



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

A G E N D A

DATE:	30 AUGUSTUS 2017
VENUE:	TOWN PLANNING COMMITTEE ROOM HERMANUS
TIME:	14:00

OVERSTRAND MUNICIPALITY

Office of the Municipal Manager
Civic Centre
HERMANUS
7200

2 August 2017

TO : THE CHAIRPERSON AND MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

CONVENING NOTICE : SESSION OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)

NOTICE IS HEREBY GIVEN that a meeting of the **Municipal Planning Tribunal (MPT)** will go into session on **Wednesday, 30 August 2017 at 14:00, Town Planning Committee Room, 16 Paterson Street, Hermanus**, to consider the attached agenda.

You are kindly requested to submit any amendments/additions to Ms S Swart (sswart@overstrand.gov.za) on or before **15 August 2017**.

COENIE GROENEWALD
CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL

Distribution:

1. Mr C Groenewald (Chairperson)
2. Mr S Müller (Vice-Chairperson)
3. Mr S Madikane (Member)
4. Mr R Williams (Member)
5. Mr R Kuchar (Member)
6. Ms H Janser (Member)
7. Mr S van der Merwe (Senior Town Planner)
8. Ms H van der Stoep (Senior Town Planner)
9. Mr P Roux (Town Planner)
10. Mr H Olivier (Town Planner)
11. Secretariat

1. OPENING

2. APPLICATIONS FOR LEAVE OF ABSENCE

3. CONFIRMATION OF MINUTES

3.1 Minutes of a Municipal Planning Tribunal Meeting held on 27 July 2017

4. ITEMS FOR CONSIDERATION

4.1 ERF 511, 39 PROTEA ROAD, FISHERHAVEN, OVERSTRAND MUNICIPAL AREA : PROPOSED CONSENT USE : MESSRS WRAP ON BEHALF OF THE RENDEZVOUS TRUST 2

Report attached

4.2 ERF 1180, 223 MAIN ROAD, EASTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: PROPOSED DEPARTURES: M VAN DER WALT

Report attached

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4.1

**ERF 511, 39 PROTEA ROAD, FISHERHAVEN, OVERSTRAND MUNICIPAL AREA :
PROPOSED CONSENT USE : MESSRS WRAP ON BEHALF OF THE RENDEZVOUS
TRUST 2**

**511 HFH (3600)
H Olivier
17 July 2017**

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application has been received on Erf 511, Fisherhaven for a consent use for a five (5) bedroom guest house in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016.

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

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The erf measures 1638m² in extent and is developed with a residential dwelling.

The existing land owner did apply for a departure for a guest house which was approved in October 2012. This approval will lapse in this year.

The owner still intends to renovate the dwelling and utilize it as a guest house and therefore apply for a consent use.

Provision will be made for five (5) guest rooms, a manager's room, and extra room for manager's guests. Six (6) parking bays will be provided and there is also a single garage on the property.

4. SUMMARY OF APPLICANT'S MOTIVATION

- Fisherhaven functions mostly as a retirement-, residential- and holiday town.
- There are no restrictions in the Title Deed that prohibit the guest house activity.
- The guest house is desirable for the following reasons:
 - The application is in line with the principles and goals of the Western Cape Provincial Spatial Development Framework (PSDF), Overstrand Municipal Spatial Development Framework (OMSDF) and Overstrand Municipal Growth Management Strategy (OMGMS).
 - Contribute to market and promoting Fisherhaven as a tourist destination.
 - The site is fully serviced.

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- The site is not in an environmentally sensitive area.
 - Guest house blend in with the character of the residential area.
 - No negative impact on the society or environment.
- The application is in line with the development parameters applicable for accommodation establishments in that a maximum of five (5) guest rooms will be provided, sufficient parking will be provided, meals and liquor will only be served for guests, the manager will reside on the premises, etc.
 - Access is gained off Protea Road for the parking area.
 - The application is in line with the Planning Principles as follows:

Spatial Justice

The application will not contribute to spatial imbalances.

Spatial Sustainability

Will not impact on agricultural land, environmentally sensitive and biodiversity rich areas or on scenic and cultural landscape.

Efficiency

Optimise development potential of property which is compatible with the surrounding environment.

Spatial Resilience

Property is spatially resilient and can absorb shocks whether economic or environmental.

Good Administration

The application went through a consultative planning process and was advertised to the general public.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Press	No	N/A	N/A
Gazette	No	N/A	N/A
Notices	Yes	23 March 2017	28 April 2017
Ward councillor	Yes	23 March 2017	28 April 2017
Total comments	TWO (2)		
Was public participation undertaken in accordance with Section 45 - 49 of the Proposed Draft By-law on Municipal Land Use Planning?			Yes
Was the application processed correctly (if no, elaborate below):			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			Yes

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

Name	Date received	Summary of comments	Recommendation
Fire Department	4/05/2017	Subject to compliance with the requirements of the National Fire Protection Regulations – SANS 10400 T: 2011	Positive
Building Control	27/03/2017	Supported subject to compliance with SANS 10400	Positive
District Health	10/05/2017	In terms of Municipal Health By-Law, 2015 the owner of the guest house must apply for a Health Certificate at the Overberg District Municipality and a R962 certificate of acceptability for the preparation and serving of food on premises.	Positive
Telkom	4/05/2017	See Annexure F	Positive
Engineering Services	31/03/2017	See Annexure G	Positive
Eskom	29/03/2017	See Annexure H	Positive
Traffic Department	6/04/2017	No traffic related issues on the property.	Positive

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION.

Two (2) letter of objection were received. The objections can be summarized as follows:

K Williams (Erf 499)

1. Concerned about two (2) braais on rear boundary with regard to impact of smoke and privacy, and request braais be removed.
2. No survey or consultation was done to proof the applicant's opinion that increased tourism and job creation are desired by residents in the village.
3. The real factual information in the planning report could have been listed on one (1) page.

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Ms D Land and Dr CC Frick (Erf 510)

1. This type of "business" should be operated from the existing business area (The Crescent) and not in a residential area.
2. Fisherhaven is a quiet residential area with predominantly retirees, and not a tourist resort.
3. The activity would lead to increase in vehicles going at all hours, impact on safety of residents, lead to an increase in theft/burglaries, nuisance of car headlights, noise, alarms, and would intrude the peaceful lifestyle and privacy.
4. The Bed and Breakfast (B&B) with guest rooms, the entertainment/braai room and outside deck being directly next to our home and garden would impact privacy on Erf 510 and impact on quality of life.
5. The building plans will again have to be submitted as it is dated 2011.
6. Why would a B&B require a dining room, braai and liquor license application, as this is inappropriate uses for a place only serving breakfast. This would lead to an increase in activity and noise. There would be a commercial kitchen, increase in refuse, etc.
7. Fisherhaven does not have a tourism bureau and is also not the only large body of water for fishing and recreational activities in Overstrand. Fisherhaven does not have infrastructure to accommodate tourism to generate income.
8. The application will not add value to the community and will not fit in with the character of the area, and is not desirable and there is no need therefore (that is why it was never established since 2012).

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

The applicant's response on the objections can be summarized as follows:

K Williams (Erf 499)

1. Braais are commonly build on common site boundaries, and to move such braais to inside the 2m building line would make no difference to privacy.
2. It is the view that guest houses bring tourists and job opportunities, and the fact that only two (2) objections were received against the application shows most residents have no objection to such application.
3. Planning application is prepared in terms of applicable legislation.

Ms D Land and Dr CC Frick (Erf 510)

1. B&B's are considered residential ventures and normally situated in residential areas, and rights are obtained with consent use applications. Facilities such as

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hotels are usually found on business sites in business areas. B&B's are found in various residential areas such as Voëlklip, Eastcliff, Westcliff, etc.

2. A guest house with five (5) guest rooms would probably not cause any more disturbances in quiet Fisherhaven than a five (5) bedroom house with a large family. Guests also prefer quiet residential areas instead of noisy business areas.
3. The slight increase in vehicles is not so extreme to create such a nuisance or impact on safety of residents.
4. The owners of Erf 510 could have considered the placement of the entertainment/braai room and deck on Erf 511 in planning of their home on Erf 510, and this is also standard uses found in residential areas and should it now be used by guests of the B&B, would not have a major impact on privacy or quality of life.
5. The building plans will be re-submitted.
6. In terms of Municipal Regulations a guest house may serve meals and liquor to only paying guests of the guest house, and they may have access to all the areas such as the dining room, braai room, etc. It is also not foreseen that the impact of the facility will have a greater impact than any normal dwelling for a larger family or create greater refuse.
7. Fisherhaven is the only town in such close proximity to a lagoon. Fisherhaven also has infrastructure for tourists such as restaurants, entertainment and shops, and is also close to Hermanus and the wine routes which are tourist attractions.
8. The objector's opinion that the guest house will not add value is unfounded and not supported. Only two (2) objections were also received against this application.

9. MUNICIPAL ASSESSMENT OF COMMENTS (Town Planner's comment on objections/and response thereon)

K Williams (Erf 499)

1. The braai structures are not indicated on building plans on our records. If the owner has plans indicating it has already been approved, such proof must be provided and the braais would be an existing right. If it was not approved, application will have to be made to legalize the structures and the desirability will then be decided on. Alternatively if illegal, it must be demolished.
2. The establishment of guest houses in general create the opportunity for people to visit an area which have tourist activities, which the Greater Overstrand area definitely has. The guest houses provide job opportunities for locals and tourists also spend money in the region at shops, restaurants, etc. The applicant's opinion is therefore supported.
3. Comments noted.

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Ms D Land and Dr CC Frick (Erf 510)

1. The applicant's opinion is supported.
2. The applicant's opinion is supported. It must also be noted that a guest house provide accommodation for different guests and such a facility usually have strict rules with regard to noise/disturbance control to ensure that all guests have a pleasant stay. This also helps ensure that the impact on neighbours are limited.
3. As indicated in two (2) above guest house owners create rules to limit impact to also ensure a pleasant stay for all guests. The slight increase in vehicles or impact on privacy would not have much of a greater impact than that of a large family.
4. The two (2) dwellings are situated a relatively great distance from each other. Living rooms on Erf 510 is approximately 13m from the dwelling on Erf 511, and the bedrooms area set back approximately 20m from the dwelling on Erf 511. There is also a boundary wall and some vegetation between the dwellings. This would help ensure privacy. It is to be noted that no major building alterations will be done which would have a greater impact on privacy on the objector's property (Erf 510).

