

4.2**ERF 10347, 17 LONG STREET, NORTHCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: MESSRS PLAN ACTIVE ON BEHALF OF ER SCHIMMER AND BU RIEDELSHEIMER****10347 HNC (3232/2019)****H van der Stoep****22 March 2020****(028) 313 8900****Hermanus Administration****1. EXECUTIVE SUMMARY**

An application has been received on 12 July 2019 from Messrs Plan Active Town and Regional Planners on behalf of ER Schimmer and BU Riedelsheimer on Erf 10347, Hermanus for a consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 in order to establish a place of entertainment to allow White Rabbit Bar and Grill to accommodate five (5) slot machines (gambling machines) within a portion of the existing business premises on the above-mentioned property.

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

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The establishment is known as "White Rabbit and Grill" and wishes to install five (5) slot machines within the existing building. The property is located on the corner of Long Street and Mitchell Street in the Central Business District (CBD) of Hermanus. The property is zoned Business Zone 1.

4. SUMMARY OF APPLICANT'S MOTIVATION

The intention of the owner of the White Rabbit and Grill is to install five (5) slot machines, which will be accommodated within the existing building. The area contemplated is 19,87m² in extent and has a separate entrance from the bar/restaurant area.

The White Rabbit Bar and Grill consists of the following:

- Office
- Cold Storeroom
- Unisex bathroom
- Service Bar/Seating
- Seating areas inside and outside
- Gaming Area (5 Slot machines)

The venue is open from 10:00 to 02:00 on a daily basis. The property is located in the CBD of Hermanus with predominantly business uses area. The proposed slot machines will have no negative impact on the surrounding businesses.

The proposed gaming area will diversify the existing uses of the business use and will allow for a diverse group of people that will also support surrounding businesses within the CBD. The proposed consent use application to establish a place of entertainment will not have a negative impact on the surrounding properties and is not in contrast with the existing land use tendencies in the surrounding environment.

The proposal of the slot machines is located in the existing building and does not constitute an extension of the gross leasable area and consists of 19,87m². Subsequently no additional parking would be required. The total floor area of the existing buildings constitutes approximately 330m² and would require twenty (20) parking bays at six (6) bays per 100m², which is provided. All engineering services are provided and no additional services are required.

In terms of the forward planning documents the following is applicable:

Overstrand Municipal Wide Spatial Development Framework

The area is earmarked for business purposes.

Overstrand Growth Management Strategy

The property is located in Planning Unit Area 13 that consists of the Hermanus CBD, noted as a mixed land use area. The proposal is consistent with the proposal as depicted in the document.

The building has a 3B heritage grading and the proposed use will be located in the existing building and thus will have no heritage value impact on the structure.

The planning principles can be summarized as follows:

Spatial justice

N/A

Spatial Sustainability

The proposal will have no impact on conservation worthy areas. Spatially the land use will be in keeping with the business character of the area that consist of general businesses, take ways, shops, offices, etc.

Efficiency

The erf is easily accessible to the locals and tourists and conveniently located in the CBD where ample parking is available.

Spatial Resilience

N/A

Good Administration

Due process with public participation has been followed as determined by the Municipality.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Press	Yes	18 September 2019	18 October 2019

Notices	Yes	18 September 2019	18 October 2019
Ward councillor	Yes	18 September 2019	18 October 2019
Total comments	SIX (6)		
Was public participation undertaken in accordance with Section 46 - 50 of the 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
Engineering Services	1/11/2019	See Annexure G.
Fire Department	30/09/2019	No objection.
Building Control	19/09/2019	Supported. Building plan application to comply with all applicable law.
Local Heritage Committee	19/09/2019	Supported.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Objections were received from six (6) individuals, of which one (1) was received after the comment/objection period. See Annexure E.

The objections were received from the following parties:

- BM Shaw - Erf 760
- Edward Nathan Sonnenbergs Inc. (S Levetan) - Erf 740
- K Celliers-Louw - Erf 757
- V Prior - Erf 702
- C van Hoogstraten – Erf 7027
- Dr ACG Kelly [late objection] - Erf 3016

The applicant's response to the objections received is attached as Annexure F.

The objections can be summarized as follows:

1. **The noise and activity during the night that will be generated will disturb the peace, possibly bring more crime to the area and change the tranquil atmosphere.**

Applicant's response

Please note that the application at hand is to accommodate five (5) slot machines within the existing building. The five (5) slot machines can only be accommodated as a consent use as a place of entertainment (gambling). These machines do not generate noise of such magnitude that it would have a negative impact on the surrounding land owners. The proposed five (5) slot machines will have no impact on the atmosphere of the area and furthermore it does not attract crime to an area.

Town Planner's response

The gambling machines does not create any noise or disturbance that will impact on the atmosphere of the area. Please note that the erf is located in the CBD and is not a tranquil area.

2. The owners of Erven 740, 757 and 760, Hermanus mention that they did not receive notices.

Applicant's response

The municipal official determines to whom notices are sent. The owners of the above mentioned erven were not on the list and subsequently the reason for not receiving a notice.

Town Planner's response

Notices were sent to the directly abutting property owners and in addition to this the application has been advertised for any person with general interest. Registered notices has not been served on the property owners as they are not directly adjoining.

3. The venue for gambling is not in line with the CBD revitalisation plans.

Applicant's response

The Hermanus CBD Regeneration Framework described the area where Erf 10347, Hermanus is located as Mitchell Street Square. Please refer to the abstracts below from the Hermanus CBD Regeneration Framework for easy reference pertaining to the area in question.

Internationally, spatial planning professionals have timelessly agreed that the efficient use of land needs to be compatible with the social well-being and healthy environment objectives. Therefore, concepts such as densification, urban growth management and the mixing of land uses have become popular in the process towards achieving these universal goals.

Diverse environments provide a variety of opportunities, experiences and choice. The more varied a place, the more valued because of the individual qualities that make it distinctive from other places.

Activity should be concentrated on core areas and important nodes and provide a cluster of complementary, but diverse set of uses. This provides people with choices and promotes walking between destinations.

Town Planner's response

The revitalisation plan is to enhance the mixed use land uses and opportunities in the CBD. The application is in line with the revitalisation of the CBD.

Overall Framework

- Establish a new CBD heart at Mitchell Street square including a new mixed use development, structured parking and public space and road upgrades.
- Develop High Street into a pedestrian priority street that connects the new retail complexes at Station Square to Mitchell Street.

Mitchell Square RedevelopmentMain Ideas:

Mitchell Street Square is strategically located within the centre of Hermanus CBD.

It sits at the junction of several pedestrian networks and links to a number of public and civic amenities such as the cliff walk, Market Square, Civic and Municipal Precinct, taxi rank and commercial nodes along Long-, High- and Mitchell Streets.

The development of Mitchell Street square has the potential to become the heart of Hermanus CBD as a vibrant public amenity for both locals and visitors to the town. The Mitchell Street development proposal accommodates the surface parking lot within structured parking levels within the new development, as a result the Mitchell Street Square will be released for the development of a high quality public square with ground floor activation with new business / cafe / restaurant opportunities. This proposed intervention is a key investment into the public environment in the core of the CBD, knitting together key destinations and pedestrian routes along High-, Mitchell- and Long Streets.

Retain existing heritage building.

Reuse as cafe / hospitality space.

With reference to the above abstract from the Hermanus CBD Regeneration Framework it is clear that the proposed consent use can be accommodated within these guidelines. The proposed five (5) slot machines within the existing bar are in line with the proposals as it also falls within the hospitality spectrum of land uses.

Town Planner's response

The proposed land use will be located in an existing building and the heritage aesthetics will not be compromised. The Regeneration Framework's sole purpose is to create a viable and a livable space, mixed uses and placemaking. In order to be successful, opportunities must be created within this framework.

4. **The objector does not object to the installation of five (5) slot machines within the current White Rabbit Pub and Grill, but is concerned that the granting of a consent use for a place of entertainment as defined in the Overstrand Municipality Zoning Scheme Regulations is far too wide and will allow the operators of the White Rabbit Pub and Grill to legitimize their heretofore unlawful activities at the premises.**

Applicant's response

As mentioned earlier in our comments, we are applying to accommodate five (5) slot machines on the premises by means of a consent use. Slot machines fall under gambling in terms of the definition, place of entertainment. There are also a number of other uses in terms of the definition for a place of entertainment, but for this application, it is only for five (5) slot machines. If the Overstrand Municipality should grant the consent use, it would only be for the slot machines and no other uses. If the owners of the White Rabbit Pub and Grill wish to establish other land uses an application will have to be submitted and circulated.

Subsequently alleged illegal land uses will not be legitimized by this application. The surrounding land owners are not being misled by the application at hand.

Town Planner's response

The application is limited to five (5) slot machines only in terms of this application. This is the only application under consideration.

- 5. The White Rabbit Pub and Grill has in the past held live music events which have generated loud music of which the Municipality and the South African Police Services are aware of.**

Applicant's response

The owners have disclosed that they have used the premises for live entertainment purposes of which some of the events were held legally with an event's licence.

As a matter of interest, we have been appointed to assist the White Rabbit Pub and Grill to apply for a place of entertainment that would include the possibilities to establish a night club and a venue for live entertainment on the premises. The proposals have been discussed with Ms H van der Stoep of the municipal Town Planning Department and the owner is currently in the process of having the proposed site plan amended in order to have the least impact on the surrounding land owners. The mentioned site development plan will accompany our application.

A noise impact study was completed for the venue and we will be taking the information obtained by the study into consideration in order to investigate mitigating noise measures before submitting a future application for a nightclub and a venue for live entertainment.

Town Planner's response

The application is for five (5) slot machines, the irregularities of other land uses on the property is being dealt with outside of this application.

6. Other points raised by the objectors include:

- ❖ ***Erf 10347, Hermanus is not situated in a purely business use area.***
- ❖ ***Stating that the land use that surround the subject property is general businesses, takeaways, shops, offices, public roads and public areas is misleading.***
- ❖ ***Erf 10347, Hermanus is located on the periphery of the CBD.***

- ❖ ***Erf 10347, Hermanus is within a heritage area and the application will have a negative impact on the heritage value.***

Applicant's response

We can confirm that Erf 10347, Hermanus is located within the CBD of Hermanus. We can also confirm that the subject property is not located on the periphery of the CBD, but located in the central part of the CBD. The CBD in terms of the Growth Management Strategy is defined as Planning Unit 13. Please refer to an abstract of a map from the report below.

With reference to the CBD Regeneration Framework the study area for the CBD is defined as follows:

With reference to both abstracts above it is clear that Erf 10347, Hermanus is indeed located in the centre of the CBD. The referral of the objector to a Google Map only depicts the built character of an area, it is difficult to determine land use from the use of an aerial photograph other than roads, parks, schools, etc. It is very difficult to determine business premises and differentiate between office blocks and retail shops if you are not familiar with the area.

With reference to the Zoning Map of the CBD area it is safe to make the following statement:

All the erven south-east of Hope Street, south-west of Dirkie Uys Street, Main Road (south-east) and extending Hope Street to Main Road (south-west) erven have a Business Zone 1, Bulk Zone 1 zoning with the exception of Erf 795, Hermanus that is used as a parking area for the surrounding business erven and has a zoning of General Residential Zone 3. Please refer to the aerial photograph below depicting the existing parking area.

