

4.3

**ERF 3023, 61 PALMIET ROAD, KLEINMOND, OVERSTRAND MUNICIPAL AREA :
PROPOSED CONSENT USE : DP & I ERASMUS**

3023 KMM (3697)

H van der Stoep

22 December 2017

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application has been received on 31 May 2017 from DP & I Erasmus in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 for a consent use to use the existing dwelling house on the property concerned for tourist accommodation.

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 applicant did obtain approval on 4 March 2011 for a three (3) bedroom guesthouse. The approval was only valid for a five (5) year period and had to be renewed, thus the application.

4. SUMMARY OF APPLICANT'S MOTIVATION

The guest house has been in operation since 2005, with approval from the Municipality. The applicant has been operating the guest house successfully and is the only income the applicant has. The operation remains the same pertaining to the amount of rooms, parking and residential dwelling. The applicant manages the guest house and lives in the house.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Notices	Yes	7 July 2017	11 August 2017
Ward Councillor	Yes	7 July 2017	11 August 2017
Total comments	ONE (1)		
Was public participation undertaken in accordance with section 45- 49 of the Proposed Draft By-law on Municipal Land Use Planning?			Yes
Was the application processed correctly (if no, elaborate below):			Yes
Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			Yes

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

Name	Date received	Summary of comments	Recommendation
Engineering Services	30/08/17	See Annexure F.	Supported
Fire Department	17/08/17	See Annexure G.	Supported
Waste Management	02/08/17	No objection.	Supported
Building Control	21/07/17	Supported subject to any alterations or additions to be in compliance with SANS 10400.	Supported
District Health	10/07/17	Need to apply for a Health Certificate as an accommodation establishment.	Supported

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

An objection was received from the Kleinmond Ratepayers Association, indicating that the application cannot be supported due to various complaints from the adjacent neighbours. According to the adjacent owners the property has been used to their detriment and is not in line with the character of the residential area.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

The comments of the Kleinmond Ratepayers are noted. The applicant is involved in various community activities and did not receive any complaints from either the Municipality and or adjacent neighbours.

9. MUNICIPAL ASSESSMENT OF COMMENTS

The Kleinmond Ratepayers Association objection is noted, but not substantiated with proof of the complaints received. No objections were received from adjacent property owners.

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

10.1 Background

N/A

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

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

The objectives relating to:

Spatial Justice

The development is accessible to the wider community and public.

Spatial sustainability

The application promotes integrating uses that compliments each other. The proposed application enables the owner to optimise his erf and make is viable.

Efficiency

The application will optimize the use of property in terms of municipal services provided.

Good administration

The application followed the required planning procedures to ensure that land use activity is in line with Municipal By-laws and the public process has been followed.

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

Same as 10.2.

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

Consistent with the Zoning Scheme and Municipal Spatial Development Framework and the Environmental Management Framework.

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

Not applicable.

10.6 Impact on Municipal engineering services

There will be no impact on Municipal services

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

Not applicable.

10.8 Existing and proposed zoning comparisions and considerations

The application is in line with the Overstrand Zoning Scheme

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL

The application is in line with the Overstrand Zoning Scheme. The Zoning Scheme does make provision for a consent use for tourism accommodation. The application is in line with Municipal Policy documents.

The Zoning Scheme does allow tourism accommodation limited to five (5) bedrooms guesthouses with two (2) people per bed, and the owner or manager on Single Residential erven. The application is for a three (3) bedroom guesthouse and thus

will be restricted to the same parameters as a Residential Zone I. In terms of the Overstrand Zoning Scheme two guestrooms is a primary right and in effect the application is for an additional one bedroom.

The application is restricted to three (3) guestrooms due to the restrictive space on the property for additional parking.

The application was distributed to the surrounding owners and no objection was received against the application.