Due to the fact that a large family with the same number of people as accommodated in a guest house could also live in the dwelling, it is the opinion that the objector's claim of loss in privacy and quality of life is debatable.

5. Noted.
6. Concur the applicant's comment.
7. The comments are noted. It is not precisely clear what infrastructure is being referred to, but from a municipal services point of view services are available. Fisherhaven is also situated central to Kleinmond, Hermanus and Botrivier, which are all tourist destinations with many attractions. Fisherhaven is also central to various nature reserves and wine lands, and an ideal overnight option for visitors to the area.
8. The comments are noted. It is however the risk the owner will take to open a guest house if there is no need for such facility in the area. This office will consider the fact that the owner did not act on his approval for a departure for a guest house in the provided five (5) year period, in our evaluation.

Internal Departments

No objection has been received by the internal departments.

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**10. MUNICIPAL PLANNING EVALUATION
(REFER TO RELEVANT CONSIDERATIONS GUIDELINE)**

10.1 Background

N/A

10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application is in line with the planning objectives applicable to this application.

The objectives relating to:

Spatial Justice

Not applicable.

Spatial sustainability

The application would lead to an increase of tourists to this area which would have a positive economic impact on the land owner and business in the area.

Efficiency

The land owner will use the property to its full potential as is allowed in terms of the Overstrand Zoning Scheme.

Spatial Resilience

The application is in line with local policies which promote tourism in this area. The application will enable the applicant to optimise his assets, should it be necessary due to economic and/or financial reasons.

Good administration

Procedure was followed and a public participation was applicable.

10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

Same.

10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies

Same.

10.5 (In)consistency with guidelines prepared by the Provincial Minister

N/A

10.6 Impact on Municipal engineering services

None. Existing services will be used.

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10.7 Outcomes of investigations/applications i.t.o other legislation

N/A

10.8 Existing and proposed zoning comparisons and considerations

The application is in line with the Overstrand Spatial documents.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL

The application is in line with the aim of the Overstrand Municipal SDF, which promotes tourism.

The application complies with the requirements for tourist accommodation on residential erven.

Council previously found the application desirable and approved a departure application for the same scale guest house application in 2012.

The application complies with the general principles in terms of SPLUMA and LUPA, and the guesthouse would be a sustainable enterprise with the potential to create economic growth in the area.

The site has good accessibility and sufficient on-site parking can be provided. It is also fully serviced and it will have no real impact on services.

The old plans available on record were scrutinized and it does not show that the braai structures on the rear boundary were ever approved by this office. If it was ever approved, such proof must be provided to this office, and then it is an existing right and this office cannot request such structures to be removed. However, if it is illegal, building plans and the necessary planning applications will have to be submitted and the impact will then be considered in such process, or alternatively it will have to be removed. This will also be the case with any other building work there is no building plans for.

Most other concerns that were raised were with regard to direct impact on neighbours. On ground floor the bedrooms and proposed parking area is not situated close to the two (2) objectors' properties to the rear and west of Erf 511. There is the mentioned braai and pool situated at the rear of the property, but considering the existing outbuildings on Erf 499 is situated approximately 34m from the common boundary, and the new proposed dwelling on Erf 499 would be approximately 26m from the common boundary, the impact on privacy and possible noise on Erf 499 is very debatable.

On the first storey there is a braai room on the western side facing the street and Erf 510, and an open deck on the north-eastern and northern side.

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The deck would not impact on the objectors as it faces away from the western and southern boundaries. The braai room is fully enclosed and still some 13m from the dwelling to the west (Erf 510). The impact of noise and privacy on Erf 510 should not be any greater than that of a large family. Considering the fact that guest houses usually have strict rules regarding noise, to ensure a good stay for all guests, high noise levels is not expected. There is also a manager on-site that must ensure acceptable noise levels are adhered to.

Considering the above and the planner's response to the objections, Fisherhaven is identified in terms of planning policies for tourism related businesses, which would lead to job opportunities and economic growth.

The scale guest houses are operated on (maximum five (5) guest rooms) traffic impact and impact on privacy are limited. Due to the requirement that a manager stays on site, there is also good control on site limiting any impact on neighbours.

The applicant did not act on the previous departure approval that was valid for five (5) years. A condition will therefore be inserted that if the applicant does not act on the approval within two (2) years the application will lapse.

It is the opinion that the application will not have a detrimental effect on neighbours or the residential character of the area, and is desirable.

13. RECOMMENDATION

1. that the application in terms of Section 16(2)(o) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 (the By-Law) on Erf 511, Fisherhaven for a consent use to operate a five (5) bedroom guest house, **be approved** in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:
 - (a) that a revised site development plan be provided showing seven (7) parking bays on site;
 - (b) that proof be provided that the braai structures have been approved on a building plan, and if not the required building plans and planning applications be submitted for such structures and any other illegal structures on site for consideration, or alternatively all illegal structures be demolished prior to acting on this approval;
 - (c) that this approval must be acted on within two (2) years of the date of this approval, otherwise the approval will lapse;
 - (d) that the facility be utilized as a guesthouse only
 - (e) that the guest house only be utilized in line with the finally approved site development plan;
 - (f) that a maximum of five (5) bedrooms to be let, be permitted;

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- (g) that the owner/manager resides on the premises, and that the owner be responsible for the proper management of the guest house;
- (h) that the guest house is utilized as such – no self-catering will be permitted;
- (i) 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;
- (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 maximum 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 Authorised Official;
- (l) 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;
- (m) 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;
- (n) that a single non-illuminated sign that complies with the Municipal By-Law on Signage, may be displayed on the premises, and that the existing flag pole be removed;
- (o) that the guest house be conducted in such a manner that it is not found to be detrimental to the peacefulness and amenity of the surrounding area;
- (p) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
- (q) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
- (r) that should any building alterations be required building plans should be submitted to the Building Department for approval;
- (s) that all the conditions in the Services Report (attached as Annexure G), be complied with;
- (t) that all conditions imposed by the Fire Department, be complied with;
- (u) that no kitchen facilities and or prep bowls be allowed in the guest rooms, and
- (v) that all the conditions by Telkom (attached as Annexure F), be complied with.

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2. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2016 with regard to the above conditions of approval.

14. REASONS FOR RECOMMENDATION

- ❖ The application has followed due procedure.
- ❖ None of the internal departments have objected to the application.
- ❖ No new municipal services will be needed.
- ❖ It is in line with the aims of the Overstrand SDF.
- ❖ Contribute to alleviate the need for employment possibilities and accommodation.
- ❖ The objections were duly addressed by the applicant.
- ❖ The application will not have a negative effect on the character of the residential area, or surrounding neighbours, and is desirable.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Site Development Plan
Annexure C:	Motivation Report
Annexure D:	Objections received
Annexure E:	Applicant's response to objection received
Annexure F:	Comments: Telkom
Annexure G:	Services Report
Annexure H:	Comments: Eskom

SIGNATURE

AUTHOR:

Name: **HENK OLIVIER**

Signature: _____

Date: _____

REGISTERED PLANNER

Name : **H VAN DER STOEP**

Signature : _____

SACPLAN registration number: **A/1708/2013**

Date: _____



Locality Plan
511 Fisherhaven

Eit 511 Fisherhaven
(1638m²)

Fisherhaven

Plan 1

Plan prepared by : Reatlehlle Janide

Scale 1 : 4 000


All distances approximate and subject to survey.

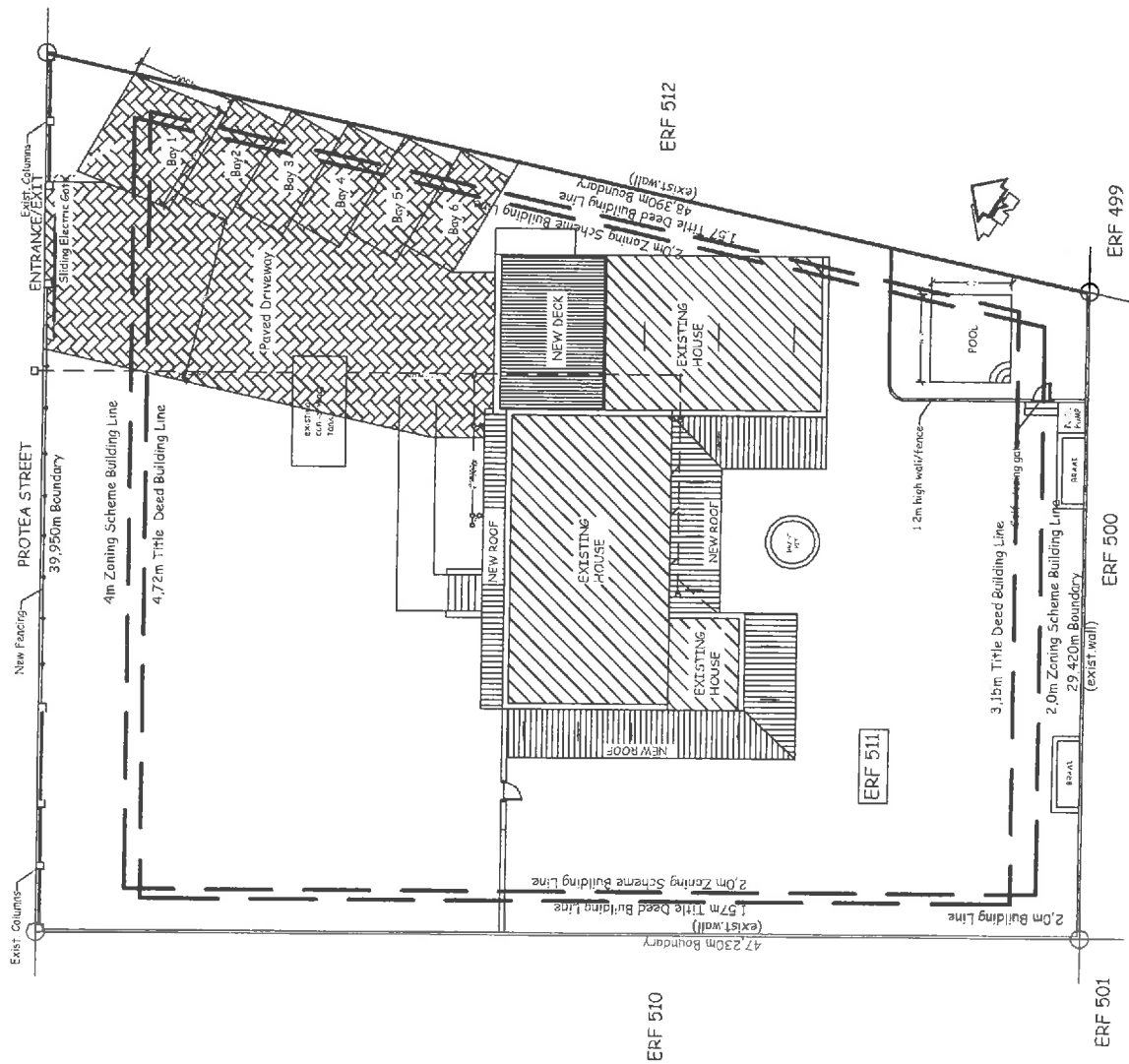
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Web: www.wrapgroup.co.za