With reference to the above statement, it can be confirmed that taking the immediate erven abutting the subject property and within the business block described above into consideration that Erf 10347, Hermanus is purely within a business use area. Please refer to the abstract below of the Zoning Map of the area.

Town Planner's response

The property is located in the CBD and the surrounding land uses is business orientated, this includes guest houses that are defined as business. Erf 11054, Hermanus has submitted an application for rezoning to Business Zone 1, which has been advertised and in the process of finalization. Erf 5320, Hermanus on the GIS has been rectified and has a zoning of Business Zone 1.

Heritage Value:

Erf 10347, Hermanus is situated within the Heritage Overlay Zone as determined by the Overstrand Municipality Growth Management Strategy (2010). The property is also earmarked for heritage conservation purposes in terms of the Overstrand Heritage Survey Report (2009). Please refer to the abstract below from the Heritage Survey Report:

The 3B Grading Criteria and management implications are tabled as follow

The application mainly constitutes the change of land use and no physical changes to the existing structures. Please refer to the aerial photograph below and an abstract of the proximity plan indicating the location of the slot machines within the current building.

In the light of the above mentioned it is evident that the proposed consent use application will not have a negative impact on the heritage value of the subject property or the greater area of the Hermanus CBD area.

Town Planner's response

Agree with applicant.

7. Numbers 3.8 and 3.9 are missing from the motivation report

Applicant's response

We can confirm that the motivation report that accompanied the notices were complete. The automated numbering of the sections of the motivation report skipped from Section 3.7 to 3.10. We apologise for the inconvenience caused.

Town Planner's response

Noted.

Internal Departments

No negative comments were received.

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

N/A

Spatial Sustainability

One of the key aspects is to evaluate the application must be principle driven and the concept of a place of entertainment for five (5) slot machines, is that it has a low impact in all aspects such as disturbance, visual and scale and considering the long term impact.

Efficiency

The main objective is the integration of services relating to urban and rural. The scale of the activity is such that it conforms to the fabric of a CBD.

Spatial Resilience

The proposed use is located in an existing heritage building. The proposal will diversify the uses of the building located within the CBD and enable the applicant to optimize the use of the building without compromising the heritage value of the structure.

Good Administration

The application followed due procedure and good public participation process.

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 Point 10.2 above.

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

The Spatial Development Framework, 2006 earmarks the area as Business. The Overstrand Municipal Spatial Growth Management Strategy, 2010, Hermanus Central, Planning Unit 32 earmarked the unit as a densification zone to create a mixed land use area. In terms of the aforementioned policies, the application is in line with the business uses; however it is also consistent with the Overstrand Zoning Scheme, 2014, which makes provision for a place of entertainment and by definition can accommodate five (5) slot machines.

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

N/A

10.6 Impact on Municipal engineering services

None.

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 being made to make use of the consent use for slot machines.

11. THE DESIRABILITY OF THE PROPOSAL

The application is for a place of entertainment, specifically for the use of five (5) slot machines. Some of the objectors did raise valid concerns that the definition for a place of entertainment does include a club, the latter which is being illegally operated, but is addressed outside of the scope of this application.

There are various gaming establishments in the CBD, which are restricted to five (5) slot machines. Thus far, there have been no complaints and or any trouble at these gaming venues and areas. It is imperative to note that the Gaming Board regulates the operation of the slot machines. The applicant is subject to both the Scheme Regulations and Gaming Board's conditions when approved.

The application for a place of entertainment for the sole use of five (5) slot machines is recommended, since there is no proof of misbehaving gamers and that it does create any disturbance of any kind. It should however be clear that the consent use will only be applicable for five (5) slot machines and no other uses allowed under the definition of a place of entertainment.

12. RECOMMENDATION

1. that the application in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 on Erf 10347, Hermanus for a consent use in order to establish a place of entertainment to allow White Rabbit Bar and Grill to accommodate five (5) slot machines (gambling machines) within a portion of the existing business premises on the above-mentioned property, **be approved** in term of the provisions of Section 61 of the By-Law, subject to the following conditions:
 - (a) the consent use be restricted to five (5) slot machines only and none of the other uses as per the definition of place of entertainment is allowed, except through a land use application;
 - (b) the slot machine area be restricted to 19,87m² and located as depicted on plan DS dated 26 May 2019;
 - (c) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with, and
 - (d) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation.
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, 2015 with regard to the above decision.

13. REASONS FOR RECOMMENDATION

- ❖ The application for five (5) slot machines will be located in the existing building.
- ❖ There is enough parking to accommodate the slot machines.
- ❖ The impact on the surrounding area will be minimal.
- ❖ The place of entertainment is restricted to five (5) slot machines only.

14. ANNEXURES

Annexure A:	Locality Plan
Annexure B:	Site Development Plan
Annexure C:	Motivation Report
Annexure D:	Objections received
Annexure E:	Applicant's response to objections received
Annexure F:	Services Report

SIGNATURE**REGISTERED PLANNER**

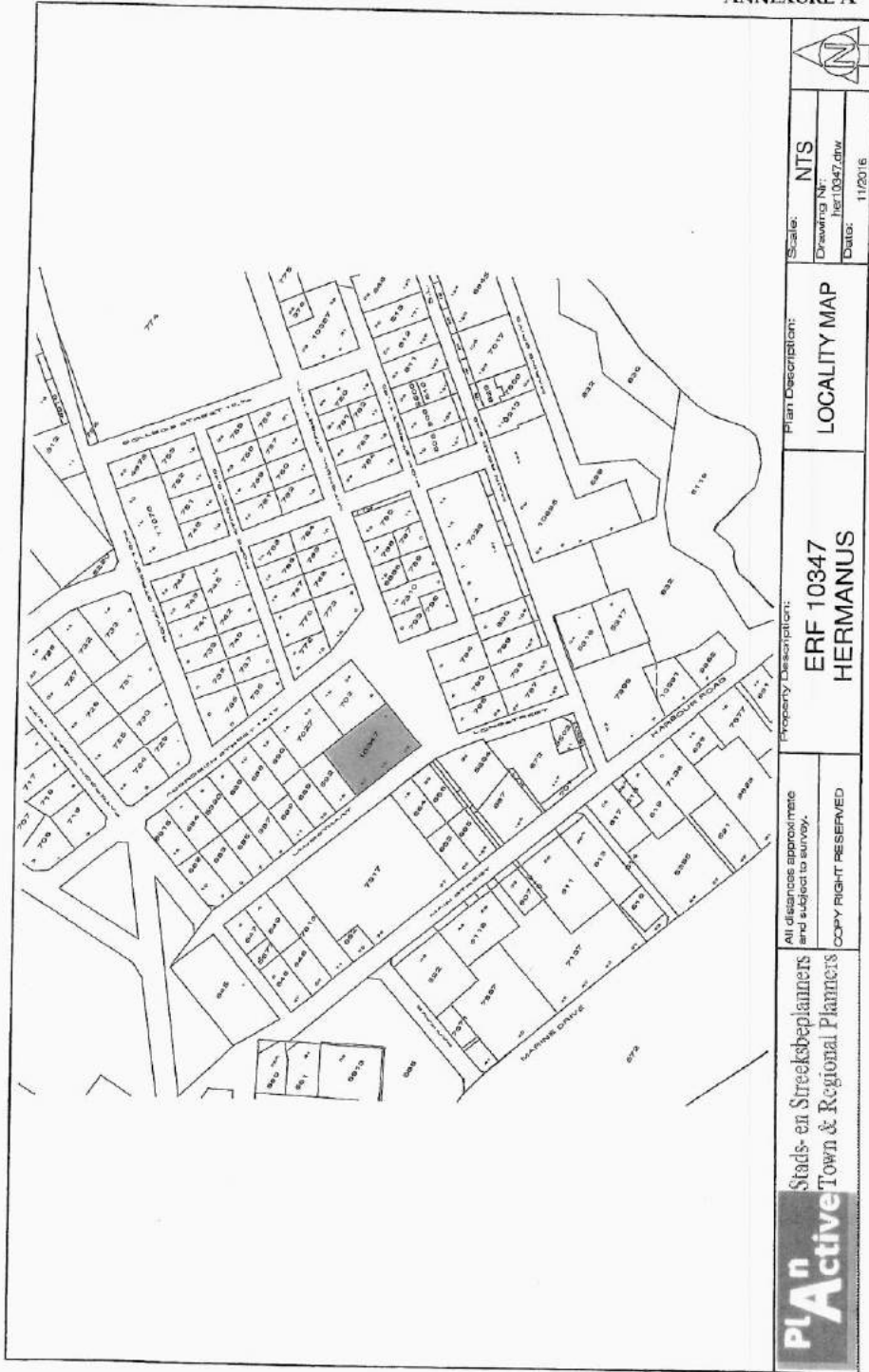
Name: **H VAN DER STOEP**

SACPLAN Reg No: **A/1708/2013**

Signature: _____

Date: _____

ANNEXURE A



PLAn
Stads- en Streeksbeplanners
Town & Regional Planners

All distances approximate
and subject to survey.
COPY RIGHT RESERVED

Property Description:
**ERF 10347
HERMANUS**

Plan Description:
LOCALITY MAP

Scale: **NTS**
Drawing Nr: **her10347.dwg**
Date: **11/2016**

PROPOSED CONSENT USE
ERF 10347 HERMANUS
DIVISION: CALEDON
OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

The owner of the White Rabbit Pub and Grill, Mr. Clive Gildenhuys, has instructed the company Plan Active to apply for a consent use to establish a place of entertainment within a portion of the existing building located on Erf 10347 Hermanus. Erf 10347 Hermanus is owned by Mr. E.R. Schimmer and Mrs. B.U. Riedelsheimer whom have completed the enclosed special power of attorney. Mr. Clive Gildenhuys is leasing the property from them.

White Rabbit Bar and Grill wishes to install 5 slot machines within the existing building.

Erf 10347 Hermanus is 2213m² in extent and is held by Title Deed No. T25619/2006.

As mentioned above, the owner of White Rabbit Pub and Grill intends to establish 5 slot machines within the existing business premises on Erf 10347 Hermanus. In order to operate five (5) slot machines on the existing business zone property it would be required that we apply for a consent use to establish a place of entertainment.

File: Lotter-Town & Regional Districts

2. APPLICATION DETAILS

- Application for a Consent Use to establish a place of entertainment in order to accommodate 5 Slot machines (gambling machines) on Erf 10347 Hermanus under the current zoning of Business Zone 1 in terms of the Overstrand Municipality Zoning Scheme.

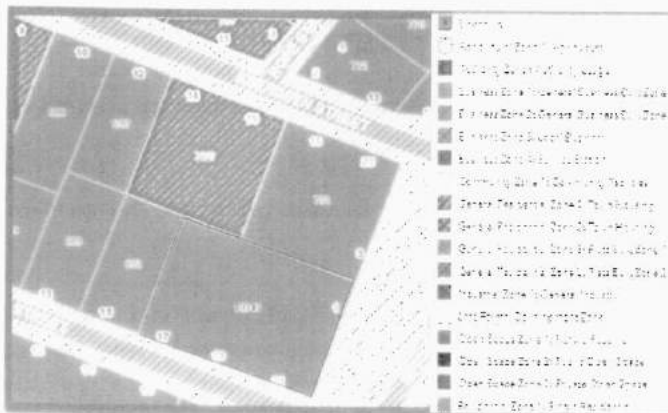
3. DESIRABILITY

3.1 PROPERTY DESCRIPTION

The subject property is situated on the corner of Long Street and Mitchell Street, Hermanus. Please refer to the locality plan attached. Erf 10347 Hermanus is 2213m² in extent and it is situated within the Hermanus CBD.

