kelders.

The relevant scheme regulations as well as the spatial planning policies for the area allows for SR1 properties to be used for guesthouse purposes. The aforementioned is seen as a lower impact land use and therefore a property does not have to be rezoned for commercial purposes to accommodate a guesthouse. Furthermore there is a guesthouse policy in place that determines the maximum amount of guestrooms to be five only – also to keep the impact on the surrounding properties to a minimum. We are therefore not applying for more than what the guesthouse policy allows for SR1 zoned properties as a consent use.

The objectors should also consider the alternative: that the property be used by one large family on a weekend / holiday basis where no rules and regulations apply and where the municipality has no control over. With a guesthouse there are rules and regulations that the owner has to adhere to. The municipality then also has control over this land use and if it becomes problematic, the local authority can cancel the approved land use. A guesthouse use of a property proves to be a more controlled environment than letting the subject property to holidaymakers on short term basis.

It is also in the best interest of the owner to manage the guesthouse to high standards to ensure that guests return.

- ***The proposed guesthouse will generate additional traffic to the area and specifically to erf 1300 De Kelders. The position of the proposed garages, parking bays and driveway will add to the noise pollution that adjacent property owners have to endure.***

The architect confirmed that the positioning of the garages and parking has been designed for aesthetic reasons so they are not straight off the street.

Guesthouses (especially of this scale) generate low traffic to residential areas. In most instances guests do not arrive or depart at the same time either. We are of the opinion that the noise generated will be low and in keeping with the residential character.

The peace and quiet of the area will not be altered any more than a standard six- bedroomed family home would. In fact P. Maklakala states: "ordinarily, de Villiers Street is a very busy Street particularly during peak periods". The aforementioned is contradictory to the "peaceful and quiet" area sketched by some of the other objectors.

- ***Both erven 1300 and erf 1154 De Kelders are owned by the same applicant and when considering the impact of the combined guesthouses it is clear that this will only be a disaster. The objectors feel that there are more appropriate sites for these types of developments (perhaps commercial sites?).***

The fact that the proposed guest houses are on two erven next to each other and that they will be designed to compliment each other should make no difference as long as they comply with the land use regulations. Each property has its own development rights. Consequently two separate applications were submitted and therefore each application should be evaluated on its own merit. The location of the properties and the fact that it is owned by the same owner should not be factors that disadvantage the proposed applications.

It should be noted that a guesthouse of this scale is not a commercial land use and therefore the relevant scheme regulations allows for this type of land use on a SR1 zoned property. The comments / objections with regard to the commercial land use and that commercial sites will be more appropriate should therefore be disregarded.

- ***The objectors have concerns with regards to the aesthetics (architectural style) of the proposed guesthouse.***

There are no aesthetic / architectural guidelines in De Kelders and there are many different styles of buildings in De Villiers Street. The African/ Medieval Style will be a breath of fresh air in De Kelders.

- ***The objectors stipulate that the title deed laws were intended to protect the character of the suburb and the property owners' rights therefore they are not in favour of the removal of the title deed conditions.***

The conditions in the title deed this application proposes to remove, was laid down as early as 1920 and passed on as the mother erf was subdivided and transported in 1935/1936 and 1949. The condition would in effect imply no commercial activities in De Kelders (ever), which would be ludicrous. It should also be noted that at the time the conditions were specified the modern land uses (such as guesthouses) did not exist. To conclude that the conditions in the title deed actually protect the properties from any type of development would be short sighted.

Most of the existing guesthouses in De Kelders had to follow the same route to allow them to operate their establishments. This application simply follows the same procedure.

- ***Questions are raised whether the proposed guesthouse will contribute towards tourism in the area? According to the objectors the applicant's contribution will go unnoticed.***

Guesthouses are seen as tourist accommodation establishments – thus it will definitely contribute towards the tourism sector of De Kelders by providing more tourist accommodation options for guests visiting the area.