<p>SDP 511 Fisherhaven</p>	<p>Erf 511 Fisherhaven (1638m²)</p>	<p>Plan 4</p>	<p>Plan prepared by : Reatlehle Jankie</p>	<p>NTS</p>	<p>All distances approximate and subject to survey. 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 incidental 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.</p>	<p>35 Duiker Street Pobox 1247 Hermanus 7200</p>	<p>Tel: 028 313 1411 Fax: 086 508 3248 Email: wrap@telkomsa.net Web: www.wrapgroup.co.za</p>	
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First Floor
Erf 511 Fisherhaven

Managers bedroom

15

ANNEXURE B 3/5

Plan 5

Plan prepared by : Reatlehlle Jankie

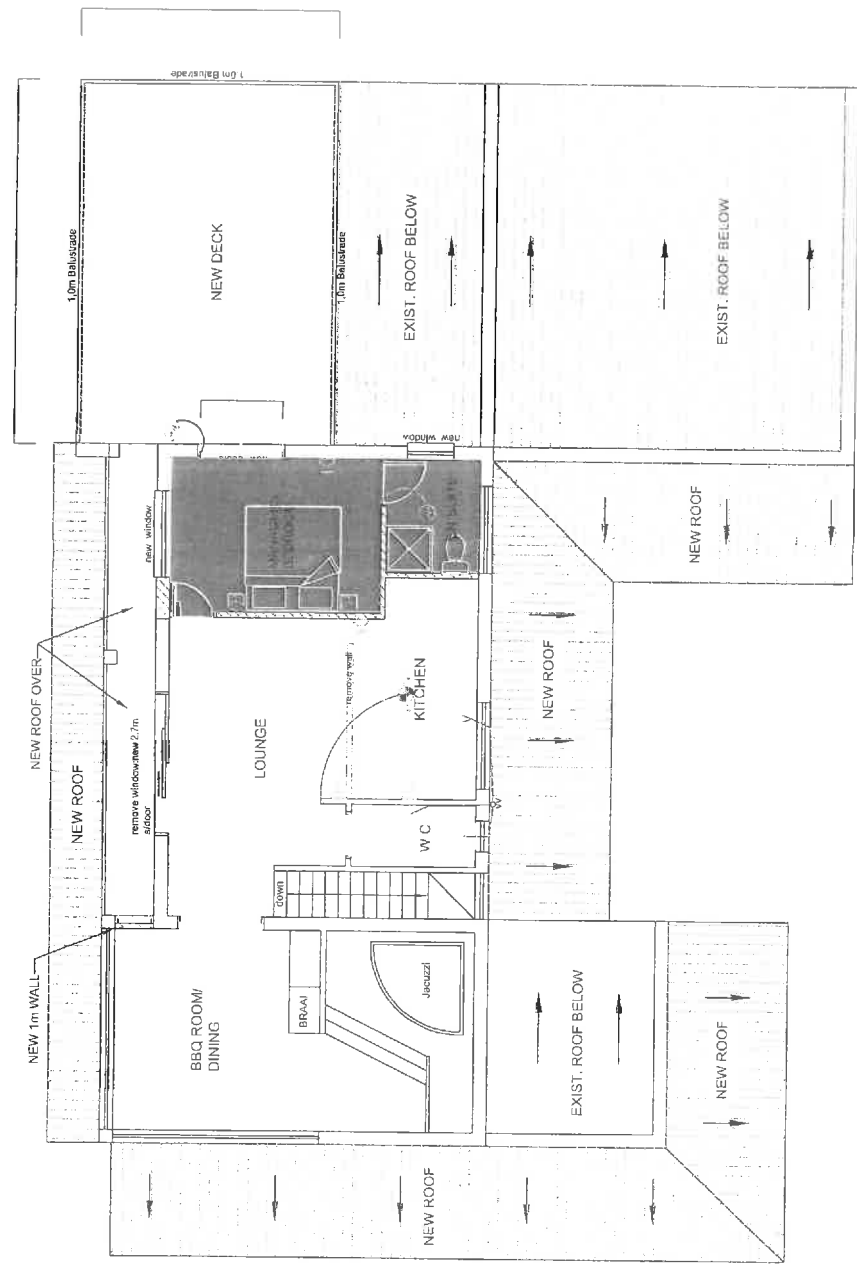
Scale 1 : 100

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TEL : 044-3822673
TEL : 044-3825086
E.MAIL : ngenade@gmail.com

DRAWINGS: N.GENADE
REG. NO. 100349

PROJECT:
PROPOSED ALTERATIONS & ADDITIONS

ERF 511

PROTEA STREET

FISHERHAVEN

DRAWN BY:
MR. VAN MECHE

CHECKED BY:
N.G.

TITLE:
ELEVATIONS

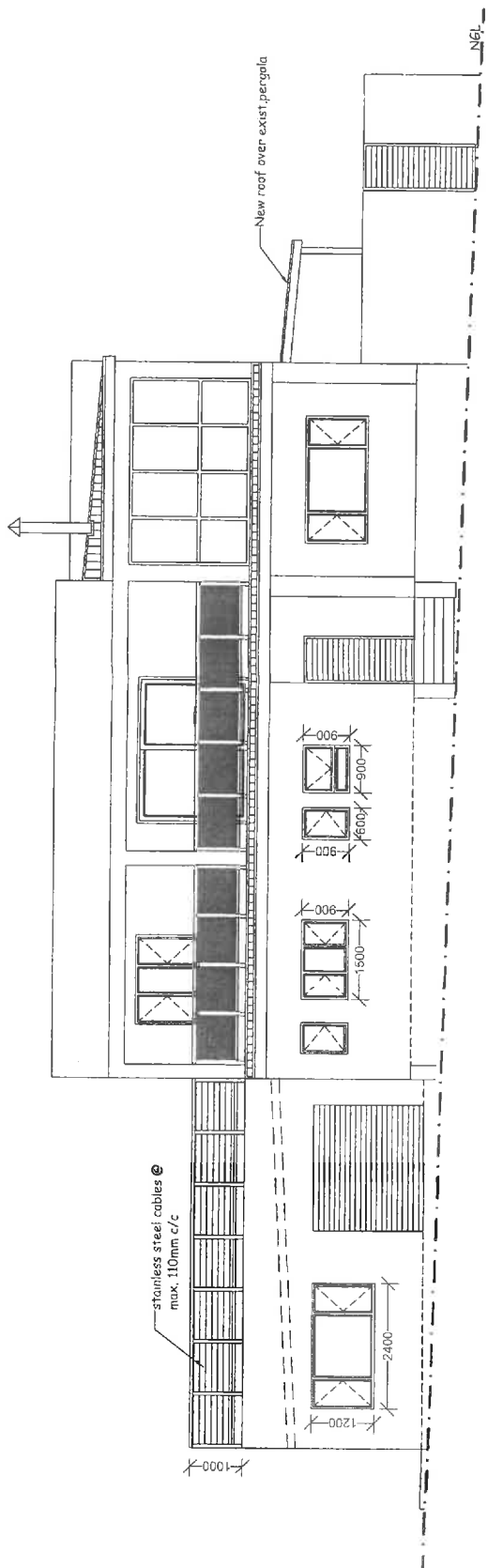
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DATE:
14-12-2011

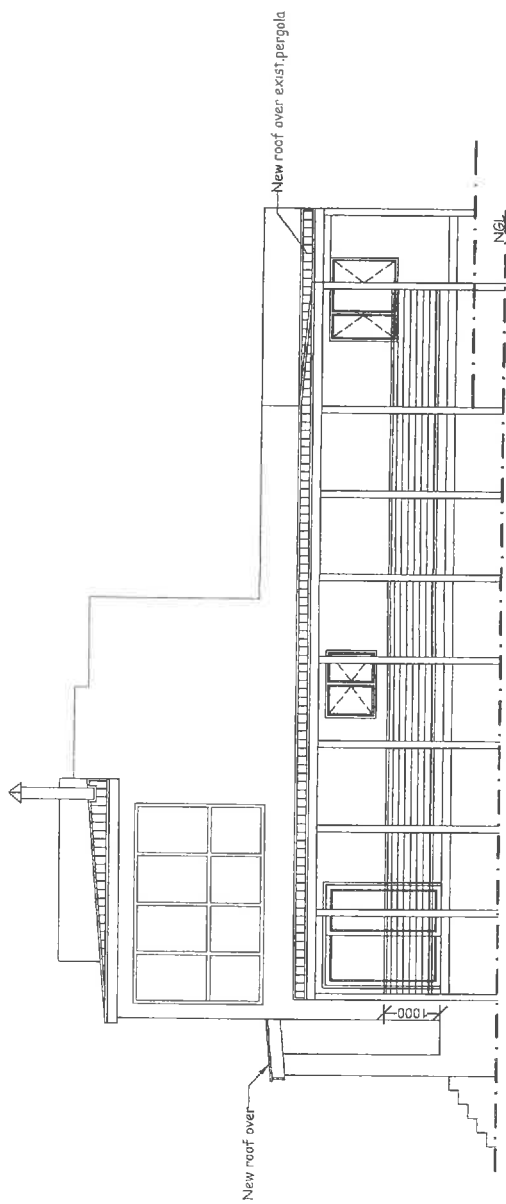
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REV: 0