3.2 ZONING

Erf 10347 Hermanus is zoned Business Zone 1: Bulk Zone 1 and is utilized as such. Surrounding properties are also zoned for business purposes, restaurants and pub uses.



Motivation report

3.3 LAND USE

Erf 10347 Hermanus is used for business purposes. The White Rabbit Bar and Grill is established on the subject property.

Land uses that surround the subject property is general businesses, take-aways, shops, offices, public roads and public parking areas.

Examples of other businesses established in Long Street and Mitchell Street in close proximity of the site are as follow:



Plan Active Town & Regional Districts

Motivation report

ABERDEEN STREET	MITCHELL STREET
Hermanus Cycles	My Design
Beds from home	Remax
Hermanus Furniture	Chilli Pepper
Frames for Africa	Goozi

3.4 PROPOSAL

- Application for a Consent Use for a place of entertainment in order to install 5 slot machines on Erf 10347 Hermanus under the current zoning of Business Zone 1 in terms of the Overstrand Municipality Zoning Scheme.

It is the intention of the owner of White Rabbit Bar and Grill to install 5 slot machines on Erf 10347 Hermanus. The 5 slot machines will be accommodated within the existing building situated on the subject property. Please refer to the enclosed plan from V Slots clearly indicating the Gaming area that is 19.87m² in extent and has a separate entrance from the bar / restaurant area. Please also refer to Annexure A consisting of the additional documentation received from V Slots for your records.

The White Rabbit Bar and Grill consists of the following:

- An office;
- Cold Storeroom;
- Unisex bathroom;
- Service area (Bar), bar counter with seating;
- Seating areas inside and outside;
- Gaming Area (5 slot machines).

Access to the White Rabbit Bar and Grill is from Long Street and will remain as is.

Motivation report

White Rabbit Bar and Grill is open from 10:00am until 2:00am. Being located within the CBD of Hermanus within a predominant business use area it is our opinion that the proposed land use change to establish 5 slot machines will not have a negative impact on the surrounding businesses. Most of the businesses located in the area open at 9:00am and closes at 17:00pm. The only other land uses in the area that operate beyond these hours are the other restaurants, pubs and limited residential uses.

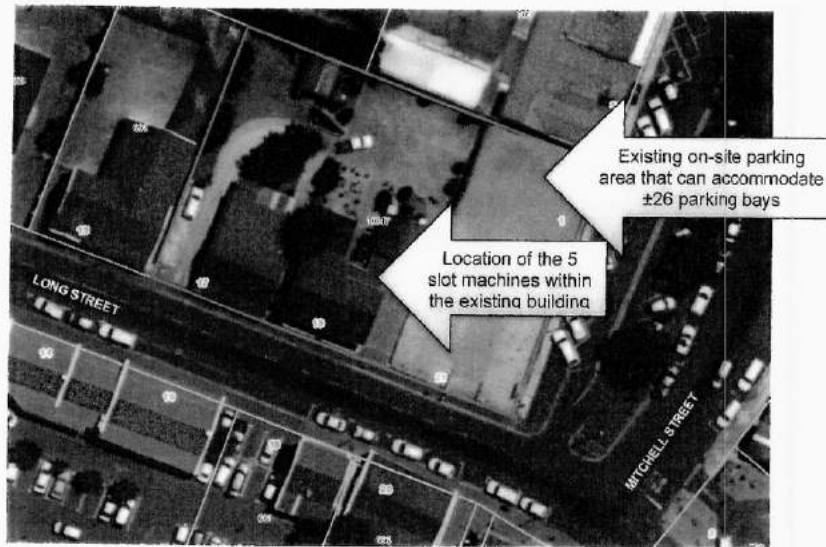
The proposed gaming area established within White Rabbit Bar and Grill will diversify the current business use and will allow for a diverse group of people that will also support surrounding businesses within the Hermanus CBD.

A conveyancer certificate provided by Sonja Barlow also confirms that there are no Title Deed restrictions that prohibits the owner to install the proposed 5 slot machines on the subject property.

The proposed consent use application to establish a place of entertainment will not have a negative impact on the surrounding properties and are not in contrast with the existing land use tendencies in the surrounding environment (Hermanus CBD). We therefore do not anticipate any problems with the proposed application.

3.5 ACCESS & PARKING

The proposal to accommodate 5 slot machines within the existing White Rabbit Bar and Grill does not constitute an extension of the current gross leasable floor area. It is merely for the change of land use of an area of $\pm 19.87\text{m}^2$ from an established business use to a place of entertainment to accommodate 5 slot machines. Subsequently no additional parking would be required. The total floor area of the existing buildings depicted on the aerial photograph below constitutes $\pm 330\text{m}^2$ and would require ± 20 parking bays calculated at a ratio of 6 parking bays per 100m^2 .



The existing parking area on the corner of Long street and Mitchell Street will suffice.

3.6 SERVICES

Erf 10347 Hermanus is already developed, all services exist, and no additional services would be required to make provision for the proposed change of land use to establish 5 slot machines within the existing building.

3.7 TITLE DEED

The Title Deed T25619/2006 has no restrictions that need to be removed in order for this application to be approved. No bond is registered over the subject property.

Motivation report

3.10. FORWARD PLANNING

Overstrand Municipal Wide Spatial Development Framework

In terms of the Overstrand Wide Spatial Development Framework the subject property is earmarked for business purposes. The business zoning of the subject property will be retained after the 5 slot machines have been installed.

Overstrand Growth Management Strategy


With reference to the Overstrand Growth Management Strategy the subject property falls within Planning Unit 13 that consists of the Hermanus CBD. Residential densification is proposed for this planning unit to create a mixed land use area. Being a business node and the fact that the business zoning will be retained the proposed growth management strategy has no relevance to the proposed land use change.

With the proposal, the above-mentioned forward planning documentation applicable to the Hermanus CBD, the proposed land use change will not have a negative impact on the surrounding businesses. Therefore, the proposed consent use application falls within the prescribed guidelines for the specific area of Hermanus.

3.11. OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION

3.11.1. HERITAGE VALUE

Erf 10347 Hermanus is situated within the Heritage Overlay Zone as determined by the Overstrand Municipality Growth Management Strategy (2010). The property is also earmarked for heritage conservation purposes in terms of the Overstrand Heritage Survey Report (2009). Please refer to the abstract below from the Heritage Survey Report:

Hermanus House	10347	Hermanus 10 Long Str 34 25' 06.22" 19 14' 26.72"	39	Architectural aesthetic typical period example with some alterations incl. enclosed eaves overhang. Surviving small pane front seen windows. Interior appears to be intact. Contributes to streetscape in terms of scale & overall envelope mass.	
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Motivation report

The 3B Grading Criteria and management implications are tabled as follow:

GRADE 3B	Intrinsic Significance	Associational Significance	Contextual Significance
	<ul style="list-style-type: none"> Historical fabric is partially intact (past changes) is reversible Some evidence for historical layering Some elements of construction are authentic Fabric dates to an historical period in the evolution of a place Typical or good example of a type and form Fabric illustrates an historical period in the evolution of a place Fabric illustrates the key uses and roles of a place over time 	<ul style="list-style-type: none"> Some association with an historic person or social dynamic Some association with historic events or activities Some association with the uses or roles of a place over time Some association with public memory Some association with living heritage 	<ul style="list-style-type: none"> Contributes significantly to the historical, visual-spatial character of a place Contributes significantly to the quality of setting of a Grade 3A heritage resource
Grade 3B Buildings/ Precincts	Heritage resource of considerable local architectural, aesthetic, social and historical value. Structures and sites of considerable intrinsic value for social, historical, scientific and/or aesthetic reasons either individually or as part of a whole.	Local Authority HRS	<ul style="list-style-type: none"> Conserve. Retain and enhance significance. Retain historical fabric (predominantly building exterior).

The application mainly constitutes the change of land use and no physical changes to the existing structures.

In the light of the above mentioned it is evident that the proposed consent use application will not have a negative impact on the heritage value of the subject property or the greater area of the Hermanus CBD area.

3.11.2. IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed consent use application does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

3.12. PLANNING PRINCIPLES

The planning principles of spatial justice, spatial sustainability, efficiency and spatial resilience of this application can be described as follows:

Spatial justice: The Principle of spatial justice is not applicable to this application.

Spatial sustainability: The proposed place of entertainment to establish 5 slot machines will be accommodated within an established business area. The proposed application will have no impact on the conservation worthy areas of the Hermanus

Motivation report

CBD. Spatially the land use will be in keeping with the business character of the area that consist of general businesses, take-aways, shops, offices, public roads and public parking areas.

Efficiency: The proposed 5 slot machines is screened from other patrons visiting the White Rabbit Pub and Grill, and is easily accessible to the locals and tourists and conveniently located within the Hermanus CBD where ample parking is available. The last mentioned makes travelling to the subject property to make use of the proposed venue easy and accessible to everybody.

Spatial resilience: Not applicable to this application.

Good administration: Our company is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation. All measures will be taken to ensure an efficient and streamlined process within the applicable timeframes as stipulated by the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016.

4. RECOMMENDATION

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

- The proposed consent use falls within the existing land use tendencies in the area;
- The proposal is compatible with the existing land use in the Hermanus CBD area;
- The impact on services will be minimal and no additional services will be required;
- The White Rabbit Bar and Grill creates job opportunities for a broad spectrum of local inhabitants of Hermanus that enhances their quality of life.
- The proposed consent use will not have a negative impact on the current character and land values of the surrounding erven.

Motivation report

- The proposed venue is centrally situated, easily accessible within the Hermanus CBD and there is sufficient on-site parking facilities.

With regards to the above mentioned it would be appreciated if the application would be considered favourably for the consent use to establish a place of entertainment at the White Rabbit Bar and Grill at Erf 10347 Hermanus.

ANNEXURE D 1/28



B.M.Shaw.
17 Mitchell Street.
Hermanus.
7200.

15 October 2019

Overstrand Municipality
16 Patterson Street
Hermanus
By email: loretta@overstrand.gov.za

TP D. Ahoat
(I.J. Oliver)

FOR URGENT ATTENTION

Dear Sirs

ERF 10347, 17 LONG STREET, HERMANUS: PROPOSED CONSENT USE : PLAN ACTIVE ON BEHALF OF ER SCHIMMER AND BU RIEDELSHEIMER

COMMENTS AND OBJECTION
OVERSTRAND MUNICIPALITY REF: 3232/2019 [H vd Stoep]
Municipal Notice 119/2019

In accordance with Sections 51 and 52 of the Overstrand Municipality Bylaw on Municipal land Use Planning of 2015 I hereby submit the following comment and objection regarding the above Application.

I am the owner of Erf 760 Hermanus, situated at 17 Mitchell Street, Hermanus, and will be severely impacted by if the change of use is allowed.

I object to the Application for Consent use being allowed based on the following:

The proposed change in use of Erf 10347 will impact on my peaceful use and enjoyment of my property. We are retired and live full time on the property.