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 3023, Kleinmond for a consent use to operate a three (3) bedroom guest house, **be approved** in terms of the provisions of Section 61 of the By-Law, subject to the following conditions:
 - (a) that only three (3) bedrooms, including the two primary right bedrooms, are allowed – thus restricting the guesthouse to a total of three (3) guestrooms;
 - (b) that parking be provided on-site for five (5) vehicles;
 - (c) that the guest house only be utilized in line with the finally approved site development plan;
 - (d) that the facility be utilized as a guesthouse only
 - (e) that the guest house is utilized as such – no self-catering will be permitted;
 - (f) that the owner/manager resides on the premises, and that the owner be responsible for the proper management of the guest house;
 - (g) that the owner and his successors in title prevent the occurrence of any public nuisance, which through an act or omission materially interferes with the comfort, peace and quiet of the surrounding area, and should the owner or his successor in title fail to comply with such condition, they will themselves make themselves liable to further legal action;
 - (h) 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;
 - (i) that the selling or serving of liquor on the premises will be subject to the applicant obtaining the necessary Liquor Licence;
 - (j) 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;
 - (k) 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;
 - (l) 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;

- (m) 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;
 - (n) 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;
 - (o) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
 - (p) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
 - (q) that should any building alterations be required building plans should be submitted to the Building Department for approval;
 - (r) that all the conditions in the Services Report (attached as Annexure F), be complied with, and
 - (s) that all conditions imposed by the Fire Department (attached as Annexure G), be complied with.
2. that the applicant and objector 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 any objection.
- ❖ None of the Municipal services will be needed.
- ❖ It is in line with policy documents.
- ❖ The development of the erf will be beneficial for optimization of the erf and infrastructure.
- ❖ The objection is noted, but could not be addressed due to the vague nature thereof.

15. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Site Development Plan
Annexure C:	Motivation Report
Annexure D:	Objection received
Annexure E:	Applicant's reply to objection received
Annexure F:	Services Report
Annexure G:	Comment received from Fire Department

SIGNATURES

REGISTERED PLANNER

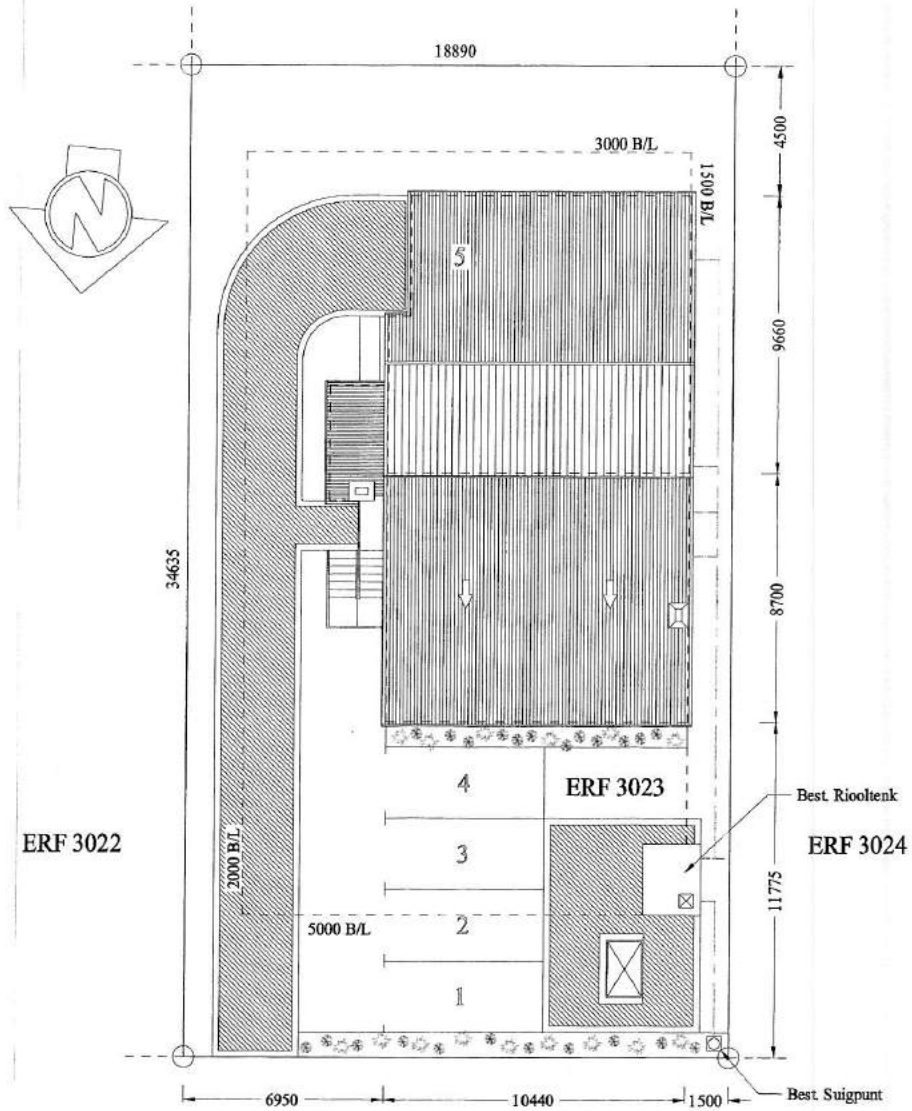
Name :