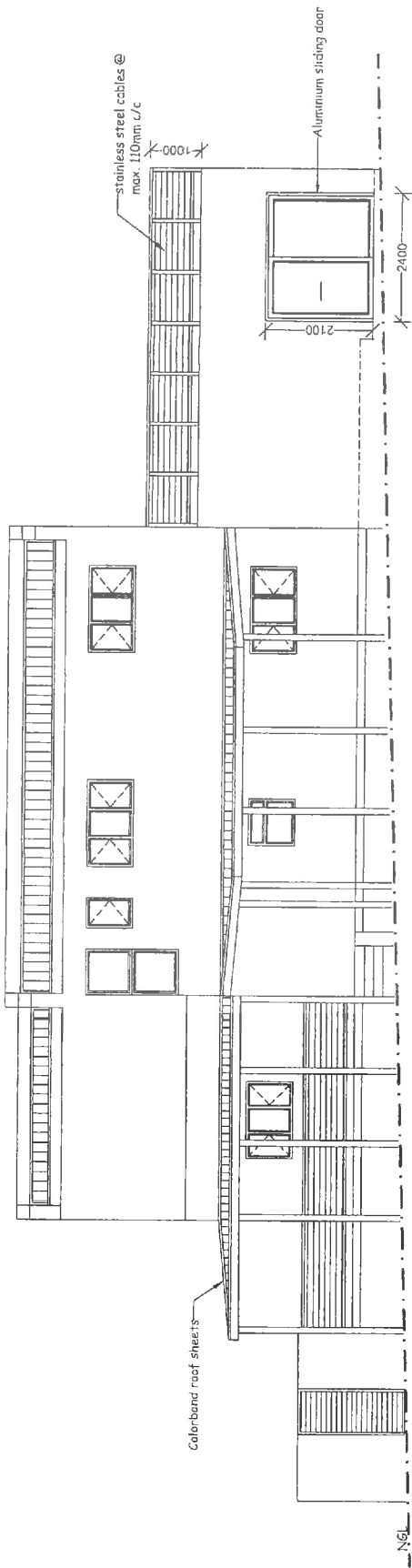
DATE: 14-12-2011



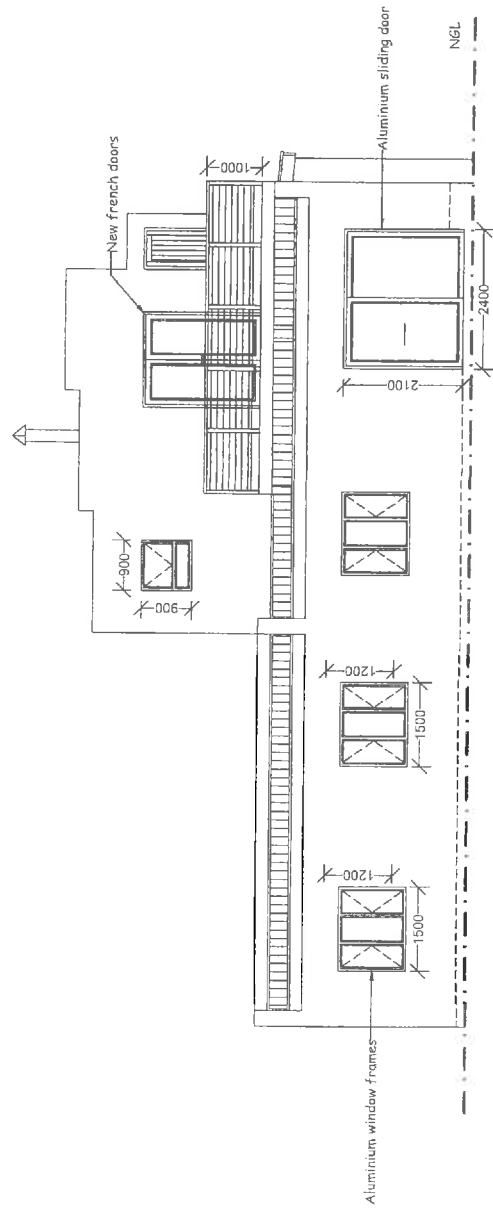
NORTH-WEST ELEVATION
1:100



SOUTH-WEST ELEVATION
1:100



SOUTH-EAST ELEVATION
1:100



NORTH-EAST ELEVATION
1:100

N.GENADE
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TEL : 044-3825086
E.MAIL : ngenade@gmail.com

DRAWINGS: ALGENAITE
REG. NO. 00049

PROJECT
PROPOSED ALTERATIONS & ADDITIONS

PROP 511

PROTEA STREET

SHERIDAN

DRAWN BY

MR. V. MCKECHIE

TITLE
ELEVATIONS

SCALE
1:100

DATE
14-12-2011

REV
0

REV
0

DATE
14-12-2011

EXECUTIVE SUMMARY

2. OWNER'S INTENT

The subject property is situated in Fisherhaven and is zoned Residential Zone 1: Single Residential (SR1). There is currently a dwelling house on the property and it is the intention of the owner after extensions were made to the dwelling, to rent out five bedrooms on a short term basis to guests. The owner/manager will also reside on the property.

An application was submitted for **DEPARTURE** for the establishment of a guest house on Erf 511, Fisherhaven in terms of Section 15(1)(a)(ii) of the Land Use Planning Ordinance, 1985 (no.15 of 1985) and was approved on 31 October 2012 (**Annexure B**).

The approval reads:

that in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), application for a departure from the relevant Scheme Regulations on Erf 511, Fisherhaven in order to allow the property owner to operate a guesthouse with five lettable rooms on the property concerned, be approved, subject to the following conditions:

- (a) that the facility be utilized as a guesthouse only;*
- (b) that only one kitchen be permitted;*
- (c) that a maximum of five bedrooms to be let, be permitted;*
- (d) that the owner/manager resides on the premises;*
- (e) that the guesthouse be run on a bed-and-breakfast basis only; no self-catering will be permitted;*
- (f) 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;*
- (g) that the selling or serving of liquor on the premises will be subject to the applicant obtaining the necessary liquor licence;*
- (h) that a minimum of one permanently demarcated parking bay per guest room (as indicated on the Site Plan submitted) and two for the owner/manager be provided within the erf boundaries, subject to the approval of the Senior Manager: Town Planning;*
- (i) 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;*
- (j) 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;*
- (k) that a single non-illuminated sign that complies with the Municipal By-Law on signage, may be displayed on the premises;*
- (l) that this approval is only valid for five years and not transferable and should the owner sell the property or there is a successor in title to the property for whatever reason, this approval will lapse;*
- (m) that Council reserves the right to rescind this approval without payment of compensation should any justified objection be received to the manner in which the guesthouse is conducted or should the operation of the guesthouse be found to be detrimental to the peacefulness and amenity of the surrounding area;*
- (n) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;*
- (o) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation,*
- (p) that the applicant registers at the Local Tourism Bureau;*

EXECUTIVE SUMMARY

- (q) that should any building alterations be required, building plans should be submitted to the Building Branch for approval;
- (r) that fire safety must be in compliance with SANS 10400 T: 2011-4.58. NBR Occupation category H5-Maximum occupation 16 persons @ 2 per room Subject to a Fire Safety Compliance inspection, and
- (s) that all the conditions in the Services Report (attached as Annexure D), be complied with.

As outlined in the conditions of approval above, the approval is only valid for 5 years and it will lapse on 31 October 2017. It is the intention of the owner of the subject property to apply for a consent use for a guest house which is permanent in terms of the Overstrand Municipality Zoning Scheme, 2013 to ensure that the guest house can continue to operate.

The size of the erf is 1638 m² and there is an existing dwelling house on the property with a ground floor of 304.9 m² and a 1st floor area of 128.1 m² respectively. The ground floor of the existing dwelling has (6) bedrooms, a dining area, a kitchen, a scullery, a reception area, a staff bathroom as well as a store room. The first floor has a manager's bedroom, a lounge and a BBQ dining room (Refer **Plan 5**).

A total of five (5) bedrooms will be made available for guests and one (1) bedroom for the manager's family member on the ground floor. One bedroom will be for the manager of the guest house on the first floor. Seven parking bays are provided which include parking for the disabled and a garage (Refer **Plan 4**).

Application is hereby made for the following:

- **Consent use** for a guest house with five (5) lettable rooms in terms of Section 16(2)(o) of the Overstrand By Law on Municipal Land Use Planning, 2015.

3. CHARACTER OF ENVIRONMENT

The subject property is located in Fisherhaven which is a township on the eastern bank of the Botrivier estuary, 9km west of Hermanus and predominantly functions as a retirement-, residential- and holiday town.

The subject property is located in the north-western part of Fisherhaven. Access to the property is gained from Protea Road. The property is bound by Erf 512 Fisherhaven to the east, Erf 499 Fisherhaven to the south and Erf 510 to the west and is zoned Residential Zone 1: Single Residential (SR1).

4. TITLE DEED AND PROPERTY DETAILS

A copy of the subject property's title deed has been attached as **Annexure C** and a study of the deed revealed that there are no restrictive conditions that may prohibit the approval of this application.

	APPROX. EXTENT	OWNERSHIP	TITLE DEED NO
Erf 511 Fisherhaven, in the Overstrand Municipality, Division of Caledon, Province of the Western Cape.	1638m ²	Rendezvous Trust 2 (Reg. Nr. 1547/2004)	T72366/2011

5. DESIRABILITY

In terms of Section 55 (b) and (c) Land Use Planning Act; 2014 an application can be refused based on it being undesirable. The measure to assess the desirability of the application is the consistency of the application with spatial development frameworks, applicable structure plans, the principles referred to in Chapter VI and guidelines issued by the Provincial Minister regarding the desirability of proposed development.

The proposed guest house needs to be desirable and consistent with the logic character of the town and add value to the owner and the community. The Department of Environmental Affairs and Development Planning (DEADP) published a Guideline on Need and Desirability as part of the EIA Guideline and Information Document Series. Although this application does not include an environmental authorization application, the desirability guidelines set out in the document are also applicable in planning.