There are many residents in this area and the Applicant's averment that Erf 10347 is in an area where there are only businesses located is simply not true as several properties in Mitchell and adjacent Hope Street are residential.

The Applicant conveniently only lists the few restaurants and bars in the area but none of the residential properties like the houses, flats in Long Street and other accommodation in Long, Hope and Mitchell Streets. Hospice is also located in Hope Street

The noise and activity during the night that will be generated will disturb the peace, possibly bring more crime to the area and change the tranquil atmosphere. Applicant avers they are applying to install slot machines but an entertainment license will also allow them to play loud music, until 2.00am; hold music concerts and festivals; run a strip joint, etc. Hospice; The dying people that Hospice so lovingly care for will be tormented by cars revving [already witnessed] loud drunken carolling and massive noise pollution exceeding the 7dB ambient noise restriction by several magnitudes.

Businesses operate in many properties in the area, but these are mainly shops and offices which close by 17:00 whereafter the area is quiet and residential.

B M Shaw
P O Box 33
Hermanus
7200

TP
2019 -10- 16

FILE NO:	GF 10347
	Hermanus ✓
SCAN NO:	SHAW
COLLABORATION NO:	1338926

Tel 028 3130464
Cell 052 8016106
Fax 088 028 3130464

B.M.Shaw.
17 Mitchell Street.
Hermanus.
7200.

A conflict between different land uses being business, residential and entertainment will be created.

The Overstrand Spatial Development Plan will not be complied with if the consent use is approved.

1. Service of Notice

This notice was not served on me, neither posted nor e mailed, or received by other interested and affected parties I have spoken to, and I urge the Municipality to ensure that the Notice has been served correctly according to Sections 47 and 48 of the said Bylaw and on all the necessary parties.

2. CBD Revitalisation

A venue for gambling is not in line with the CBD Revitalisation plans of the Overstrand Municipality!

The Revitalisation framework [<https://www.overstrand.gov.za/en/documents/town-planning/strategic-documents-1/2835-hermanus-cbd-regeneration-framework-final-report-2016>] describes the area in front of Erf 10347 as follows:

The development of Mitchell Street square has the potential to become the heart of Hermanus CBD as a vibrant public amenity for both locals and visitors to the town. The Mitchell Street development proposal accommodates the surface parking lot within structured parking levels within the new development, as a result the Mitchell Street Square will be released for the development of an idyllic, quality public square with ground floor activation with new business / cafe / restaurant opportunities.

Priority Projects include Mixed use development opportunity [i.e. don't drive the residential users away by allowing a gambling joint]!

Yours faithfully,



B. M. Shaw.
ID 4102105005086
082 801 6106

B M Shaw
P O Box 33
Hermanus
7200

bruce@shaw.co.za

Tel 028 3130464
Cell 082 8016106
Fax 088 028 3130464

3/28



The Municipal Manager
Overstrand Municipality
P O Box 20
HERMANUS
7200

(sent per email to loreita@overstrand.gov.za)

TP A. Ahoort
(1.1.01.01.01)

FILE NO: <u>CT 10347</u>	1 North Wharf Square Loop Street Foreshore Cape Town 8001
<u>Hermanus</u>	P O Box 2893 Cape Town South Africa 8000
SCAN NO: <u>MYBURGH</u>	doceex 14 Cape Town tel +2721 410 2500
COLLABORATOR NO: <u>1338898</u>	ms@ENSAfrica.com ENSAfrica.com

ENSAfrica

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Loop Street Foreshore Cape Town 8001

P O Box 2893 Cape Town South Africa 8000

doceex 14 Cape Town

tel +2721 410 2500

ms@ENSAfrica.com ENSAfrica.com

S B Levetan/mhnl/0459209 our ref
10347 HNC; 3232/2019 your ref

17 October 2019 date

Dear Sir

RE: ERF 10347, 17 LONG STREET, HERMANUS : APPLICATION FOR CONSENT USE BY E R SCHIMMER AND B U RIEDELSHEIMER

We act for Ms D Myburgh, the registered owner of Erf 740, 7 Hope Street, Northcliff, Hermanus, and have been instructed by her to lodge on her behalf the following comment/objection to the above application (hereinafter referred to as "this application"). In accordance with Section 52(3)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (the By-Law), we notify you that the address and contact details at which our client will accept notice and service of documents in relation to this application is care of our offices under the writer's above reference. The writer's email address for such communication is slevetan@ensafrica.com.

We set out below details of our client's comment/objection and the reasons therefor as required by Section 52(3)(c) and (d) and Section 52(4) of the By-Law.

INTRODUCTION

- Our client owns Erf 740 Hermanus which is situated at 7 Hope Street, Northcliff, Hermanus. We have marked our client's property in green on the locality plan submitted with this application (Annexure "A" hereto) and you will observe that our client's property is in close proximity to the subject property of this application. Our client operates a guesthouse establishment called 'The Vishuis' on her property which has been in operation for over three years. The Vishuis guesthouse has attracted a great number of foreign tourists due to its central situation and upmarket status.

law | tax | forensics | IP

Edward Nathan Sonnenbergs Incorporated

registration number 2008/018200/21

M M Katz (chairman) M Mgudlwa (chief executive) M W Mollou (chief operating officer) Y A Mandelstam (chief operating officer)

A list of directors is available on our website: <http://www.ensafrica.com/en/overstrandSA>
level 2 BBBEE rating

 ENSAFRICA

TP

17 OCT 2019

2. From a procedural point of view, our client has instructed us that she did not receive notification of this application. If it was sent by registered post, she did not receive a registered slip to enable her to collect same. Our client received a copy from the owner of Erf 7027, C J van Hoogstraaten, 14 Aberdeen Street, Hermanus.
3. As your Senior Town Planner, Ms H van der Stoep, is well aware from email correspondence which has transpired between our client and her in relation to unlawful activities conducted at the subject property of this application (White Rabbit), our client has a direct and substantial interest in the application for the reasons that will become apparent hereunder.

OUR CLIENT'S COMMENT/OBJECTION

4. It is noted that in the covering letter which accompanied this application from Plan Active Town and Regional Planners dated 10 July 2019, application is made under Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-Law on Municipal Land Use Planning, 2016 (By-Law), for the consent use to establish a place of entertainment in order to accommodate 5 slot machines (gambling machines) on the subject property under its current Business Zone 1 zoning in terms of the Overstrand Municipality Zoning Scheme. Our client does not object to the installation of 5 slot machines within the current White Rabbit Pub & Grill but is concerned that the granting of consent use for a "Place of Entertainment" as defined in the Overstrand Municipality Zoning Scheme Regulations is far too wide and will allow the operators of the White Rabbit to legitimize their heretofore unlawful activities at the premises.
5. "Place of Entertainment" is defined in the Zoning Scheme Regulations as being "a place used for commercial entertainment which may attract large numbers of people, operate outside of normal business hours or generate noise from music or revelry on a regular basis including a cinema, theatre, amusement park, dance hall, nightclub, gambling and live music." Gambling is but one component allowed in a place of entertainment.
6. The White Rabbit has in the past held live music events apparently utilising the open back garden of the subject property, which events have generated loud noise well into the early hours of the morning causing a major noise nuisance and disturbance to our client, her guest house establishment and her guests. Your Ms van der Stoep is aware of these unlawful events and has engaged in email correspondence with our client in regard thereto. Our client has been advised to resort to lodging complaints with the South African Police Services (SAPS) if such noise nuisance occurs which is of cold comfort to our client bearing in mind that the SAPS do not have the capacity to enforce the Provincial Noise Regulations. On the other hand, the Municipality should and could enforce its Zoning Scheme in terms of the provisions of Chapter 10 of the By-Law.

7. In the email correspondence between Ms van der Stoep and our client, she indicated to our client that the Municipality would only be able to act if an unlawful event would occur. This would be tantamount to taking action after the horse has bolted and would be too little too late in order to protect our client's, and her guests', rights.
8. Furthermore, our client was told by Ms van der Stoep that the White Rabbit was notified that they did not have the correct zoning for live music events and that they need to apply for consent use for a place of entertainment in order to hold such events. Despite not having the correct zoning rights, nor (apparently) now only applying for a place of entertainment for the sole purpose of installing the 5 slot machines within the existing premises, the White Rabbit continued to arrange, advertise and hold live music events in complete disregard for the rights of others, including those of our client. Examples taken off the White Rabbit Facebook page of these live music events as well as a picture of the rear structure of the premises constructed to accommodate these events, are enclosed in Annexure "B".
9. We are also instructed that Ora de Wet, the occupier of Erf 738, situated at No. 1 Hope Street and marked in pink on Annexure "A" hereto, was told by the operator of the White Rabbit, Clive Gildenhuys, to stop complaining about the noise emanating from his live music events as she was making things difficult for him. He intimated to her that he should be entitled to run his business as he pleases.
10. Against this background, our client questions whether this application is not a misleading one and a ruse to obtain the rights which the White Rabbit really needs to legitimise its unlawful use of the subject property. It seems to our client that what this application seeks to do is to obtain consent use for a place of entertainment under the guise of installing 5 slot machines (gambling) whereas the real purpose is to obtain the full ambit of rights which comes with a consent use as a place of entertainment, thus permitting the live music events to continue. If this is so, then this application totally misrepresents the true nature of what is being applied for and on this basis alone, it should be refused.
11. The foregoing notwithstanding, we note that in the Motivation Report for this application it is categorically stated that the operators of the White Rabbit intend to establish 5 slot machines within the existing business premises and that in order to do so, consent use is required to establish a place of entertainment. However, due to the very wide definition of "Place of Entertainment" in the Zoning Scheme Regulations as alluded to by us above, our client has a reasonable apprehension based on the past conduct of the operators of the White Rabbit that once they have received consent use to use the subject property as a place of entertainment, they will then be able to claim that they are able, as of right, to continue to run loud music events and thus creating a noise nuisance.