Guesthouses generally also promote the area they are situated in to lure more guests to their establishments.

- *The objectors state that there is no accountability to the claim that the proposed guesthouse will not have a negative impact on the character and land values of the area.*

As previously mentioned a guesthouse has rules and regulations that the owner has to adhere to. A guesthouse usage of the property also gives the municipality more control over the subject property and the land use. If the guesthouse becomes problematic, the local authority can deal with the problems at hand and proceed to cancel the approved land use. A guesthouse proves to be a more controlled environment than (in some instances) using it for the living of a large family or letting the subject property to holidaymakers on short term basis.

We trust that you find the above in order and that you will now be able to proceed with the processing of the application.

Yours faithfully



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

File reference:	3087
Date:	11 February 2016



INTERNAL MEMORANDUM

From	: Town Planning Department
Town Planner	: Schalk van der Merwe

TO:

Area Manager	Building Department	District Health	Electrical Department
Environmental Officer	Fire Department	Infrastructure and Planning	Local Heritage Committee
Operational Services	Traffic Department	Ward Councillor	Waste Management

Property Details	Erf 1300 De Kelders
Application Description	Removal of Restrictions and Consent Use

ATTACHMENTS :

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

Application shall comply with National Fire Protection Regulations SANS 10400T:2011 - See Annexure Attached.	
Signature:	Date: _____ 2015

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: 29 March 2016

Town Planning Application - Erf 1300 De Kelders, Gansbaai.

	<p>OFFICE of THE CHIEF FIRE OFFICER PO BOX 20 HERMANUS 7200 Tel: 028 313 8980 Fax: 028 313 1493</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 100m² of a type - 4.5kg Dry Chemical Powder or 5kg CO₂ or 9 litre H₂O.

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 250m² at a ratio of 1 per 500m² 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

Munisipaliteit – U-Masipala – Municipality

OVERSTRAND

INTERNAL MEMORANDUM

Aandag / For Attention:	Town Planning department: A Calitz	Van / From:	Department: Operational Services
Afskrif / Copy:		Datum / Date:	10 May 2016

15/3/4

RE: APPLICATION FOR REMOVAL OF RESTRICTIONS AND CONSENT USE – ERF 1300, GANSBAAI

The request for comment from the Department: Operational Services (Gansbaai) dated 11 February 2016 with regard to the abovementioned proposal refers.

The proposal entails the following:

- Proposed removal of restrictions and consent use on Erf 1300, De Kelders, Gansbaai (991m²), in order to establish a guest house on the site.

1. ANALYSIS

1.1. Water

- 1.1.1. Erf 1300 is not currently serviced with a municipal water connection.
- 1.1.2. The proposed development on Erf 1300 must be serviced with a metered water connection to the municipal system, which must comply with the standards of the Department: Operational Services.
- 1.1.3. The owner must therefore apply for a new water connection to which the proposed development on Erf 1300 must connect to. The new connection will be at the De Villiers Street boundary.
- 1.1.4. Application for the municipal connection of Erf 1300 must be made at least 3 weeks prior to requirement. A job card will be opened, and the owner will be responsible for all costs.
- 1.1.5. The proposed removal of restrictive title deed conditions and consent use will not have a significant impact on the existing municipal water supply network. The Department:

Infrastructure and Planning must however give comment with regard to the relevant Bulk Services Levies.

1.2. Sewer

- 1.2.1. As there is currently no municipal sewer network in the vicinity, Erf 1300 must be provided with a sewer conservancy tank, which must comply with the standards of the Department: Operations, and to which the sewer services on the erf must connect to.
- 1.2.2. Sewerage will be removed from the sewer conservancy tank as per municipal arrangement.
- 1.2.3. The relevant commercial food preparation facilities must be provided with a grease trap, which must comply with the standards and specification of the Department: Operational Services.
- 1.2.4. The developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 1400 – P: 2010: Drainage*.
- 1.2.5. The proposed rezoning will not have a significant impact on the existing municipal sewer tanker service. The Department: Infrastructure and Planning must however give comment with regard to the relevant Bulk Services Levies.