In terms of the above, a number of questions need to be asked with regard to the need and desirability of a proposal, which include the following:

Need and desirability measure	Yes/ No	Applicability to the subject farms
Is the land use considered within the timeframe intended by the existing approved SDF agreed to by the relevant environmental authority?	Yes	The application for a guest house is within the timeframe of the PSDF (Western Cape Provincial Spatial Development Framework), OMSDF (Overstrand Municipal Spatial Development Framework) and Overstrand Municipal Growth Management Strategy (OMGMS) is consistent with the principles and goals enshrined in the frameworks. The spatial planning initiatives section of this report will

MOTIVATION

		elucidate this.
Does the community/area need the activity and the associated land use concerned?	Yes	There is a definite need in Fisherhaven for a guest house to contribute to marketing and promoting the town as a viable tourist destination.
Are the necessary services with adequate capacity currently available, or must additional capacity be created to cater for the development.	Yes	The subject erf has a dwelling unit, receives water from the municipality and has a conservancy tank. The solid waste removal is done by the Municipality. Electricity is provided by Eskom.
Is this development the best practicable environmental option for this land/site?	Yes	This application is the most practical environmental option as the property is situated in an approved township where the relevant specialist studies have been done to prove that the subject property is not situated on environmentally sensitive land.
Would the approval of this application compromise the integrity of the existing approved and credible municipal IDP and SDF as agreed to by the relevant authorities?	No	As this motivation will prove later on, the proposal is well aligned with the existing approved and credible municipal IDP and OMSDF.
Do location factors favour this land use?	Yes	The location of the proposed development is ideal as it is within a residential area and the proposed consent use for guest house blends in with the residential character of the area.
How will the activity or the land use associated with the activity applied for, impact on sensitive natural and cultural areas?	No	The proposed buildings will not adversely impact on any sensitive natural areas and cultural areas.
Will the proposed activity or the land use associated with the activity applied for, result in unacceptable opportunity costs?	No	The proposed land use applied for will not result in unacceptable opportunity cost.
Will the proposed land use result in unacceptable cumulative impact.	No	The proposal will not have any adverse impact on the society and the environment.

6. OVERSTRAND MUNICIPALITY ACCOMMODATION ESTABLISHMENTS

The Overstrand Municipality Policy on Accommodation Establishments provides a set of guidelines that outlines the development parameters that are applicable for accommodation establishments. It is essential for the proposed guest house to be aligned with the guidelines and promote a sound short term rental facility for guests.

Guideline	Consistency of the application with the guideline
Up to 5 rooms need to apply for Special Consent or a Departure from the Zoning Regulations. All rooms to be interleading with the main dwelling.	This application is for a consent use for a guest house with five lettable rooms for guests. All the rooms are interleading within the main dwelling.

MOTIVATION

Approved or proposed building plan, showing all B & B rooms	Proposed building plans, attached to this application (refer Plan 5) shows all the rooms in the proposed guest house.
A proper site plan, also indicating the parking layout, to scale.	The SDP shows the positioning of the proposed and exiting building and with a parking layout which has dimensions. The parking layout and manoeuvring space is compliant with the requirements of the Overstrand Municipality Zoning Scheme.
Copy of the Title Deed,	A copy of the title deed is attached to the application and there are no title deed restrictions that can prohibit the approval of this application.
Meals/liquor may be served to residents only.	All meals will only be served to guests.
If meals are prepared and provided to guests a Certificate of Acceptability must be obtained from the municipal Health Department. (See Annexure B)	The property owner will follow all the processes as prescribed by the Municipal Health Department to ensure that the meals provided are hygienically prepared.
Liquor may only be sold to residents of the guesthouse.	Liquor will only be sold to residents of the guest house.
No accommodation establishment may have more than one kitchen. (Except if approval was granted for a second dwelling.)	There is one kitchen that is provided on the first floor.
The owner/manager must occupy the premises personally.	The manager's room is on the first floor and he/she will personally occupy the premises.
An approved unilluminated advertising sign to a maximum size of 2000 cm ² may be displayed. Any other signage not on the property must be applied for separately at the Tourism Bureau.	The subject property will comply with the Overstrand Municipality By-Law Relating to Outdoor Advertising and signage.
One or more fire extinguishers must be provided to the satisfaction of the municipal Head of the Fire Department. Obtain specifications regarding fire extinguishers.	There will be one or more fire extinguishers on the subject property and will be to the satisfaction of the Head of the Fire Department.

6.1 Services

For the proposed development to be viable it is necessary for services such as water, sewage, electricity and roads to be available. The owner will ensure that all required services are in compliance with municipal standards.

6.2 Water

The water to the subject property is provided by the Overstrand Municipality.

6.3 Traffic impacts, parking access and other transport related considerations

Access to the subject property is gained from Protea Road. Seven parking bays will be provided on site (refer **Plan 4**) which include parking for the disabled and a garage. The parking layout configuration has been designed in a manner to ensure the safety of pedestrians and motorists.

6.4 Electricity

Electricity on the subject property is provided by Eskom.

6.5 Sewer

A conservancy tank exists on the property and is serviced by the municipality.

7. ZONING OVERLAY

The zoning of the property is Residential Zone 1: Single Residential (SR1) in terms of the Overstrand Municipality Zoning Scheme, 2013.

The parameters associated with this zoning, development parameters of the proposal was assessed for compliance:

Residential Zone 1: Single Residential			
	Parameters	Proposal	Comply or deviate
Primary use	Dwelling house, day care centre, guest rooms, home occupation and second dwelling unit.	Existing dwelling house	Comply
Consent use	Crèche, guest house, green house, house shop, institution, place of instruction, place of worship, residential building and tourist accommodation.	Guest house	Deviate/Application made
Land Use Restrictions			
Coverage	50% = 819m ² permissible	Footprint = 304,9 m ² Coverage = 18,6%	Comply
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.	The existing building does not encroach on the street building line (refer Plan 4).	Comply
Side and Rear building line	Side and Rear building lines for erven greater than 400m ² are 2m.	The building is existing and has been approved by the Municipality.	Comply
Height	8 m measured from the base level to the top of	6,9m high	Comply

	the roof.		
Garages and carports	Garages and carports may be constructed within the building lines in accordance with 16.1.2.	N/A	N/A
Parking	<p>Parking and access shall be provided on the land unit in accordance with Section 17.1 of the Overstrand Municipality Zoning Scheme of November 2013.</p> <p>Guest house 2 bays per establishment (owner/manager) 1 bay per 2 persons accommodated</p>	<p>Five rooms will be rented out on a short term basis.</p> <p>Owner/manager = a garage and a parking bay 5 guest room = 5 bays</p> <p>Provided = 7 bays which include a garage</p>	Comply

8. SPATIAL PLANNING INITIATIVES

Spatial planning initiatives

The proposed consent use application was assessed for consistency with the existing spatial planning initiatives. This is to ensure that the development does not deviate from the spatial planning initiatives and is in line with the structure form that is envisaged by Local and Provincial Authorities.

Provincial Spatial Development Framework 2014 (PSDF)

The aim of the PSDF is to give spatial expression to the national and provincial development agendas and serves as a basis for coordinating, integrating, and aligning ground delivery of national and provincial departmental programmes. The framework also aims to communicate the government's spatial development intentions to the private sector and civil society

The spatial logic following refers to the physical and socio-economic manifestation of activity within a neighbourhood.

Spatial logic	Alignment of the proposal with the spatial logic.
"Capitalise and preserve unique local built form and natural typologies, character and heritage"	It is maintained that a definite need for development as proposed in this application exists in Fisherhaven. Apart from the few businesses that are already established in the neighbourhood, little economic development/activities can be observed in the area. Research has shown that very little accommodation opportunities are provided for tourists within Fisherhaven. The proposed building also blends in with the streetscape and character of the area.
"Promote urban rather than suburban model: avoid further fragmentation of	The subject property on which the application for a consent use for a guest

townships.”	house is made, is located within an urban area, within a well-defined urban edge and will maintain the character of the town and not fragment it.
“Focus on creating connections to economic and social opportunity to promote spatial and socio-economic integration”	The tourism sector is one of the main economic drivers of the Overstrand Municipality and it is ideal for the subject erf to capitalise on the opportunity that exists in this sector. The consent use for a guest house applied for seeks to unlock employment opportunities in Fisherhaven.
“Cluster all social facilities and complementary activities”	The proposed guest house is situated in a residential area and is compatible with the dominant use in the area.

Overstrand Municipality Spatial Development Framework (OMSDF)

The objective of the OMSDF is to formulate strategic spatially based policy guidelines and proposals where the needs, changes and growth in the area can be managed to benefit the inhabitants and the environment in the Overstrand Municipality. The OMSDF is guided by a set of objectives and the consistency of the proposed land use will be assessed with these core objectives.

According to the OMSDF the future detailed planning for the area must provide a sustainable balanced land use pattern which would provide future residents with a desirable environment in which to “live, work and play”. The intention of the proposed development is for a guest house that fits into the character of the town.

Local spatial development principles	Alignment of the proposal with the local spatial development principles
Promote conservation of the historic townscape	The township is also ideally located with regard to the Botriver Lagoon. Last-mentioned lagoon offers endless tourism opportunities for the township. Fisherhaven is also the only town in the Overstrand area that has direct access to such a large body of water that can sustain recreational activities (fishing, boating, etc). Currently much of the area is undeveloped and it is maintained that economic stimulation will encourage investment in the area, subsequently leading to the development of the vacant properties.
Promote the development of the area as a sub-regional growth area for sustainable integrated development.	The intention of this application is to promote accommodation on the subject property for guests within close proximity to properties within a predominantly residential environment. This is to ensure that the proposed guest house is integrated in a compatible manner with the residential land uses.
Promote the provision of employment opportunities through the allocation of space for appropriate commercial and service industrial activities.	The intention of this proposal is to provide employment opportunities on the subject property for the manager, cleaners and gardener to contribute to the increase the circulation of money in the township.
Promote a balanced mix of residential development.	The area where the subject property is located is predominantly residential and the proposed guest house

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	will blend into the balanced residential character that exists.
Promote Fisherhaven as a tourism destination.	Being located in close proximity to the R43 (which is regarded as the gateway to Hermanus) it is maintained that the township itself enjoys excellent accessibility. The subject property is also easily accessible and is not located too far from the main road, as well as the lagoon. The subject property has great tourism development potential and the proposed development seeks to capitalise on the potential that exists.
Contain the urban footprint of Fisherhaven within the clearly demarcated urban edge.	This proposal is within the urban edge and will not in any way undermine the viable and credible urban edge.

The Spatial Proposal Plan in the OMSDF outlines that the subject property is earmarked for residential development. The proposed development does not seek to alter the residential zoning of the property.

Overstrand Municipal Growth Management Strategy (OMGMS 2010)

The purpose of the Growth Management Strategy is to improve the Overstrand Municipalities' overall environmental sustainability by enhancing the quality and efficiency of the built environment. It will be outlined how the proposed development will contribute towards the aims and objectives of this strategy.