12. **Accordingly, if this application is a genuine one intended to only use the premises for the purposes of the 5 slot machines, then the applicant and the Municipality should have no difficulty with a condition being imposed under Section 67 of the By-Law limiting the consent use to only gambling on the subject property.**
13. To the extent that such a condition is not imposed or agreed to by the applicant, then our client must be seen as an objector to the application for consent use as a place of entertainment in relation to all the other activities which the above quoted provision from the Zoning Scheme Regulations provide for. In this regard, you are well aware that our client lodged an objection for a similar application in respect of an establishment known as The Mock Turtle Night Club on Erf 702, 3 Mitchell Street, Hermanus, under your reference 702 HNC; 2977/2019, which application has just been withdrawn. Erf 702 is the adjacent property to the subject property of this application and we have marked same in blue on Annexure "A". In our client's objection in respect of the Mock Turtle application, we provided detail of how that application would breach a number of the applicable planning instruments operative in the area. The same considerations would apply in respect of this application if it is not limited to only gambling and if all the other uses which a place of entertainment allows would be possible from the subject property.
14. While the Mock Turtle application impacted on the heritage area of Aberdeen Street, we are instructed that many of the properties in Long Street are of heritage status and indeed, from some of the photographs set out in the Motivation Report, this is quite apparent. However, the Motivation Report is misleading where it states in paragraph 3.3 that *"land uses that surround the subject property is general businesses, take-aways, shops, offices, public roads and public parking areas"*. As we demonstrated in the objection filed in respect of the Mock Turtle application, there are a number of guest houses and properties of a residential nature in the surrounding neighbourhood all of which would find the activities which a place of entertainment would allow, to be irreconcilable with their interests. To that extent, all the other permissible uses other than gambling within the confines of the existing premises, would impact negatively on our client's rights.
15. While the subject property has a Business Zone 1 zoning and various surrounding properties are similarly zoned, a number of surrounding properties are zoned for residential use so that the area in which the subject property is situated can at best be described as an area where various uses are zoned but it is certainly not primarily a purely business use area. From a consideration of the nature of the area as evidenced from a Google map (Annexure "C" hereto) it would seem that the subject property can best be described as being on the periphery of the CBD.
16. In the chapter dealing with Hermanus Central in the Overstrand Municipal Spatial Growth Management Strategy – Final Report (October 2010), the subject property falls within the area identified as Planning Unit 13:

- 16.1. It is stated in this report that Planning Unit 13 "consists of the Hermanus CBD which is a heritage area and is mostly used for business purposes with limited number of permanent residential units". (emphasis supplied) The report goes on to recommend that "given that this area is an economic area it will subsequently form part of mixed use developments being residential developments on top of the business buildings". It is envisaged in the report that this proposal can potentially contribute to 1,242 additional dwelling units at a gross density of 30.5 dwelling units per hectare.
- 16.2. The use by the White Rabbit of its rented premises for anything other than gambling within its existing premises within this area would not fit in with this growth strategy. Use by the White Rabbit for anything other than gambling within its existing premises would detract from the growth strategy as potential buyers of any newly created residential opportunities within the area would not want to be disturbed by the noise and behavioural patterns of the patrons of the facility and therefore our client contends, unlike the applicant, that the proposed consent use if not limited to gambling only, is directly relevant and would contravene this growth strategy.
- 16.3. The statement in paragraph 3.10 of the Motivation Report that the "proposed growth management strategy has no relevance to the proposed land use change" is therefore clearly wrong. So, too, is the statement, also contained in paragraph 3.10 of the Motivation Report that "the proposed consent use application falls within the prescribed guidelines for the specific area of Hermanus". On the contrary, and having regard to our further submissions set out hereinafter, this is clearly wrong.
17. In terms of the Overstrand Municipal Wide Spatial Development Framework (SDF) which was formally adopted by the Municipality on 27 October 2006 and incorporated into the Overstrand Integrated Development Plan for 2006/2007, the following aspects are highlighted:
- 17.1. In Volume II : Development Strategy of the SDF in dealing with Business and Economic Development policy, Policy Statement 21.2 states, *inter alia*, that "business/commercial related land uses should be confined to the core urban areas (central business district) and secondary/lower order nodes. The infiltration of business/commercial uses into residential areas or the periphery of the CBD, should be avoided, unless beneficial to local residents". (emphasis supplied) Policy Statement P21.7 is to the effect that "home-enterprises and house shops should be permitted in residential areas, provided that the uses will not impact on the well-being of residents in the neighbourhood". (emphasis supplied)
- 17.2. The owners of the surrounding properties, and in particular the residential properties in close proximity to the subject property which includes our client's guesthouse, have a constitutional right to an environment "that is not harmful to their health or well-being" (Section 24 of the Constitution of the Republic of South Africa, 1996). The concept of "well-

being" has been decided by our Courts as having a low threshold. So, for example, in the case of Hichange Investments (Pty) Ltd v Cape produce Co (Pty) Ltd Va Pelts Products & Others, 2004 (2) SA 393 (E), the Court found that the well-being of workers in a property adjacent to a tannery would be negatively impacted by the bad odours emanating from the open tannery. Residents in the surrounding properties as well as guests of the guesthouses will certainly be negatively impacted by the noise and other disturbances emanating from the White Rabbit which, as this application states, is a late night venue as it stays open until 2 am. At present, most of the businesses in the surrounding properties close at 17h00 and there is thus no disturbance to residents and guests in guesthouses of the surrounding properties. Being allowed to conduct live music events in this context would be viewed by our client and the surrounding residential property owners as being a "public nuisance".

- 17.3. The statement therefore in paragraph 3.10 of the Motivation Report that *"the proposed land use change will not have a negative impact on the surrounding businesses"* is therefore rejected by our client. On the contrary, our client contends that the activities associated with anything other than gambling within the existing premises will most certainly have a negative impact on her and her guests in much the same way that has happened in the past when live music events have been conducted from the subject property. The live music events attract large crowds of young people (indeed this would be permissible in terms of the wide definition of "Place of Entertainment" in the Zoning Scheme Regulations) and therefore it is not only what happens inside the premises that matters. It is what inebriated young adults get up to outside in the streets around the premises that matters. Experience has shown that inebriated young adults get involved in loud behaviour, fights, vehicles doing wheelies and drug trading in the surrounding streets. This kind of behaviour is typical in the area outside most night clubs and bars. In regard to loud music events which have been conducted at the subject property, no real attempt appears to have been made to contain the noise within the premises. On the contrary, these events appear to have been held in the open back garden of the premises, thus exacerbating the problem. During the previous live music events, the manner in which the White Rabbit traded totally disregarded the rights of the neighbouring residents including our client and in this way, most definitely infringed our client's and her guests' constitutional right to an environment that is not harmful to their well-being.
- 17.4. Under the heading "Urban Conservation Districts" the following statement appears: *"Protecting the urban heritage provides an attractive incentive for tourism development and related investment in the urban area"*. The fact that there are a number of guesthouse/bed and breakfast establishments in the area bears this aspect of the SDF out.
- 17.5. One of the Local Spatial Development Principles in the SDF is to maintain the unique village character of Greater Hermanus. This finds application in the Land Use Proposals at the Local Planning Level (LPL) with LPL 6 suggesting that *"high density residential uses should*

be promoted within the CBD area" and LPL 8 promotes the protection and management of heritage resources aimed at, inter alia, including "the fine-grained urban form and positive house-street relationships of the village precinct" and, in regard to the core historical area of Hermanus, retaining "its fine grained urban form and positive streetscape qualities" and "its historical fabric and activities relating to the role of the town as an early 20th century holiday and tourist destination". Amongst the recommendations in this section of the SDF is the recommendation to "concentrate business uses and promote high density residential uses within the central business district of Hermanus town".

- 17.6. For all the above reasons, to allow any of the other uses which a place of entertainment would allow on the subject property would be tantamount to breaching the SDF. On the other hand, allowing a limited number of slot machines within the existing premises would not detract from these principles set out in the SDF.
18. It is clear from Annexure "C" hereto that there are a number of properties surrounding the subject property that are used for residential purposes. We have marked these properties with a red dot on Annexure "C". There are also a number of village type pubs in the surrounding area, namely, Tipples in Mitchell Street, Bojangles on the Main Road and Jack's Bar between High Street and the Main Road. There is also a restaurant/pub called Puzzles in High Street. These establishments do not play loud music and are quiet village type pubs. The position regarding the White Rabbit is different. This establishment has also begun to operate as a night club playing loud music to attract patrons. The property in which this establishment is situated, is not authorised to operate as a night club. Written complaints have been submitted by local residents to the Municipality and with the SAPS regarding the noise disturbance. Your Ms van der Stoep confirmed to our client that this establishment did not have the requisite zoning rights and that her department needed to address this issue. Over and above this, and as indicated on Annexure "C" there are other establishments such as Barney's Sports Bar (which is constantly acting in conflict with the neighbouring residents) and a number of restaurants in the area including Barefoot Cook, Tosca's, The Cuckoo Tree, Rossi's Italian, Tulip, Oskars, Betty Blue, The Fisherman's Cottage, Embers, Fabio's and The Eatery. None of these restaurants have created any noise problems for our client and the guests of her guesthouse. Further afield there are a number of other restaurants as can be seen marked on Annexure "C".
19. **For all the reasons set out above, our client contends that unless the consent use applied for is limited to a place of entertainment for gambling purposes only, allowing a blanket consent use for a place of entertainment would be highly undesirable.**
20. Section 66(1) of the By-Law sets out the general criteria for the consideration of this application. For the purposes of the objection side of the submission, we have dealt with the applicability of the Municipality's SDF and other planning policies that have been issued to guide decision making. In regard to the planning principles referred to in Chapter 6 of the Provincial Land Use Planning Act

No. 9 of 2015 (LUPA), our client notes the rather limited submissions contained in paragraph 3.12 of the Motivation Report. In regard to the principle of "spatial justice", our client has no comments. In regard to the principle "spatial sustainability", our client disagrees with the contentions set out in the Motivation Report:

- 20.1. Firstly, to the extent that activities other than gambling may be conducted from the subject property, it is not correct that this application will have no impact on the conservation worthy areas of the Hermanus CBD. We have indicated above how these other proposed uses within the definition of a "Place of Entertainment" will impact negatively on the heritage resources in the area and how it will impact negatively on the surrounding landowners', including our client's, right to an environment that is not harmful to their well-being.
- 20.2. Secondly, the rather glib statement that "*spatially the land use will be in keeping with the business character of the area that consists of general businesses, take-aways, shops, offices, public roads and public parking areas*" is superficial. The statement fails to deal with the heritage resources in the surrounding areas. In particular, Section 59(2)(a)(vi) and (vi) of LUPA sets out, as part of the spatial sustainability principle, that land development must be promoted "*in locations that are sustainable and limit urban sprawl*" and that "*result in communities that are viable*". Inasmuch as the Motivation Report confines the application to the consent to conduct limited gambling in a place of entertainment, it fails to consider the other permissible uses that can be embarked upon by the operators of the White Rabbit once they have a blanket consent use for a place of entertainment. In such event, from the analysis set out by us above, our client disputes that these planning principles have been adequately considered by the applicant. It is clear from our analysis that allowing consent use for a place of entertainment without limiting it in any way, on the subject property, is unsustainable and will render some of the surrounding land uses as unviable. Guests who have used our client's guesthouse are predominantly visitors from overseas who will post unfavourable reports on various sites such as TripAdvisor and this may well lead to a substantial fall-off of business not only for our client's establishment, but other establishments in the area as identified on Annexure "C" hereto. Tourism has, and remains, Hermanus' major economic activity and the sustainability of the tourism industry may be severely prejudiced if consent use for a place of entertainment as defined in Zoning Scheme Regulations are allowed into the quieter and more quaint areas of the CBD that we have described above.
- 20.3. Thirdly, the Motivation Report does not deal at all in paragraph 3.12 with the planning principles in Section 59(2)(b) of LUPA. In this subsection, provision is made that "*the sustained protection of the environment should be ensured by having regard to*", *inter alia*, provincial heritage and tourism resources and the economic potential of the relevant area. This is understandable as the application is essentially only for consent to use a portion of the existing premises for gambling purposes. However, if a blanket place of entertainment

consent use is authorised, our client contends that such a consent use on the subject property would infringe these planning principles.

- 20.4. Fourthly, if one considers the provisions in Section 59(3) of LUPA dealing with the planning principle of efficiency, then it is clear that none of the categories making up this principle are even addressed. The allegation in paragraph 3.12 of the Motivation Report that the proposed 5 slot machines will be easily accessible to the locals and tourists because there is ample parking available does not resort under any of the principles set out in Section 59(3).
- 20.5. Finally, our client agrees that the spatial resilience planning principle set out in Section 59(5) of LUPA does not find application in this application. However, in regard to the planning principle embodied in Section 59(4) relating to the principles of good administration, to the extent that the consent use is not limited to gambling purposes only, for the reasons set out in our analysis above, we would encourage the decision maker to find that this application will exacerbate negative financial, social and environmental impacts and that it does not amount to an appropriate utilisation of the subject property (Section 59(4)(g) and (i)).