1.3. Streets

- 1.3.1. Access can be obtained from De Villiers Street.
- 1.3.2. Any additional and / or extended vehicle entrances will be for the owner's account.

1.4. Storm water

- 1.4.1. The "Common Law" shall apply with regards to storm water discharge.

1.5. Parking

- 1.5.1. "On-site parking" must be provided. The parking areas are to be provided at a ratio as described by the Town Planning Scheme, with permanent surfaces and layout to the satisfaction of the Department: Operational Services.

1.6. Other services

- 1.6.1. The Department: Operational Services does not have any information regarding any Telkom-, other telecommunications- and / or Electrical services which may be affected by the proposed development. The Electrical- and Traffic departments, as well as Telkom and other relevant service providers, must therefore also give their recommendations regarding the application.

1.7. Refuse removal

1.7.1. Refuse will be removed from sidewalks as per municipal arrangement.

1.8. Irrigation water

1.8.1. No irrigation water is available in this area.

1.9. Waste Water Treatment Works (WwTW)

1.9.1. The proposed rezoning will not have a significant impact on the Waste Water Treatment Works. The Department: Infrastructure and Planning must however give comment with regard to the relevant Bulk Services Levies.

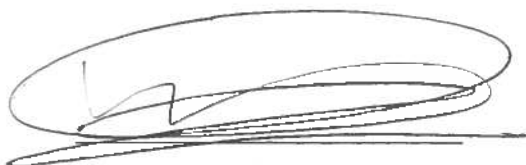
1.10. Bulk Water Supply

1.10.1. The proposed rezoning will not have a significant impact on the bulk water supply, reservoirs or other bulk water infrastructure. The Department: Infrastructure and Planning must however give comment with regard to the relevant Bulk Services Levies.

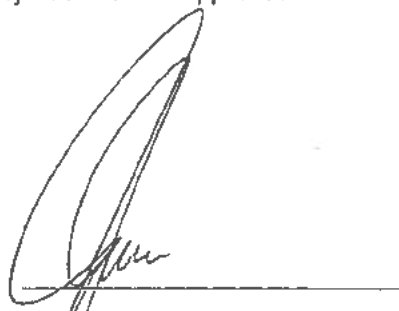
2. RECOMMENDATION

- 2.1. With regard to the application for the removal of restrictive title deed conditions and consent use on Erf 1300, Gansbaai towards establishment of a guesthouse , the **Department: Operational Services** has no objections to the application, subject to the following conditions:
- 2.1.1. That the proposed development on Erf 1300 must be serviced with a metered water connection to the municipal system, which must comply with the standards of the Department: Operational Services.
- 2.1.2. That the proposed development on Erf 1300 be provided with a sewer conservancy tank, which must comply with the standards of the Department: Operational Services, and to which the sewer services of the development must connect to.
- 2.1.3. That the sewer conservancy tank must be accessible to the municipal sewer tankers from one of the adjacent public roads, with a sewer tank suction point on the erf boundary along De Villiers Street.
- 2.1.4. That the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 10400 – P: 2010: Drainage.
- 2.1.5. That on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Department: Operational Services.
- 2.1.6. That any additional and / or extended vehicle entrances will be for the owner's account.
- 2.1.7. That the Electrical- and Traffic Departments, as well as Telkom and any other relevant authorities and service providers not have any objections to the application.