Objectives	Alignment of the proposal with the objectives
Protect, manage and enhance the natural and built environment and landscapes.	Currently the property is developed with a single residential dwelling unit. It is furthermore proposed to renovate and extend the existing dwelling for the purposes of this application.
Support the development of mixed land uses, providing for vitality, opportunities, opportunities and integrated living environments.	This proposal seeks to create employment opportunities during the construction phase of the development and also during the operation of the proposed guest house. The erf is also strategically located in an area that is identified as being within a residential densification zone area in Fisherhaven and this will ensure that the proposed guest house will promote integrated living environments for guest of the establishment and the community.
Ensure that the scale and character (in terms of bulk, height, and architectural styling) of the higher density areas are appropriate to the immediate context.	The scale, height, character and architectural styling of the subject property are within the immediate context and character of the street and will preserve the existing character of the area.
Contribute to place making and the development of attractive and safe urban environments.	The operation of a guest house requires constant maintenance and renovation for the establishment to be competitive and in operation. The constant maintenance will therefore result in guest house applied for to be attractive. The additional surveillance by the guests will also contribute to more safe urban environments.
Ensure optimal land use planning	This application seeks to efficiently utilise the services

and the efficient use of infrastructure, services, facilities and land.	and infrastructure that is available to the property.
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The subject property is also located in Planning Unit 1 within a densification zone of less than 10 dwelling units per hectare and the subject property's density is below that. The housing typology that is promoted for Planning Unit 1 is B1 which the subject property is aligned with.

Consistency with the various planning principles

The analysis of the spatial planning initiatives has provided a clear and complete explanation of the alignment of the proposal with the relevant guidelines. The proposal is consistent with the PSDF, OMSDF and OMGMS and can be deemed as encompassing the core objectives of planning as set out in the documents.

9. PLANNING PRINCIPLES

An analysis of the applications' consistency with the planning principles was analysed. These spatial planning principles are in terms of Section 42 of the Spatial Planning and Land Use Management Act, 2013 and also Chapter VI of the Land Use Planning Act, 2014.

Planning principles	Consideration and impact
<p>Spatial Justice "Refers to the need to redress the past apartheid spatial development imbalances and aim for equity in the provision of access opportunities, facilities, services and land."</p>	<p>This application will not in any way contribute to perpetuating the spatial imbalances caused by apartheid spatial planning.</p>
<p>Spatial Sustainability "A spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscape and ultimately limits urban sprawl."</p>	<p>The proposal will not in any way compromise on agricultural land, environmentally sensitive and biodiversity rich areas as well as the scenic and cultural landscape and will not cause urban sprawl.</p>
<p>Efficiency "Efficiency refers to the need to create settlements that optimise the use of space, energy, infrastructure, resources and land."</p>	<p>This application seeks to optimise on the development potential that exists on the subject property in a manner that is compatible with the surrounding environment.</p>
<p>Spatial Resilience Spatial resilience in the context of land use planning refers to spatial plans, policies and land use management systems should enable the communities to be able to resist, absorb and accommodate these shocks and to recover from these shocks in a timely and efficient manner.</p>	<p>The Department of Environmental Affairs and Development Planning (DEADP) and the Overstrand Municipality have compiled spatial policies that promote resilience in land use management. As the motivation in the spatial planning initiatives has proven, the proposed development is well aligned with the different planning development frameworks as set out by the competent authorities and promotes</p>

MOTIVATION

	resilience. The fact that the subject property is spatially resilient will enable it to absorb and accommodate shocks whether they are economic or environmental in a timely and efficient manner.
<p>Good Administration Good administration in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure a joint planning approach is pursued.</p>	<p>The Overstrand Municipality has an integrated consultative planning process where the application is advertised to the general public and comments on the application are made by the general public. WRAP will also respond to the comments of the general public and this will ensure that a joint planning approach is pursued.</p>

The proposed consent use application is aligned with the core planning principles as outlined in SPLUMA and LUPA. The proposed consent use application can therefore be viewed as encompassing and promoting all planning principles.

10. EVALUATION

The synopsis will outline how the proposed development is practicable and viable on the site. The evaluation will consider site specific circumstances and how the application fits into the character of the area.

Application

There is an existing dwelling unit on the subject erf and the owner is applying for a consent use for a guest house with the intention of letting 5 rooms.

Character of the environment

The character of the environment is predominantly residential with some vacant erven. Fisherhaven predominantly functions as a retirement, residential and holiday town. The guest house will therefore blend in with the holiday town character.

Title deed

Title deed number T72366/2011 was perused and there are no title deed restrictions that can prohibit the approval of the proposed consent use for a guest house.

- The title deed restriction for coverage is 30% and the subject properties coverage is 18,6%.
- The building line is 1,57m² and the existing building has been approved by the Overstrand Municipality Building Department.

Desirability

- The application is well aligned with the SDF.
- There is a need for guest houses in Fisherhaven to promote and market the town as a viable tourist destination.
- There are adequate services in the form of water, sewage, electricity and waste removal.
- The land is not located on an environmentally sensitive area.
- The proposal will blend in with the character of the area.
- The proposal is desirable as it will add value in community and contribute to enhancing the short term accommodation of the town.

MOTIVATION

- The proposal will not result in unacceptable opportunity cost and will not cause unacceptable cumulative impact.

Overstrand Municipality Accommodation Establishments

- Five lettable rooms are applied for and all the rooms will be interleaving within the main dwelling.
- The proposed building plan shows all the lettable rooms applied for.
- The SDP and parking layout is to scale and complies with provisions in the Overstrand Municipality Zoning Scheme.
- Meals and refreshments will only be served to the guests of the proposed guest house.
- There is only one kitchen on the property.
- The manager will reside on the premises.
- Signage will be compliant with the Overstrand Municipality By-Law Relating to Outdoor Advertising and signage.

Zoning overlay

- A dwelling house is a primary right.
- A guest house is applied for as it is a consent use.
- The coverage is 18,6% which is below the 50% zoning scheme restriction.
- All title deed and zoning scheme building lines are complied with.
- A total of 7 parking bays will be provided on the land unit which include a garage and parking for the disabled.

Services

- **Water:** the property is connected to the municipal distribution system.
- **Traffic and parking:** seven parking bays including a garage and one parking bay for the disabled are provided.
- **Electricity:** electricity is provided by Eskom.
- **Sewage:** there is an operational conservancy tank on the property.

Spatial Planning Initiatives**Alignment with the PSDF spatial logic**

- The guest house applied for is aligned with the residential character of Fisherhaven and will not alter the Residential Zone 1: Single Residential (SR1) zoning applicable on the subject property.
- The guest house applied for will create economic opportunities on the subject property by means of employment and contribute to increasing the money in circulation in Fisherhaven.
- The subject property is situated within a residential area and the consent use is compatible and complementary to the residential character in the town and streetscape.

Overstrand Spatial Development Framework (SDF)

- This development will maintain the historic townscape.
- The proposed guest house will also provide employment opportunities.
- Fisherhaven is also very accessible and gains its access from the R43.
- The proposal is within the well defined urban edge.
- The Proposal Plan earmarks the subject erf for residential purposes which the proposed guest house is aligned with.

Overstrand Municipal Growth Management Strategy

- This application seeks to enhance the built environment as the subject dwelling house will constantly be maintained to be visually appealing to guests and the community.

MOTIVATION

- The application seeks to create employment opportunities and contribute to creating integrated living environments.
- The scale, height, character and architectural style of the subject property blend in with the character of the area.
- The property is also located in an area that is earmarked for residential densification of up to 10 dwelling units per hectare and the dwelling house is below this density.
- The dwelling on the subject property is also aligned with the housing typology which is earmarked for the subject property.

Consistency with the planning principles

- *Spatial justice*: the guest house will not in any way perpetuate the spatial development imbalances caused by apartheid planning.
- *Spatial sustainability*: the guest house will not compromise on agriculturally viable land, biodiversity rich areas and will not cause urban sprawl.
- *Efficiency*: the guest house seeks to optimally capitalise on the residentially related development potential that exists on the subject property in an efficient manner.
- *Spatial resilience*: the guest house is well aligned with all the relevant spatial planning policies that have been created by DEADP as well as the Overstrand Municipality is therefore spatially resilient and will therefore absorb economic and environmental shock.
- *Good administration*: the Overstrand Municipality has an inclusive and efficient public participation process where the comments from the public will be taken into consideration and ensure a joint planning approach between WRAP, Municipal Officials and the public.

RECOMMENDATION

11. RECOMMENDATION

This motivation report has provided a clear analysis of the owner's intent is to operate a guest house which will contribute to the economic growth in the town. The proposed development has also been proven to be desirable as it has tangible benefits to the community and property owner.

In light of the above, it is recommended that the following application be **approved**:

- **Consent use** for a guest house with 5 lettable rooms in terms of Section 16(2)(o) of the Overstrand By Law on Municipal Land Use Planning, 2015.

ATT: LORETTA
OVERSTRAND MUNICIPALITY
26.4.2017

TR 32
A Theart
(C H Olivier)



RE: PROPOSED CONSENT USE ERF 511, 39 PROTEA ROAD, FISHERHAVEN

OBJECTION:

Proposed guest house plans show two braai areas against my back wall (Erf 499)
This will impose on my privacy as well as cause smoke in my back yard.
I would want to see these braai areas moved inside the building line.
Otherwise no objections.

OBSERVATIONS:

This motivation suggests that commercial development, eg. tourism and job opportunities for Fisherhaven is a given fact, and desired by residents of this village.
This is not so. No survey or consultation of residents has taken place.

COMMENTS:

All the salient facts for this motivation could be listed on one page.
Is the Municipal town planning Department impressed by 14 pages of waffle and drivel?

Thanking You
K. Williams
(Owner Erf 499)

13 School Road
Fisherhaven
mestone@mweb.co.za

FILE NO:	EL 511-FH
SCAN NO:	29
COLLABORATOR NO:	1018399

TP

2 MAY 2017



Ms D Land and Mr CC Frick
41 Protea Road – ERF 510
Fisherhaven
7200

Tel: 028 312 1898 (Mon-Fri 9-5) / 082 300 5236

TP-A Theart
CH Olivier

26th April 2017

Dear Sir/Madam

FILE NO:	EL 511-FH
SCAN NO:	30
COLLABORATOR NO:	1018423

RE: OBJECTION TO APPLICATION FOR DEPARTURE FOR 39 PROTEA ROAD, FISHERHAVEN, 7200 YOUR FILE REF 511 HFH (3600)

We have recently received correspondence from yourselves with regard to the above property.