CONCLUSION

21. In conclusion, our client, as an interested and affected party, repeats that if the granting of the consent use for a place of entertainment is limited to the provision within the existing property of an area to house 5 slot machines only, then she has no objection to such application. However, to the extent that the consent use will simply be granted for a place of entertainment thus entitling the operators of the White Rabbit to do all the other activities permitted in terms of the definition of "Place of Entertainment" and especially for conducting live musical events from the subject property, then and to such extent our client objects in the strongest terms to this application and contends that for all the reasons set out by us above it should be refused.
22. In the event that this application is referred to the Municipal Planning Tribunal (MPT) for determination, we advise that our client wishes to make an oral representation to the Tribunal and we therefore request the administrator to advise us in advance of the date of the MPT hearing so that we can ensure that 14 days prior thereto we can request in writing to make a representation at the hearing as envisaged by Section 77(3) of the By-Law.
23. In order for us to ensure that such representation is apposite, we request that prior to the 14 day cut-off period, a copy of the planning report to the MPT be made available to us so that we can consider any aspects thereof that require our clarification on our client's behalf at the hearing.

Kindly acknowledge receipt of this objection.

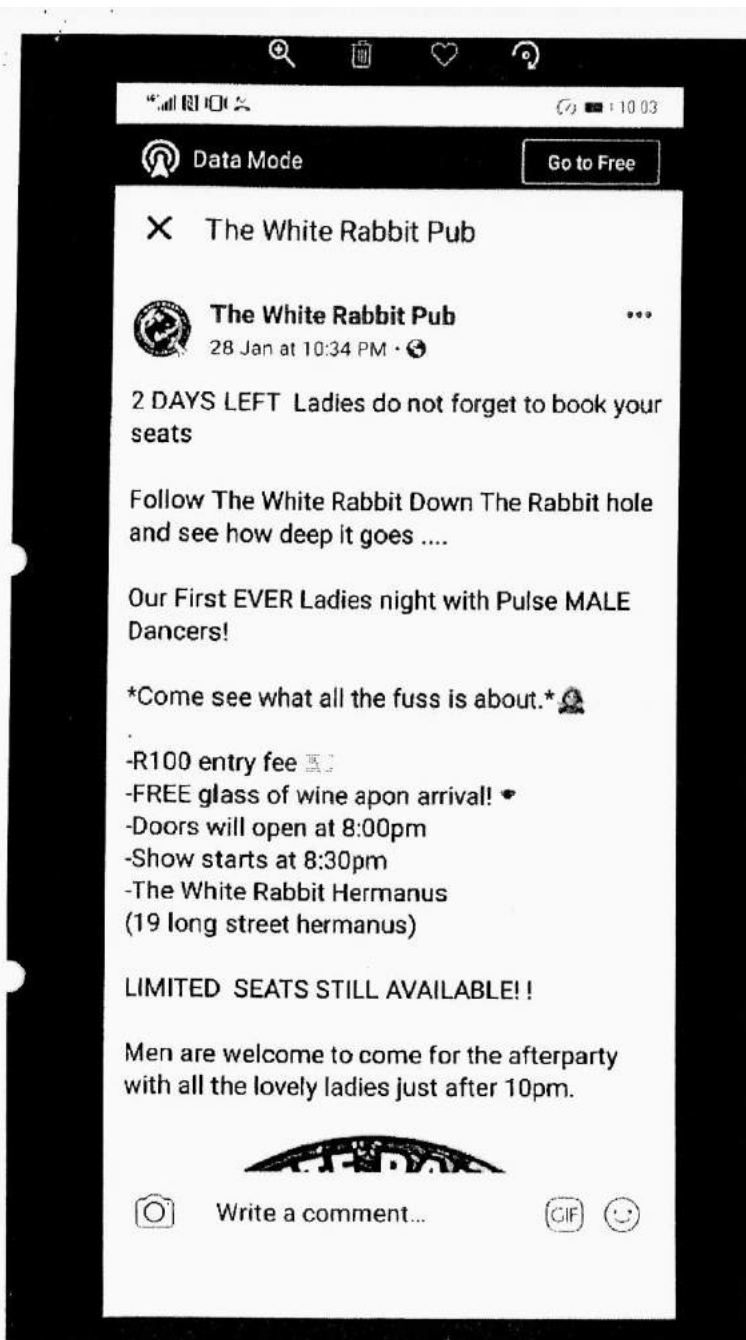
Yours faithfully
EDWARD NATHAN SONNENBERGS INC.


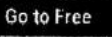
Per: 



ANNEXURE "A"




PA Active Stats- en Streeksbeplanners Town & Regional Planners	All dimensions approximate and subject to survey. COPY RIGHT RESERVED	Property Description: ERF 10347 HERMANIUS	Plan Description: LOCALITY MAP	Scale: NTS Drawing No: HER10347.dwg Date: 11/2016





 Data Mode
 






SEP 13 **Pik Swart Live at The White Rabbit Pub**
 Public Hosted by Pik Swart and 1 other



Interested


Going



Save


More


 **Fri, 13 Sep at 7:00 PM - 10:00 PM SAST**
 Event started one month ago

 **The White Rabbit Pub**
 19 Long Street, 7200 Hermanus, Western Cape 93.8 km

ABOUT
DISCUSSION



Say something



Went	Interested	Shares
2	10	6

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[Go to Free](#)

✕ **The White Rabbit Pub**

-The White Rabbit Hermanus
(19 long street hermanus)

LIMITED SEATS STILL AVAILABLE!!

Men are welcome to come for the afterparty
with all the lovely ladies just after 10pm.



👍 Like 💬 Comment ➦ Share

📷 Write a comment... 🎬 GIF 😊

🔍 🗑️ ❤️ 🔄

📶 Data Mode Go to Free

✕ Posts

 **Johan Johnson** ▶ Hermanus ...
13 Aug at 10:50 AM · 🌐

Join us for an incredible day of live music on 28th of September at the White Rabbit, Hermanus. Tickets available at venue. Loads of specials available. First time in Hermanus, Crafted BOET BEER on tap, and Vuilhond Brandy on tap. A full fun day, we cater for the whole family, young and old! This will be something not to be missed. – with **Izak Burger** and **Viljoen Retief Full**.

WHITE RABBIT
HERMANUS
PRESENTS

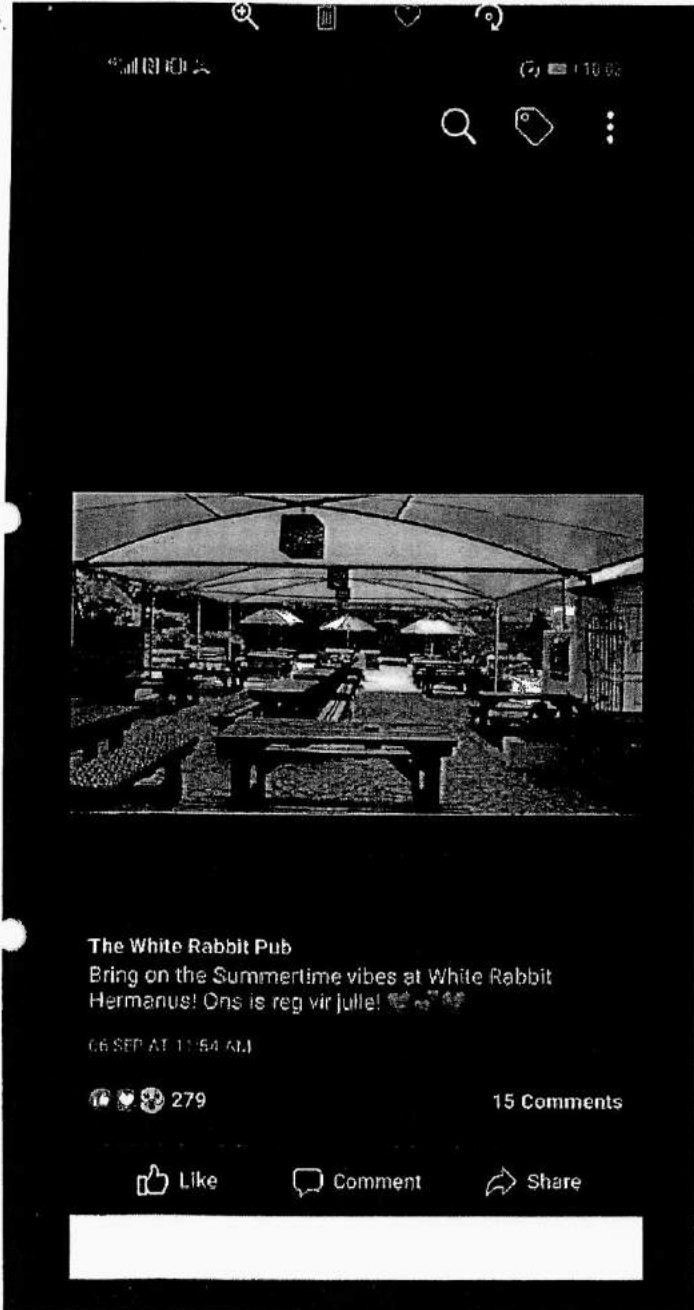


Background music
Live DJ by HIS Media from 11:00

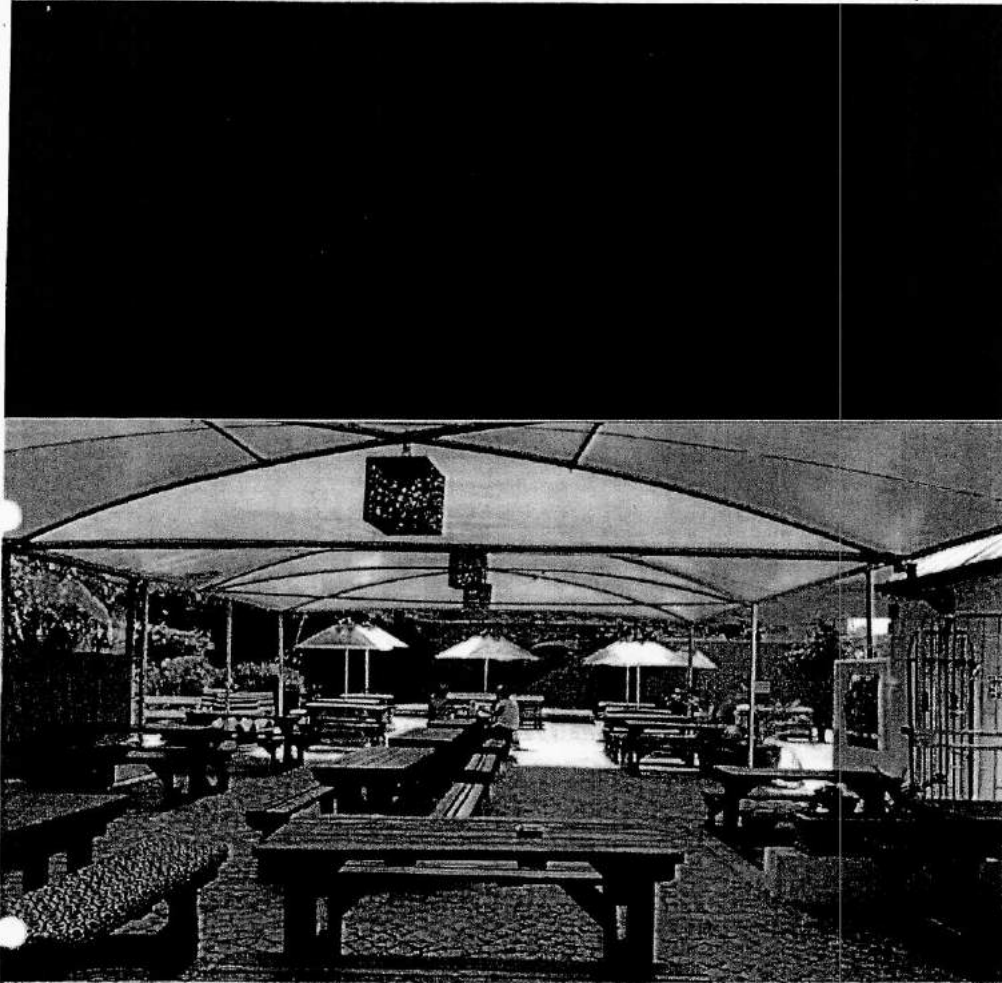
Byron Minnie	15:00 – 15:45
Marochelle	16:00 – 16:45
1925 Band	17:00 – 17:45
Byron Minnie	18:00 – 18:30
Burger Le Roux	18:45 – 19:30
Viljoen Retief	19:40 – 20:25
1925 Band	20:30 – 21:15
Burger Le Roux	21:30 – 22:15
Viljoen Retief	22:30 – 23:15