Yours faithfully



W. Germishuys
Principal Technician: Operational Services
Gansbaai



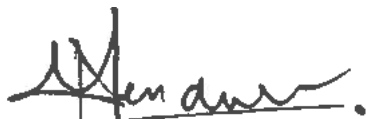
J. de Villiers Pr. Eng.
Senior Manager: Operational Services
Gansbaai

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTIONS & CONSENT USE:
ERF 1300, DE KELDERS (3067)**

Electricity	:	In order
Water	:	In order
Sewer	:	In order
Stormwater	:	In order
Roads and traffic	:	In order

Conditions:

1. that only the standard water and sewerage connections will be available to 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;
2. that only the standard 60 Amp single phase 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 the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 140400 – P: 2010: Drainage;
4. that any additional and / or extended vehicle entrances will be for the developer's account;
5. that only one entrance / exist will be allowed to and from the property;
6. that stormwater be allowed to discharge through Erf 1300, De Kelders, unobstructed;
7. that no on-street parking be allowed.



**DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES**

26 / 5 / 2016.
DATE

17. OVERSTRAND: POLICY FOR CONDUCTING AN ACCOMMODATION ESTABLISHMENT ON A SINGLE RESIDENTIAL ERF

Department: Town Engineer, Mr Kuchar (tel:028-313 8087)

1. Purpose of report

To submit an item to Council regarding a policy for conducting an Accommodation Establishment in the Overstrand Municipal area.

2. Background

Previously the different Municipalities of the Overstrand had their own policies regarding Guest houses, Bed & Breakfast, Self Catering units and Back Packers.

As tourism is one of the key performances and development areas for the Western Cape, all issues dealing with tourism should be properly addressed.

In terms of the Cape Tourism Act together with Municipal Structures and Systems Act, Municipalities have received more definite functions in promoting and controlling tourism in its area.

In order to consider the policy on Accommodation Establishments there are a few functional areas to take into considering the policy. This would be discussed under the following headings:

ECONOMIC AND TOURISM DEVELOPMENT

Council has the duty to create the atmosphere and opportunities to promote Economic and Tourism Development in the area. From this stems the issues such as job creation. Therefore Council needs to create and facilitate the parameters in which this development is promoted and encouraged.

The demand for Accommodation Establishments is known fact and is currently being met by mostly Guest houses and B & B's. These are normally established in Single Residential areas subject to obtaining a departure or Special Consent from the Local Authority.

Council acknowledges this and therefore accommodate the demand for accommodation according to a policy.

GUEST HOUSE OPERATORS

As these people fulfil an important function not only in economic development but also in job creation. They further fulfil an important role in satisfying the demand for

EXECUTIVE COMMITTEE MEETING

31 MAY 2001

alternate holiday housing. They are also crucial in the development of tourism and the development of the Overstrand's economy.

RESIDENTIAL COMMUNITY

Although the development of tourism and economy are crucial, one should not leave the primary factor namely the residents from the equation. These people insist on the peacefulness and amenity of a residential neighbourhood according to its primary use as Single Residential.

These people's rights should be the highest priority and any impact on their privacy and general living conditions should be restricted or mitigated to acceptable standards.

TOURISTS THEMSELVES

Lastly, the tourists and visitors to these accommodation establishments are also very important.

They should be assured of quality and value for money when making use of an accommodation establishment in the Overstrand.

To ensure this a policy should be implemented to ensure certain standards are upheld. This could be done by implementing certain monitoring as well as an accreditation system as currently employed by the different Tourism Bureaus to ensure minimum standards are met.

3. Conclusion

Taking cognisance of all the interested parties and the different functions that they fulfil, it is clear that Council needs a policy which would address the above issues. The policy was formulated after consultations with the various townships as well as tourism bureaus.

The policy will be discussed hereafter.

DISCUSSION OF POLICY:

- A. Policy regarding Accommodation Establishments (Ref Guest Houses and B & B's)
 - a) Any Accommodation Establishment from 1 to 5 bedrooms to apply for a departure or a Special Consent

EXECUTIVE COMMITTEE MEETING

31 MAY 2001

Previously Accommodation Establishments who conducted 1 or 2 rooms were not required to apply for a departure or Special Consent.