H VAN DER STOEP

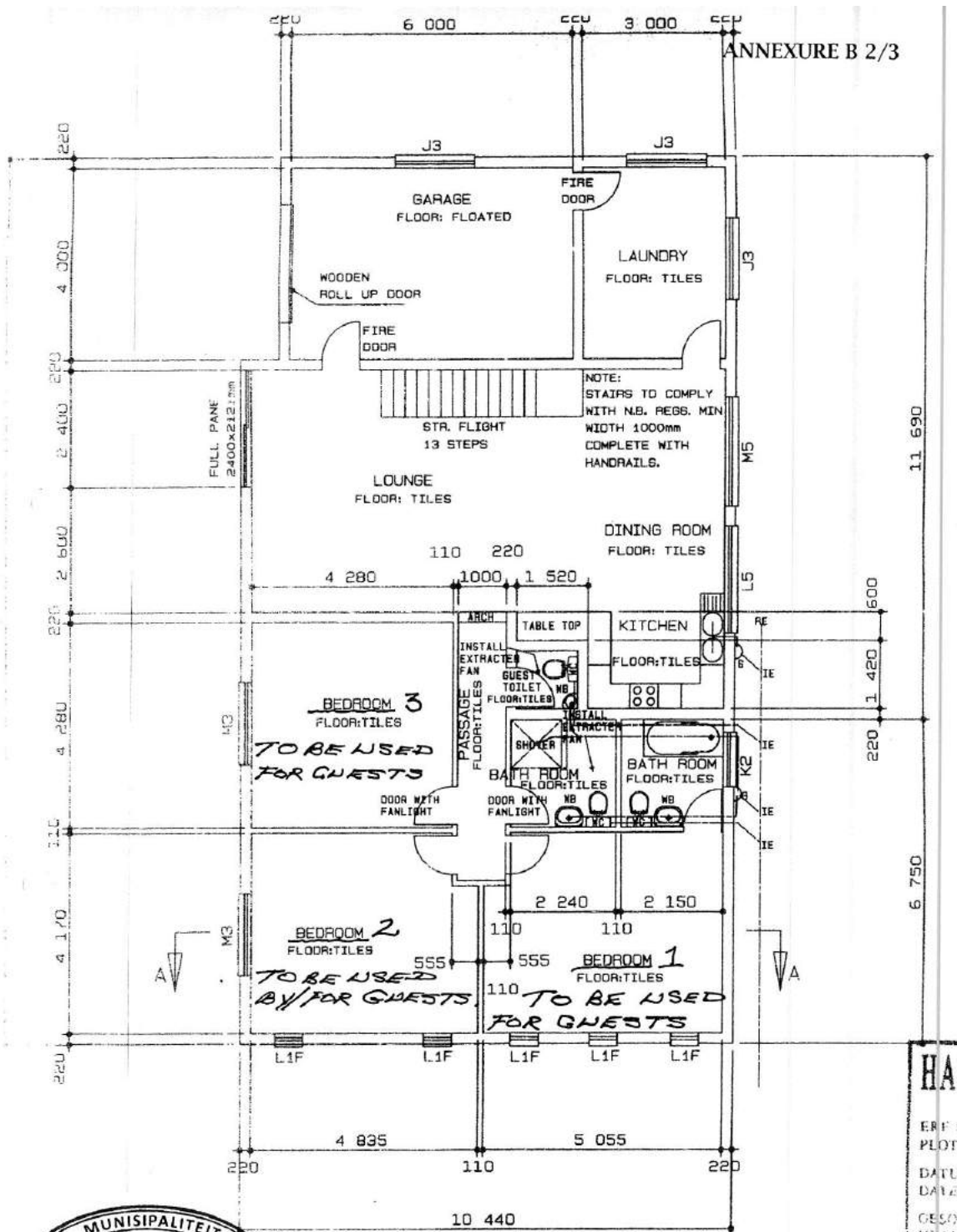
SACPLAN registration number: **A/170/2013**