Background music
Live DJ by HIS Media 'till 24:00

To post and comment, join **Hermanus**. Join



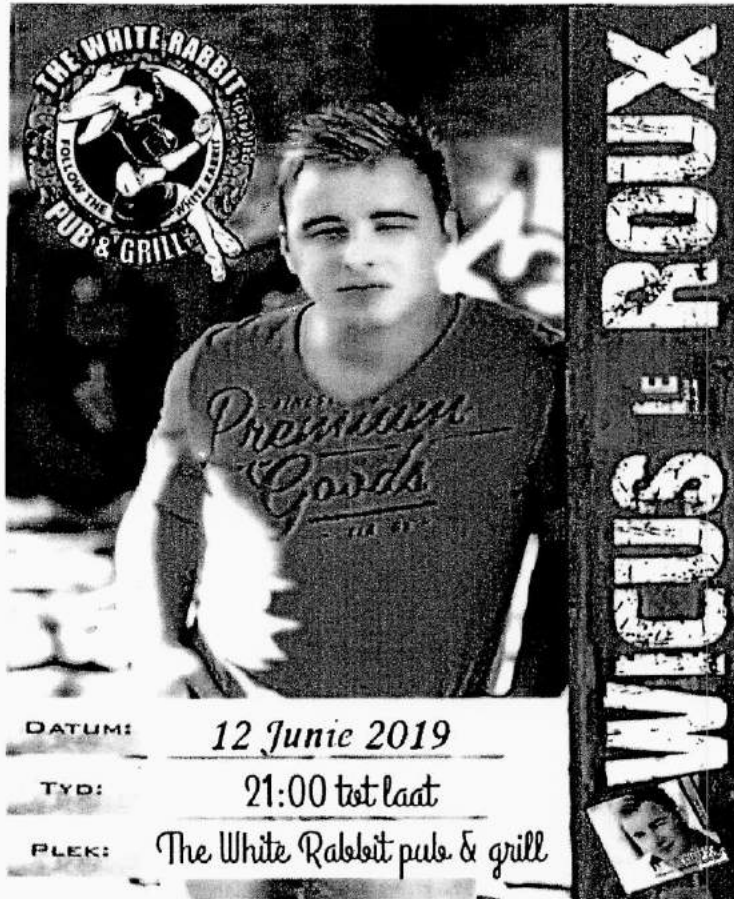
The image is a black and white screenshot of a mobile phone displaying a social media post. At the top, there is a status bar with signal strength, Wi-Fi, and battery icons, and a time of 11:54. Below the status bar is a navigation bar with a magnifying glass, a location pin, and a three-dot menu icon. The main content of the post is a photograph of an outdoor pub area with several tables and umbrellas under a large canopy. Below the photo, the text reads: "The White Rabbit Pub", "Bring on the Summertime vibes at White Rabbit Hermanus! Ons is reg vir julle! 🐰🍷🍹", and "06 SEP AT 11:54 AM". At the bottom of the post, there are icons for likes, comments, and shares, with the number "279" next to the likes icon and "15 Comments" next to the comments icon. Below these are buttons for "Like", "Comment", and "Share". At the very bottom of the screenshot, there is a white rectangular input field for a comment.



The White Rabbit Pub

Bring on the Summertime vibes at White Rabbit
Hermanus! Ons is reg vir julle! 🍷🍷🍷

06 SEP AT 11:54 AM



DATUM:	12 Junie 2019
TYD:	21:00 tot laat
PLEK:	The White Rabbit pub & grill



FILE NO: ERF 10347	HMS
SCAN NO:	HMS 10347
COLLABORATOR NO:	1334294

TP - A. Theart
(H. Olivier) 22/28

Kathryn Celliers-Louw
Hermanus Law Chambers
19 Mitchell Street [Erf 757]
Hermanus
028 3131 747
kecl@hermanus.co.za

15 October 2019

Overstrand Municipality
16 Patterson Street
Hermanus
By email: loretta@overstrand.gov.za

FOR URGENT ATTENTION

Dear Sirs

**ERF 10347, 17 LONG STREET, HERMANUS: PROPOSED CONSENT USE : PLAN ACTIVE
ON BEHALF OF ER SCHIMMER AND BU RIEDELSHEIMER**

**COMMENTS AND OBJECTION
OVERSTRAND MUNICIPALITY REF: 3232/2019 [H vd Stoep]
Municipal Notice 119/2019**

In accordance with Sections 51 and 52 of the Overstrand Municipality Bylaw on Municipal land Use Planning of 2015 I hereby submit the following comment and objection regarding the above Application.

I am the owner of Erf 757 Hermanus, situated at 19 Mitchell Street, Hermanus, and will be severely impacted by if the change of use is allowed. [My contact details are as indicated above.]

I object to the Application for Consent use being allowed based on the following:

1. Impact in peaceful enjoyment

The proposed change in use of Erf 10347 will impact on my peaceful use and enjoyment of my property. When we retire, we plan to live full time in the property, which we currently use as offices [and hence we have not removed the bathrooms or kitchen to facilitate this].

2. Area is not only a business area

My property is both business and residential and we are surrounded by several similar properties which are either residential or business or both. The Applicant's averment that Erf 10347 is in an area where there are only businesses located is simply not true as several properties in Mitchell and adjacent Hope Street are residential, some exclusively so.

1

TP 15 OCT 2019

The Applicant conveniently only lists the few restaurants and bars in the area but none of the residential properties like the houses, flats in Long Street and other accommodation in Long, Hope and Mitchell Streets. Hospice is also located in Hope Street

3. Increased noise pollution

The noise and activity during the night that will be generated will disturb the peace, possibly bring more crime to the area and change the tranquil atmosphere. Applicant avers they are applying to install slot machines but an entertainment license will also allow them to play loud music, until 2.00am; hold music concerts and festivals; run a strip joint, etc. Hospice; The dying people that Hospice so lovingly care for will be tormented by cars revving [already witnessed] loud drunken carolling and massive noise pollution exceeding the 7dB ambient noise restriction by several magnitudes.

Businesses operate in many properties in the area, but these are mainly shops and offices which close by 17:00 whereafter the area is quiet and residential.

4. Conflict between different Land uses

A conflict between different land uses being business, residential and entertainment will be created.

The Overstrand Spatial Development Plan will not be complied with if the consent use is approved.

5. Service of Notice

This notice was not served on me, neither posted nor e mailed, or received by other interested and affected parties I have spoken to, and I urge the Municipality to ensure that the Notice has been served correctly according to Sections 47 and 48 of the said Bylaw and on all the necessary parties.

6. CBD Revitalisation

A venue for gambling is not in line with the CBD Revitalisation plans of the Overstrand Municipality!

The Revitalisation framework (<https://www.overstrand.gov.za/en/documents/town-planning/strategic-documents-1/2835-hermanus-cbd-regeneration-framework-final-report-2016>) describes the area in front of Erf 10347 as follows:

The development of Mitchell Street square has the potential to become the heart of Hermanus CBD as a vibrant public amenity for both locals and visitors to the town. The Mitchell Street development proposal accommodates the surface parking lot within structured parking levels within the new development, as a result the Mitchell Street Square

will be released for the development of an idyllic, quality public square with ground floor activation with new business / cafe / restaurant opportunities.

Priority Projects include Mixed use development opportunity [i.e. don't drive the residential users away by allowing a gambling joint]!

Yours faithfully

Kathryn Celliers-Louw

TP- A. Theurt
(H. Olivier)

Loretta Gillion - White Rabbit.

From: Vanessa Prior <collect@global.co.za>
To: Loretta Gillion <lpage@overstrand.gov.za>
Date: 15/10/2019 10:01 AM
Subject: White Rabbit.
Cc: Hedda Mittner <hedda@thevillagenews.co.za>



I hand delivered three letters to the Town Planning office yesterday with my total objection to the proposed Gaming and sporting license that the White Rabbit has applied for.
I live and have lived at 22 Mitchell Street (ERF 702) since 1993, peacefully and happily.
Since the Checkers development went in Mitchell Street has become a race track day and night, especially between 10 pm and 2am. I phone the police at least once a week about the noise, thumping music non stop, screaming, shouting and racing cars. Nothing is ever done about it and I have never seen a policeman in the area after 5 pm.
I TOTALLY OBJECT TO GIVING WHITE RABBIT A PERMIT TO HAVE SLOTS, ALL NIGHT PARTIES AND THE SELLING OF DRUGS.
WHAT ARE YOU DOING TO UPGRADE THE CBD IF YOU ALLOW THIS RUBBISH TO HAPPEN????

Vanessa Prior. (collect@global.co.za) tel 0283123422. 0825691767.

I invite all of Town Planning to come and sit in my garden especially Friday and Saturday nights and just listen to what is happening in our peaceful town

FILE NO: ERF 10347 HMS
SCAN NO: PRIOR
COLLABORATOR NO: 1334293

TP 15 OCT 2019

TP N. Theat
(H. Olivier)



This message is from Vanessa Prior. 22 Mitchell Street (Erf 702)

This is my total objection to all and any thing that I read in the proposal for White Rabbit to disturb the residents of this neighborhood any further.

I have to put up with thumping music, shouting as drunks walk down Mitchell Street and the racing of cars until 2am most mornings.

I phone the Police Station at least once a week to ask them to check whats going on and they dont even bother to give me a report number any more!!

I have owned the property since 1993 and cannot believe they quote businesses in the area who mainly are closed by 5pm, they don't live in the CBD so all the disruption that goes on from White Rabbit doesn't affect them at night like it does me. (Goozi are closed down!!!).

I cannot believe that Town Planning even bothers to look at such a request.