We have a **strong objection** to the proposed plans for many reasons, which are detailed below:-

- There is currently a business area in The Crescent, whereby The Blue Roof Pub and the Piccaninny Centre (amongst others) can be found. There are suitable properties and plots to be utilised as a Bed & Breakfast in this designated area. Protea Road is a residential area (as stated in your correspondence) page 10 of the document asks "Do location factors favour this land use", to which OSM responds "yes as it's a residential area" However, this is a contradiction in terms as this would be a commercial venture, NOT residential.
- Fisherhaven is a quiet residential area, NOT a tourist resort, and the majority of residents are retired or working people who chose the area for it's peacefulness after busy working days/weeks (ourselves included) Therefore, we cannot see why Fisherhaven should be promoted as a tourism destination (page 15 of your document) Indeed, this is the general opinion of the residents of the area. This also has an impact on the cultural aspect of the village (page 10 of your document) as Fisherhaven's culture is predominantly retirees.

TP

2 MAY 2017

- The heightened activity of multiple vehicles coming and going at all hours of the day/night will be a risk to the safety of our children and pets, and ourselves & other residents, along with the fact that the temptation for theft/burglaries will be increased in our immediate area (page 11 (6.3) of your document). The car headlights and noise of alarms being activated and deactivated, along with engine noise will be an intrusion of our peaceful lifestyle and privacy.
- We bought our plot and indeed designed our home for maximum privacy for our family. We have invested everything we have in this home in such a relaxed environment after discovering Fisherhaven was just this – peaceful, relaxed and primarily residential. Our privacy will be greatly compromised with guest bedrooms and the entertainment/braai room being directly next to/overlooking our home and garden. The outside deck area will also affect our privacy as it runs alongside our back garden and as our plot is lower, we will be in view of any person who is on that deck. Our peacefulness will be greatly compromised with noise and light affecting our quality of living constantly, and this will be particularly unacceptable over the holiday periods such as Christmas and Easter, which are predominantly relaxing, family orientated time.
- We note, from the paperwork, that the plans for alterations for 39 Protea Road were drawn up in December 2011, and as such would need to be re-submitted as they are no longer valid, due to building/alterations not having commenced since then. They would also need to comply with current regulations as some have changed since 2011. At the time of submission and consequent approval, circumstances were very different around 39 Protea Road. There has been changes of ownership of some plots/homes and indeed we have purchased and built next door to this, with another plot sold and home being built behind.
- An issue that disturbs us somewhat is the fact that although it states quite clearly that this is to be a Bed & Breakfast only with NO self-catering, there is mention of a dining room with Braai, and a liquor licence application. Why, if this is ONLY Bed & Breakfast is there a need for a BBQ/Braai room (also containing a Jacuzzi)? Bed & Breakfast should be just that...a bed and a meal in the form of breakfast. A liquor licence is totally inappropriate for these purposes, and will undoubtedly add to the activity and noise at any possible hour of the day or night. This may also attract visitors other than those staying

at the proposed Bed & Breakfast, which would lead to additional activity and noise being in the immediate area. The Blue Roof Pub is indeed very close by. We also have concerns about a commercial kitchen and the consequences of this. The increase in activity along with the considerably larger quantities of refuse, and all the problems that can possibly arise from this are extremely worrying and hazardous to health and safety.

- With reference to page 7, Fisherhaven has no tourism bureau, and with reference to page 14, to say Fisherhaven is the only town in the Overstrand which has a large body of water for fishing and recreational activities is ludicrous...we have a huge expanse of ocean on every doorstep in the Overstrand, and a large lagoon near Voelklip for recreational activities, which itself is a long standing area of tourism. Fisherhaven has got no infrastructure whatsoever to accommodate any form of tourism that will generate income to the area.
- Page 9 (5) of your document states “an application can be refused based on it being undesirable” and “needs to be desirable and consistent with the logic character of the town and add value to the owner and the community” – this proposal will do nothing to add to the community’s value, and will not be consistent with the logic character of the town. In our experience, the general feeling of the community is to protect and preserve a peaceful, rural atmosphere. There is no value whatsoever that will be gained by the community, but only by the owner of the proposed Bed & Breakfast. With preference to page 11, if there had been “definite need” for this activity since the original application in 2012, then one must question why this has not been fulfilled up to the present day. Indeed, there are several lodging facilities in the main street (China Marais) which themselves are not busy throughout the year.

We have included some photos on the following page that we hope will support our objection.

It is clear to see that the property is higher than our own, and self-explanatory that we should have concerns of privacy should this proposal to ahead.

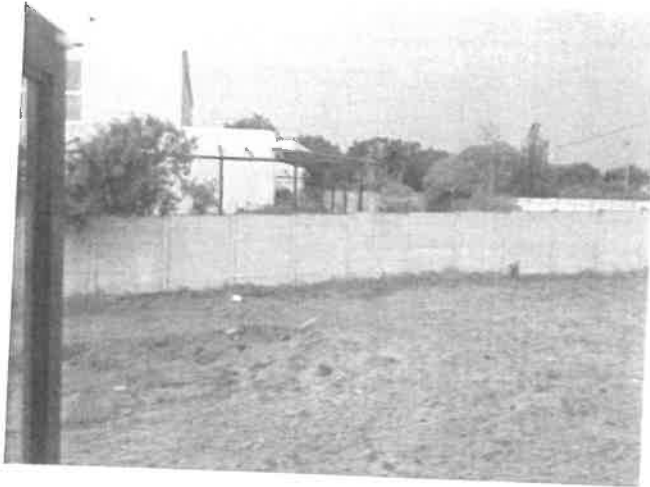
We bought our plot in Fisherhaven primarily for the relaxing, peaceful setting which provides us and other residents with the tranquillity we all desire. Should we have not been seeking this lifestyle, we would have chosen a property on a busy road with guesthouses and other businesses as our neighbours. It is a fact that the resale value of our property (and others nearby) in a residential area will be extremely negatively affected should it be close or next to commercial/business premises of this nature.

Essentially, we feel this is an infringement on our privacy and our ideal and desired lifestyle, and that of the residents of Fisherhaven in general, and ask that you consider our objections with the seriousness that we are portraying in this letter.

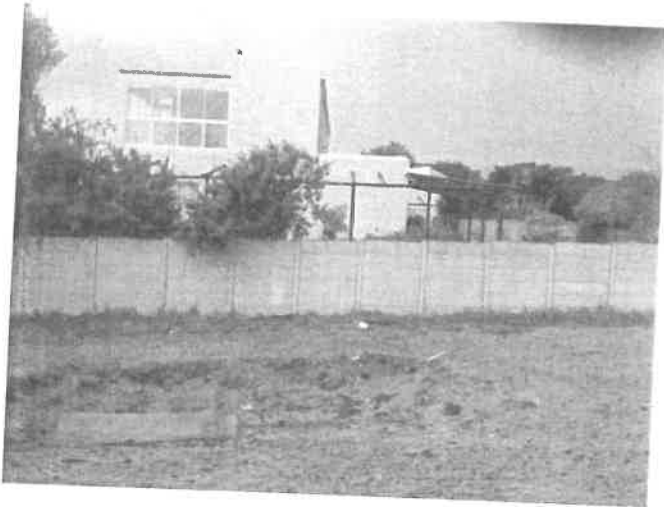
We would like to thank you in advance for your time and consideration.

Kind regards

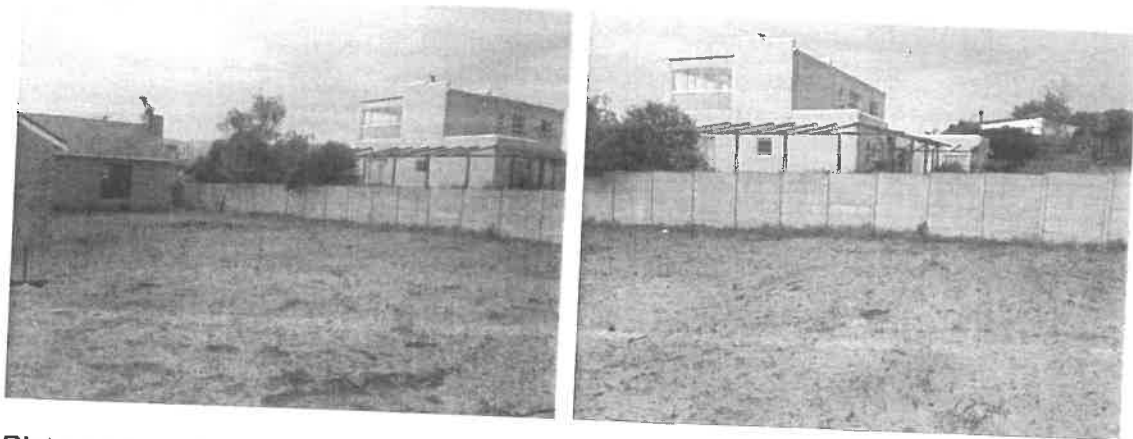
Ms D Land and Dr CC Frick – 41 Protea Road, Fisherhaven



Picture 1 – view from our bedrooms/ study



Picture 2 – view from our deck area/lounge



Pictures 3 and 4 – view from our rear yard/garden

Note: the vibracrete wall is already at 1.8m, maximum allowed



WRAP



ESTABLISHED
2002

Town and
Regional
Planning

Municipal
Legislation
and Procedures

Local Economic
Development
Technical
Assistance

35 Duiker Street
P O Box 1247
Hermanus
7200

Tel: +27 (0)28 313 1411

Fax: +27 0865083248

Email:
wrap@telkomsa.net

Web:

www.wrapgroup.co.za

Wright Approach
Investments 136 CC

Reg No
CK 2002/060745/23

Our Reference: 17/001(511)
Your Reference: 511 FHF (3600)

10 May 2017

The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

Sir

ERF 511 FISHERHAVEN: APPLICATION FOR CONSENT USE: COMMENTS ON OBJECTIONS

Your e-mail dated 8 May 2017, refers.

Objections/comments were received from the persons mentioned below and we would like to respond as follows:

Ms D. Land & Dr. C.C. Frick, letter dated 26 April 2017.

We have summarised each point of objection raised in the above letter and response follow immediately thereafter.

1. The guest house must be situated in the business area of Fisherhaven and not in a residential area.

Guest houses are considered to be residential ventures and for this reason they are normally situated in residential areas and the rights for a guest house can therefore be obtained by means of a consent use application on residential erven and it is not necessary to rezone such a property for business purposes. This is in contrast to applications for a hotel which must be rezoned for business and is also more often found near business nodes.

In various residential suburbs in Hermanus you find guest houses and you only have to look at areas such as Eastcliff, Voëlklip and Westcliff to prove this point.