Signature : _____

Date: _____



Palmietweg
TERREINPLAN 1:200



PLAN - GROUND FLOOR

SCALE 1:100

ERF 3023 - PALMIET - KLEINMOND

HA
 ERF + PLOT
 DATU
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 Pla go
 die 100

ANNEXURE C 1/1



Die Kleinmond Ontwerp-ateljee h/a

die ontwerp-ateljee

BK95/050467/23

o/s info

KKM 3023

Posbus / P.O. Box 399
KLEINMOND
7195

Kleinmond: 028 271-3143
Fax: 086 240-8131
Cell: 082 410-5564

E-mail: DanielJvZ@ontwerp-ateljee.co.za

23 June 2017

Mr & Ms Deon Erasmus
P.O. Box 128
KLEINMOND, 7195
Cell: 082 813-5969



TP-A Theart
(Hvd Staep)

Overstrand Munisipaliteit
Town Planning Department: Hangklip/Kleinmond Area
Privaat Bag X3
KLEINMOND
7195

Dear Sir / Madam

RE: Application for a consent use of a single residential dwelling as guest house according to the provisions of the Overstrand Integrated Zoning scheme

The changes to the single residential dwelling as set out in this application will have little impact on the environment. It is an application to obtain permission for a consent use as a guest house. The current use as guest house was previously approved as determined by the Overstrand Zoning scheme and this application aims to renew that approval.

- **Physical Characteristics of the Property**
The property is situated in a residential neighbourhood. The proposed departure will have no impact on the physical characteristics of the property or neighbouring properties. No topography or geological changes will be necessary.
- **Existing Planning in the Area**
The property is in an already developed residential area.
- **Character of the Surrounding Area**
It is a residential neighbourhood and the proposed departure is wholly compatible with the surrounding area. There are various examples of residential properties being used as guest houses in the surrounding areas.
- **Potential of the Property**
The property is a residential stand and cannot be used for agriculture, conservation, mining or recreation. The proposed change in usage of a single residential dwelling to a guest house has no influence on the potential of the property.
- **Location and Accessibility of the Property**
The property has off street vehicular access and guest parking facilities. The proposed departure will not have the effect of additional traffic.

I thank you in advance for your kind consideration.



Mr D. Erasmus
Home Owner: STAND 3023 (Kleinmond)

FILE NO:	EL3023-KM1
SCAN NO:	
COLLABORATOR NO:	1049269

LID / MEMBER: D.J. van Zyl



ANNEXURE D 1/1
TP-A Theard
(H vld stoep)



KLEINMOND BELASTINGBETALERSVERENIGING
KLEINMOND RATEPAYERS ASSOCIATION

Posbus 134, Kleinmond, 7195.
Voorsitter: Chris Harding. 028 271 3697 / 082 820 8005
Vonkpos: Chrisharding005@gmail.com
Sekretaris: Jemima Engelbrecht
Vonkpos: kbbv@kleinmondkalender.co.za
VOORKEUR KORRESPONDENSIE WYSE is 'n Skrywe na BEIDE bostaande Epos-adresse.

2017-08-28

Die Direkteur : Infrastruktuur en Beplanning
Posbus 20
Hermanus
7200

Vir aandag : H van der Stoep

Geagte Meneer / Me,

VOORGESTELDE AFWYKING : ERF 3023 KLEINMOND

Die KBBV het tydens sy komitee-vergadering gehou op 3 Augustus 2017 die aansoek om vergunningsgebruik op erf 3023 Palmietweg , Kleinmond oorweeg en wens soos volg sy besluit aan u deur te gee ,

“ Die aansoek deur Mnr. DP Erasmus ingedien , nie gunstig oorweeg kan word nie , weens verskeie besware ontvang van aanliggende eienaars van eiendom in die direkte omgewing van die aansoeker se perseel.

Volgens die aanliggende eienaars was die gebruik van die perseel , in die verlede , tot nadeel van almal in die onmiddellike omgewing daarvan aangewend en druis dit in teen die karakter van die woongebied” .

Ons vertrou dat die OM , bogenoemde beswaar in n ernstige lig sal beskou tydens hul oorweging van die aansoek .