It was recently determined in a court case that all Accommodation Establishments including 1 and 2 bedrooms should apply for a departure or Special Consent according to the specifications of the Land Use Ordinance.

Further, the reason for restricting Accommodation Establishments to 5 bedrooms is the fact this activity is allowed in a Single Residential area where the characteristics should be preserved. The normal tendency in Single Residential areas is that dwellings have an average of 4 bedrooms. In order to lesson the impact of Residential Business activity on a residential area the number of rooms should be restricted.

It is also the intention that should an Accommodation Establishment cease it's activities, the house should revert back to it's original use of Single Residential. This policy would only be applicable on Single Residential even where the applicant applies for a departure or Special Consent. Should a person wish to conduct more than the prescribed 5 bedrooms on a Single Residential erf, he should apply for a Rezoning.

- b) Only one kitchen is allowed per Accommodation Establishment. (except in cases where a Self Catering unit has been approved. (Self Catering units discussed later in the item.)

The reason for this again is to comply to the a Scheme Regulations of which most applicable Town Planning Schemes determine that only one kitchen is allowed per Single Residential dwelling.

This is also to prevent people from illegally conducting Self Catering units on Single Residential even.

Further again, this is to ensure that the Single Residential character is preserved.

- c) Meals to be served to Residents of the Accommodation Establishment

All meals could be served by an Accommodation Establishment subject to accreditation by the Tourism Bureau as well as the necessary Health Certificate.

- d) No facilities (Bar/Restaurant or any other) to be open and provide for non-resident of the Accommodation Establishment

All facilities provided on Accommodation Establishment premises should be restricted to the use by residents only.

EXECUTIVE COMMITTEE MEETING

31 MAY 2001

The reason for this is to prevent Guest Houses to operate restaurants, bars, etcetera, serving the general public.

As the area in which such a Guest House is conducted, is Single Residential, one wants to protect the privacy, peacefulness and amenity of such a neighbourhood. It is also to restrict activities in these areas to an acceptable standard for a Single Residential area. It must also be remembered that an accommodation establishment is allowed to cater for residents of the establishment and not the general public.

e) No liquor to be sold on the premises

Liquor may be provided to guests on the premises but not by means of a cash bar. This policy again is to prevent the illegal sale of liquor from a Single Residential premises. Liquor is only to be sold where an applicable license has been obtained.

f) Parking to be provided within the erf boundaries

The provision of parking is normally the issue that is mostly objected against.

As tourists come and go at all hours the activity of door slamming and cars starting it should be mitigated to the extent of having least impact on adjoining properties.

The reason that parking should be provided within the boundaries is therefore to limit and restrict the impact on adjoining neighbours.

This is also a normal requirement with other businesses where they must provide the necessary parking in their own property. Further, parking may not be provided as directly off the street parking alongside each other. A Single Residential erf is only allowed access and egress to a maximum of 6m. Further this restriction would serve to enhance traffic safety in a residential area. Business are required to provide their parking within the boundaries of their erf and therefore Accommodation Establishments should be required to do the same.

g) Minimum of 1 parking bay per guest room to be provided with an additional 2 parking bays for the owner/manager

After consultation with various people and groupings it was felt that 1 parking bay per bedroom is adequate. The reason being is that a guest room normally only houses one family and they also rarely receive visitors whilst staying in a guest room.

Secondly, the guest houses are rarely booked to capacity which serves that 1 parking bay per room is adequate. The two parking bays per owner/manager is

EXECUTIVE COMMITTEE MEETING

31 MAY 2001

prescribed, as the Scheme Regulations determine that a minimum of one parking be provided per dwelling. Most residents have two cars and therefore the second parking. Further, the owner/manager normally is more likely to receive visitors for which the second parking would cater.