2. Fisherhaven is a quiet residential area for retired people and not a tourist destination.

We don't dispute the fact that Fisherhaven is a quiet residential area but a guest house which is limited to five rooms for guests can surely not cause such a disturbance to the residential area. Many of the houses in the suburb have five bedrooms and more and children can sometimes cause more disturbances and noise than tourists or guests. It is also possible that tourists would prefer a quiet residential area for their stay instead of a noisy business area.

TP-A Theart
(CH Olivier)

FILE NO:	EL 511-FH
SCAN NO:	07
COLLABORATOR NO:	1024099

TP Theart

3. The coming and going of the additional cars will be a safety risk and will add to the noise in this peaceful area.

Again, we are talking of five additional vehicles instead of the two to three that you get at a normal residence. This cannot be such a nuisance as made out by the objector and the safety of children and pets is always a concern in any residential area and such accidents are not only caused by tourists.

4. We bought our plot and designed our house for maximum privacy and the braai room and outside deck area will compromise our privacy and peacefulness.

If the objector has designed his house for maximum privacy he would surely have taken into account that somebody will one day built a house next to him within his town planning and building rights. Any owner of a property is entitled to build a braai room and open deck and this must have been anticipated by the objector. As previously stated the five guest rooms cannot make such a different to the privacy and quality of living of the objector.

5. The plans for alterations for the subject property was drawn up in 2011 and must be resubmitted as circumstances in the neighbourhood has changed since then.

Application was made in 2011 for a guest house on the relevant property and was approved by the municipality. Building plans was then drawn up for the proposed alterations. The owner did not proceed then with the building of the guest house and the consent has lapsed. For this reason, a new application is now made for the guest house but the previous plans are still applicable and will be resubmitted for approval after this application is approved.

6. Application is made for a bed and breakfast guesthouse but the plans show a dining room with a braai and a liquor license application. This is not appropriated for a bed and breakfast establishment and will add to the activity and noise and will attract visitors other than the guests and all this will also lead to more refuse which will be hazardous to health and safety.

Any guest house in terms of Municipal regulations has the right to provide meals and liquor to their guests but not to any visitors. For this reason, the provision of a dining room, kitchen, braai area and a bar area are standard in most guest houses. As these facilities will only be available for paying guests in the five rooms it cannot cause much more disturbances and noise than a larger family in a normal house and this also applies to the refuse. If liquor is served, a liquor licence will need to be obtained.

7. Fisherhaven is not the only town with a large lagoon for entertainment and there is also the lagoon near Voëlklip. Fisherhaven has got no infrastructure to accommodate tourists.

What the report motivated, is that Fisherhaven is the only town that is bordering on such a large lagoon as the Botriver lagoon. The Kleinriver lagoon is not so accessible and is not directly bordering Voëlklip. The objector does not indicate what infrastructure is needed for tourism as we are of the opinion that the town has everything that is needed like shops, restaurants and entertainment. With such facilities as what is now applied for it is an ideal tourist destination. Fisherhaven is also situated close to Hermanus and the wine farms which is popular places to visit by tourists.

8. The proposed guest house will not add any value to the town and is not wanted or needed by the community and the fact that the facility was not built after the first application in 2012 raised questions.

That the guest house will not add value to the township is the opinion of the objector and the fact that only two people objected to the application shows that the larger community is not opposed to the application, contrarily to the objector's statement which is unfounded and without prove.

The photos that were submitted with the objection do not really show anything but it must be borne in mind that any owner of a residential property has the right to built his house within the footprint of building lines, side spaces and two storeys in height.

Mr. K. Williams letter dated 26 April 2017

1. The guest house plans show two braai areas against my back wall and this will impose on my privacy and must be moved inside the building lines.

Braai areas are often built on back or side boundaries of erven and are actually a common site on many properties. To move these braai areas to the inside of the 2m building line will definitely make no difference to the privacy of the objector. Braai areas are also not classified as buildings in terms of the building regulations.

2. The motivation report suggests that the guest house will bring tourists and job opportunities for the town but no consultation or survey has taken place to prove this.

It is still our view that the guest house will bring tourists and job opportunities to the town and the application was advertised for objections and only two were received which indicates that most residents have no objection to the application.

3. All the salient facts for this motivation could be listed on one page and is the Municipal Town Planning Department impressed by 14 pages of waffle and drivel.

All our town Planning applications are done properly and in terms of applicable legislation.

We trust that you will accept our response as adequate to enable you to take an informed decision in this regard.

Yours faithfully



PINE PIENAAR
PRINCIPLE TOWN PLANNER (Pr Pln. A409/85)



TP A Theart
CH Olivier

Division of Telkom SA SOC Ltd

10 Jan Smuts Drive
Pinelands
7404

Candice Spammer

Tel: 021 414 5582

Fax: 086 480 0617

Email: spammec1@telkom.co.za

Our Ref.: WWIP_WTVW0598_17

Your Ref.: 511 HFH 3600

04 May 2017

Attention: S Muller

Overstrand Municipality
HERMANUS

WAYLEAVE: PROPOSED CONSENT USE: ERF 511, 39 PROTEA ROAD, FISHERHAVEN

With reference to your application received 23 March 2017.

I hereby inform you that Telkom approves the proposed work indicated on your drawing in principle. This approval is valid for 12 months only, after which reapplication must be made if the work has not been completed.

Any changes or deviations from the original planning during or prior to construction must immediately be communicated to this office.

Approval is granted, subject to the following conditions.

As per sketch attached, Telkom SA LTD infrastructure will be affected, consequently the conditions below and on the attached legend will apply.

Telecommunication services position is shown as accurately as possible but should be regarded as approximate only.

Should alterations or relocation of existing infrastructure be required, such work will be done at the request and cost of the applicant.



FILE NO: EL S11-FH
SCAN NO: 16
COLLABORATOR NO: 1019937

Techno Park, Centurion 0157,
Private Bag X881, Pretoria, Gauteng, 0001

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

As important cables are affected, please contact our representative Frederik Swart at telephone number 028 514 1199 / 081 363 7815 at least 48 hours prior of commencement on construction work.

It would be appreciated if this office can be notified within 30 days of completion of the construction work. Confirmation is required on completion of construction as per agreed requirements.

Should Telkom SA infrastructure be damaged while work is undertaken, kindly contact our representative immediately.

All Telkom SA LTD rights remain reserved.

Yours faithfully



Selwyn Bowers

Operations Manager

Wayleave Management: Western Region

This wayleave, Reference Number WWIP WHWS1325 17 is valid for 12 months from date hereof and is subject to the following conditions:

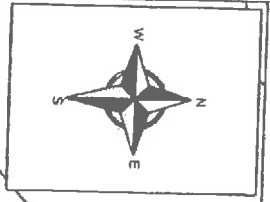
1. No mechanical plant or vibrator type compactors may be used within three meters of any Telkom Plant (I.E. any Telecommunication equipment above or below ground level).
2. The position of our plant affected by the proposal is indicated as approximate and **Frederik Swart** at Telephone No 081 363 7815 must be contacted at least 48 hours prior to commencement of the work, upon which the actual location of the Telkom Plant will be indicated on site.
3. A written request must be submitted to Telkom for consideration, should the of the work, upon which the actual location of Telkom Plant will be applicant require our plant to be relocated. The cost of such a relocation will be recoverable from the applicant.
4. It is the responsibility of the applicant to verify the existance of the indicated plant and to notify Telkom immediately, should the applicant locate any Telkom Plant which is not indicated on the plans.
5. Should the applicant expose any Telkom plant, the safeguard thereof will be the applicant's full responsibility.
6. Failing to comply with the above conditions or any special conditions addendum hereto will be regarded as gross negligence and the applicant will be held responsible for any damage or loss as a result thereof.

Date: 2017/05/04

By: C Spammer
For Regional General Manager
Western Cape

Telkom Symbol Legend	Green
1. Underground Pipe	
2. Underground Cable	
3. Manhole	
4. Street Distributio Cabinet (SDC)	
5. Jointing Pit / AJB	
6. Jointing Pillar (PJ)	
7. Pipe Junction Box (B/S)	
8. Robot Control	
9. Pole	
10. Stay	
11. Strut	
12. Aerial Cable (A/C)	





PROTEA ROAD

130

97

WWIP_WHWS1325_17
Plant Affected

508

509

510

WHWS726F

511

500

499

512

498

WHWS726E

513

497

514

496

495




**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR CONSENT USE: ERF 511, FISHERHAVEN (3600)**

Stormwater (SW) : In order
Electricity : Escom
Water : In order
Sewer : In order
Roads and traffic : In order

Conditions

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that should additional services connections be required, the owner will be responsible for the payment of bulk services levies;
3. that stormwater be allowed to discharge through Erf 511, Fisherhaven, unobstructed;
4. that no on-street parking be allowed.



**DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES**

31/3/2017
DATE



TP - A Theert
(H Olivier)

OVERSTRAND MUNICIPALITY
P.O. Box 20
HERMANUS
7200

Date:
29.03.2017

Enquiries:
Mr David Williams
Tel: 021 980 3102
Fax: 021 980 3053

Attention: L. Isaacs

PROPOSED CONSENT USE: ERF 511 – 39 PROTEA ROAD – FISHERHAVE – ONRUS RIVER
YOUR REF: 511 HFH (3600)
OUR REF: 00951/17

I refer to your letter dated 23 March 2017.

Eskom has no objection to the proposal provided that the following requests are adhere to:

1. Should it be necessary to relocate / support any of the existing services, at least 3 months notice in writing is required and the cost will be entirely for the account of the Developer / Applicant.
2. Eskom's right on the properties not to be affected.
3. All services indicated on included drawing to be verified on site (by Applicant)
4. Enclosed find a copy of the **Occupational Health and Safety Act (Act No. 85 of 1993)**
5. (i) Included drawing indicates existing Eskom services in the vicinity and is for information / planning only and should not be issued.
(ii)(a) This is not an approval for applicant to undertake any work in close proximity of Eskom's services in proposed area as indicated on included drawing.
(b) Formal application must be made to Eskom, Land Development, P.O.Box 222, Brackenfell, 7561 – Rochelle Fortuin.

Yours faithfully

Retrieved

David Williams
LAND DEVELOPMENT (BRACKENFELL)

FILE NO: EL 511-HFH
SCAN NO: 53
COLLABORATOR NO: 1010196



ESKOM (WESTERN REGION)

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

D16 (7) Excavations

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

THE ELECTRICITY ACT (Act No 41 of 1987)

Section 27 (3) : Offences and Penalties

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