Vriendelike groete

Chris Harding
KBBV Voorsitter

FILE NO: EL 3023-KM ✓
SCAN NO:
COLLABORATOR NO: 1068917

VOORKEUR KORRESPONDENSIE WYSE in 'n skrywe (PDF-Lêer) na BEIDE
Chrisharding005@gmail.com en kbbv@kleinmondkalender.co.za

TP

28 AUG 2017

ANNEXURE E 1/2



TR A Theart
(H Jd Steep)

4 October 2017

Dear Sir / Madam

ERF 3023, 61 PALMIET ROAD, KLEINMOND : PROPOSED
CONSENT USE : D P ERASMUS

Your letter dated 6 September 2017 refers.

Our comments as follows:

We moved down from Johannesburg in 2004 and I started a small business as my only income for my family.

We have been providing residents in Kleinmond with jobs, Fundraising for Kleinmond Laerskool every year as well as customers to Businesses for example Restaurants, Shops, Bottle Stores, Spar, Ok, Butchers, Petrol Stations, Botanical Gardens, Penguin Colony, Whale Watching, Golf Clubs, Bowling Club, etc, etc,.

During the last 12 years of our Legal Licence (where numerous other renting businesses are not licensed and do not pay extra on Licence Fees, Tourism Bureau Fees, Water, Electricity, Rates and Taxes, Sewerage Fees, etc), we received no complaints from the Municipality OR residents in this area regarding the business. We would like to know what has changed since our last application, because on our side nothing has changed.

We therefore request a further explanation / definition of the complainant regarding their comment:

2/.....

FILE NO:	EL 3023
	Kleinmond
SCAN NO:	14
COLLABORATOR NO:	1082474

TP

04 OCT 2017

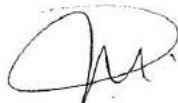
- 2 -

“Volgens die aanliggende eienaars was die gebruik van die perseel, in die verlede, tot nadeel van almal in die onmiddellike omgewing daarvan aangewend en druis dit in teen die karakter van die woongebied”.

It will also be appreciated if you could give us an extension of 30 days after receipt of the reply of the Kleinmond Tax Payers Association.

Furthermore could you please forward us the rules regarding renting of a dwelling split into numerous flatlets / units for other tenants.

Yours faithfully



D P ERASMUS

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR CONSENT USE: ERF 3023, KLEINMOND (3697)**

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

Conditions:

1. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the developer's cost;
2. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the developer's cost;
3. that stormwater be allowed to discharge through Erf 3023, Kleinmond, unobstructed;
4. that no on-street parking be allowed.




**DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES**

30/8/2017.

DATE

ANNEXURE G 1/1

	<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 TOURIST ACCOMMODATION IN ANY H3 OR H4 CATEGORY BUILDING IN TERMS OF THE NATIONAL FIRE PROTECTION REGULATION SANS10400T:2011

ANNEXURE A – ERF 3023, 16 PALMIET ROAD, KLEINMOND
TOWN PLANNING APPLICATION No: 3023 KKM (3697)

The operation of Holiday/Tourist accommodation is subject to compliance with following requirements together with any other building compliance requirements as prescribed:

Fire Extinguishers:

SANS10400T:2011 – 4.37:

1 x Portable Fire Extinguisher per 100m² of a type - 4.5kg Dry Chemical Powder, 5kg CO₂ or 9 litre H₂O.

Combustibility of Fitted Floor Coverings:

Shall comply with requirements of Section 4.14 of SANS10400T:2011 - Table 8 – As determined by SANS10177-4.

Combustibility of Internal Finishes:

Shall comply with requirements of Section 4.15 of SANS10400T:2011 - Table 9 – As determined by SANS10177-3.

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. (A dedicated 30 metre 19mm Garden Hose may be an alternative due to water supply connection restraints however this must be compensated with the provision of an addition of 2 x 4.5kg Dry Chemical Powder Fire extinguishers)
- Doors leading to the outside of the building with single turn locks or any other lock device approved by the Controlling 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.

Occupancy is also subject to: Maximum design occupancy total of 16 persons as prescribed by section A21 Table 2 of National Building Regulations SANS10400A:2010 i.e. 4 x 4 sleeper or 8 x 2 sleeper rooms.

Chief Fire Officer