The parking should be accessible and tandem parking not to be allowed if not fully accessible for all cars.

h) Owner/Manager to reside on the premises

This is mainly to ensure that the business is conducted in a proper manner and under permanent supervision and to have a responsible person on the premises to control the activities within the set parameters and regulations.

i) Health and Safety certificates

This is according to National regulations. Safety certificates would include a Fire Prevention certificate.

j) Commercial tariffs be payable

Most of the tariffs would stay the same as for a normal domestic tariff. However, tariffs regarding refuse would increase. The reason for this is that a guest house occupied to its potential create more refuse than a normal household. This would increase the operating expense for Council as refuse capacity is taken up quicker. It further means that refuse trucks would most probably have to do more trips to the refuse site. This tariff would be guest house tariffs as determined by Council per it's budget.

k) Special Consent or Departure is not transferable

This is firstly to prevent people from speculating with the temporary rights of an Accommodation Establishment. Further, that would also force a new owner to follow the proper procedures where Council could again determine its conditions for allowing such as accommodation establishment.

In certain cases it might not be desirable to continue this function in an area and this allows Council the opportunity to apply it's mind to all issues and to reconsider a previous approval.

l) Accommodation Establishments should register at a fixed tariff determined by Council each year.

The reason for this is that Council must ensure that the tourist services delivered be properly inspected every 6 months. This registration fee would cover the cost for

EXECUTIVE COMMITTEE MEETING

31 MAY 2001

such inspections.

The aim of such an inspection is to make sure the accommodation establishments comply with all regulations and conditions applicable. This would also ensure that these facilities would become accredited which would ensure that specific standards are upheld.

- m) An Accommodation Establishment may only be conducted after all conditions have been met.

This is to ensure that all the conditions of approval are implemented by the applicant before the conducting of the functions.

This would also ensure that a measure of policing could take place. Should such a facility be conducted without all conditions being complied to, the departure would be withdrawn and the applicant would have to re-apply. Law enforcement in respect of conduct conditions would apply.

- n) An Unilluminated Sign of 2000 cm² to be displayed on the erf.

This is to ensure that signage is controlled and kept to acceptable standards.

B. Additional Policy for Self Catering Units

- a) Self Catering Unit

Self Catering units would be subject to all the conditions as set for an Accommodation Establishment together with the following:

As a Self Catering unit contains its own kitchen, it qualifies as a Second Dwelling. The approval of these should also be considered according to Council's densification policy and availability of adequate service capacity.

Lastly, again the character of the single residential area must be preserved. As a single residential area has a low density the increase in density should be properly considered. This being the reason why only one self catering unit is allowed per Single Residential erf. This would ensure that this type of development would have limited impact on the neighbourhood.

- b) A Bulk services levy be payable to the amount of 50% of the applicable on a single residential erf.

As a self catering unit is in effect a second dwelling which increases the impact on the bulk services, provision should be made for a bulk levy.

EXECUTIVE COMMITTEE MEETING

31 MAY 2001

C.Backpackers

Backpackers are subject to the same policy as an Accommodation Establishment with the following additions.

- i) A maximum of 10 beds

This policy would ensure that the impact of a Backpacker be the same as a Guest House with 5 bedrooms.

Any backpacker wishing to apply for more beds should apply for a rezoning.

- ii) Parking to be provided at 1 parking bay per 2 beds with two additional parking bays for the owner/manager.

This condition is to prevent applicants to put 10 beds in one room and therefore providing just 1 parking bay.

RECOMMENDED

that the policy be approved for Accommodation Establishments on Single Residential erven.

A.Policy regarding Accommodation Establishments (Ref Guest Houses and B & B's);

B.Additional Policy for Self Catering Units, and

C.Backpackers

THE MATTER SERVED BEFORE THE PORTFOLIO COMMITTEE FOR TOWN PLANNING, TOURISM AND ECONOMIC DEVELOPMENT ON 17 MAY 2001, WHICH COMMITTEE RECOMMENDATIONS AS FOLLOWS:

RECOMMENDED

that the policy be approved for Accommodation Establishments on Single Residential erven.