Do any one at Town Planning live in the CBD?

I STRONGLY OBJECT TO THE PROPOSAL THAT WHITE RABBIT BE GIVEN ANY LICENCE TO MAKE ANY MORE NOISE AND DISRUPTION IN MITCHELL STREET.

Vanessa Prior

VANESSA PRIOR.

This objection is for all at the Town planning office.

- 1, Mr Muller.
2. Loretta Gillion
- 3 H Van Der Stoep

FILE NO:	21 10347
	Hemous ✓
SCAN NO:	
	HMS 10347
COLLABORATOR NO:	
	1333804

This letter will be hand delivered on Monday 14th October 2019.

collect@global.co.za
0825691767

TP 14 OCT 2019



Loretta Gillion - Erf 10347 HNC application for consent use

From: "Carol van Hoogstraten" <carolvh@hermanus.co.za>
To: <loretta@overstrand.gov.za>
Date: 14/10/2019 02:47 PM
Subject: Erf 10347 HNC application for consent use

TP D. Theod
(H. Olivier)

Dear Sir/Madam,

As the owner of ERF 7027 my concern, besides the drug dealing and litter, is the noise level that affects the nearby guest houses and residents until 2am. A limit on the noise level could be a win/win for all. White Rabbit clients could still enjoy the music and socialise more easily without their ears being blasted and the neighbours and their guests could sleep peacefully.

Incidentally, the businesses listed in the Motivation report 3.3 under the ABERDEEN STREET block are actually in Long St. What also needs to be considered are the residents and guest houses in Aberdeen and Hope Streets which are severely affected by the noise.

Numbers 3.8 and 3.9 are missing from the Motivation report I received by registered mail. I did phone the Town Planning department last week and am still waiting for the documents that they said they would email to me.

Yours faithfully,

Carol van Hoogstraten
 P O Box 1566
 Hermanus
 7200
 Cell: 082 321 8811
 Landline: 028 314 0470

FILE NO:	Erf 10347 ✓
	Hermanus
SCAN NO:	
	HMS 10347
COLLABORATOR NO:	
	1333895

TP 14 OCT 2019

TP - A. (hearb
(H. Olivier)



DR ANTHONY C. G. KELLY
P.R. 2202077
M.B.B.CH. (Wits.), D.C.H. (S.A.), F.C. Psych. (S.A.)
Member, International Association for Analytical Psychology
PSYCHIATRIST

TELEPHONE:
Rooms: +27 21 423-0744
Fax: +27 21 423-0787
If no reply: +27 21 794-6421
Email: acgkelly@global.co.za

4 VINE STREET,
GARDENS,
CAPE TOWN,
8001
SOUTH AFRICA

28th October 2019

Mr H Van der Stoep
Town Planning Department
Overstrand Municipality
E-mail: hvdstoep@overstrand.gov.za

Dear Mr Van der Stoep,

APPLICATION ERF 10347, LONG STREET, HERMANUS (WHITE RABBIT) APPLICATION FOR AN ENTERTAINMENT ZONING TO INSTALL 5 SLOT MACHINES

I ask you very earnestly to accept my late objection to the above application. I was away from my rooms and only have access to my private e-mail (anthonykelly.za@gmail.com) and not the e-mail to which this application was sent (my rooms acgkelly@global.co.za)

My wife and I are the owners of 10 Aberdeen Street, ERF 3016, Hermanus. I strongly object to "White Rabbit" ERF 10347, 17 Long Street Hermanus be granted permission to install slot machines.

This will allow them to legally play loud music until the early hours of the morning. Already they do and it is extremely disturbing in my home, preventing us from sleeping. There are many residences in the area who will be greatly disturbed.

Yours faithfully,

DR. A.C.G. KELLY
ACGK/Br

Danny Myburgh
E-mail: dannymyburgh@darlingart.co.za

FILE NO:	CF 10347 ✓
	Hermanus
SCAN NO:	HMS 10347
COLLABORATOR NO:	1346030

TP 31 OCT 2019

PLAN Town & Regional Planners
Active Stads-en Streeksbeplanners



ANNEXURE E 1/8

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

TP. A. Abrahams
 (H. Olivier)

8 November 2019

Our reference: PA19050
 Your reference: 12221 HEC

The Municipal Manager
 Overstrand Municipality
 PO Box 20
 HERMANUS
 7200

For attention: Mrs. Hanneen van der Stoep

Sir,

FILE NO:	ERF 10347
	HERMANUS
SCAN NO:	HMS 10347
COLLABORATOR NO:	352836

COMMENTS ON OBJECTION: ERF 10347 HERMANUS: PROPOSED CONSENT USE

Your letter dated 25 October 2019 with 5 objections attached thereto refers. We would like to make use of our opportunity to comment on the objections received. Our comments on the objections are as follow:

- **The noise and activity during the night that will be generated will disturb the peace, possibly bring more crime to the area and change the tranquil atmosphere.**

Please note that the application at hand is to accommodate 5 slots machines within the existing building. The 5 slot machines can only be accommodated as a consent use as a place of entertainment (gambling). These machines do not generate noise of such magnitude that it would have a negative impact in the surrounding land owners. The proposed 5 slot machines will have no impact on the atmosphere of the area and furthermore it does not attract crime to an area

- **The owners of erven 740, 757 and 760 Hermanus mentions that they did not receive notices.**

Divine Inspiration Trading 329 (Pty) Ltd. trading as Plan Active
 Reg. No. 2006/030921/07
 Vat. No. 4770250340

John Mc Lachlan: Ndip (Town Planning) Tech Witwatersrand; MSAPI Nr.10908; SACPLAN Tch.Pln B/8250/2014
 Pauline Spronk: B (Soc Sc) US, BA Hon (UNISA)
 Meriké Ierm: B. Art et Scien Cum Laude (Town Planning) UNW; SACPLAN Pr.Pln A/158/2009

The municipal official determines to whom notices are sent. Enclosed please find a copy of the list of names for the notices that the municipal official deemed necessary to send notices to. The owners of the above mentioned erven were not on the list and subsequently the reason for not receiving a notice.

- **The venue for gambling is not in line with the CBD revitalisation plans.**

The Hermanus CBD Regeneration Framework described the area where Erf 10347 Hermanus is located as Mitchell Street Square. Please refer to the abstracts below from the Hermanus CBD Regeneration Framework for easy reference pertaining to the area in question.

Internationally, spatial planning professionals have timelessly agreed that the efficient use of land needs to be compatible with the social well-being and healthy environment objectives. Therefore, concepts such as densification, urban growth management and the **mixing of land** uses have become popular in the process towards achieving these universal goals.

Diverse environments provide a variety of opportunities, experiences and choice. The more varied a place, the more valued because of the individual qualities that make it distinctive from other places.

Activity should be **concentrated in core areas** and important **nodes** and provide a cluster of complementary but **diverse set of uses**. This provides people with choices and promotes walking between destinations.

Overall Framework:

Establish a new **CBD heart** at Mitchell Street square including a new **mixed use** development, structured parking and public space and road upgrades.

Develop High Street into a pedestrian priority street that connects the new retail complexes at Station Square to Mitchell Street

Mitchell Square Redevelopment:

Main Ideas:

Mitchell Street Square is strategically located within the centre of Hermanus CBD.

It sits at the junction of several pedestrian networks and links to a number of public and civic amenities such as the cliff walk, Market Square, Civic and Municipal Precinct, Taxi rank and Commercial nodes along Long, High and Mitchell streets.

The development of Mitchell Street square has the potential to become the heart of Hermanus CBD as a vibrant public amenity for both locals and visitors to the town. The Mitchell Street development proposal accommodates the surface parking lot within structured parking levels within the new development, as a result the Mitchell Street Square will be released for the development of a high quality public square with ground floor activation with new business / cafe / restaurant opportunities. This proposed intervention is a key investment into the public environment in the core of the CBD, knitting together key destinations and pedestrian routes along High, Mitchell and Long Streets.

Retain existing heritage building

Reuse as cafe / hospitality space.

With reference to the above abstract from the Hermanus CBD Regeneration Framework is it clear that the proposed consent use can be accommodated within these guidelines. The proposed 5 slot machines within the existing bar are in line with the proposals as it also falls within the hospitality spectrum of land uses.

- **The objector does not object to the installation of 5 slot machines within the current White Rabbit Pub & Grill but is concerned that the granting of a consent use for a place of entertainment as defined in the Overstrand Municipality Zoning Scheme Regulations is far to wide and will allow the operators of the White Rabbit to legitimize their heretofore unlawful activities at the premises.**

*As mentioned earlier in our comments, we are applying to accommodate 5 slot machines on the premises by means of a consent use. Slot machines fall under gambling in terms of the definition, place of entertainment. There are also a number of other uses in terms of the definition for a place of entertainment, but **for this application, it is only for 5 slot machines.** If the Overstrand Municipality should grant the consent use, **it would only be for the slot machines and no other uses.** If the owners of the White Rabbit Pub and Grill wish to establish other land uses an application will have to be submitted and circulated. Subsequently alleged **illegal land uses will not be legitimized by this application.** The surrounding land owners are not being misled by the application at hand.*

- **The White Rabbit Pub & Grill has in the past held live music events which have generated loud music of which the municipality and the South African Police Services are aware of.**

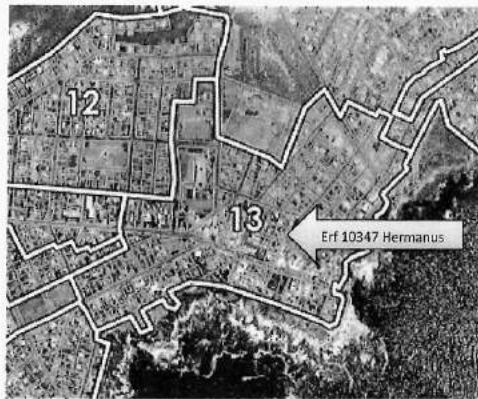
The owners have disclosed that they have used the premises for live entertainment purposes of which some the events were held legally with an events licence.

As a matter of interest, we have been appointed to assist the White Rabbit Pub & Grill to apply for a place of entertainment that would include the possibilities to establish a nightclub and a venue for live entertainment on the premises. The proposals have been discussed with Mrs. Hanneen van der Stoep and the owner is currently in process of having the proposed site plan amended in order to have the least impact on the surrounding land owners. The mentioned site development plan will accompany our application. A noise impact study was completed for the venue and we will be taking the information obtained by the study into consideration in order to investigate mitigating noise measures before submitting a future application for a nightclub and a venue for live entertainment.

- **Other point raised by the objectors are:**
 - **Erf 10347 Hermanus is not situated in a purely business use area.**
 - **Stating that the land use that surround the subject property is general businesses, takeaways, shops, offices, public roads and public areas is misleading.**
 - **Erf 10347 Hermanus is located on the periphery of the CBD.**
 - **Erf 10347 Hermanus is within a heritage area and the application will have a negative impact on the heritage value.**

Our comments on the points listed above are as follow:

We can confirm that Erf 10347 Hermanus is located within the CBD of Hermanus. We can also confirm that the subject property is not located on the periphery of the CBD but located in the central part of the CBD. The CBD in terms of the Growth Management Strategy is defined as Planning Unit 13. Please refer to an abstract of a map from the report below:



With reference to the CBD Regeneration Framework the study area for the CBD is defined as follows:



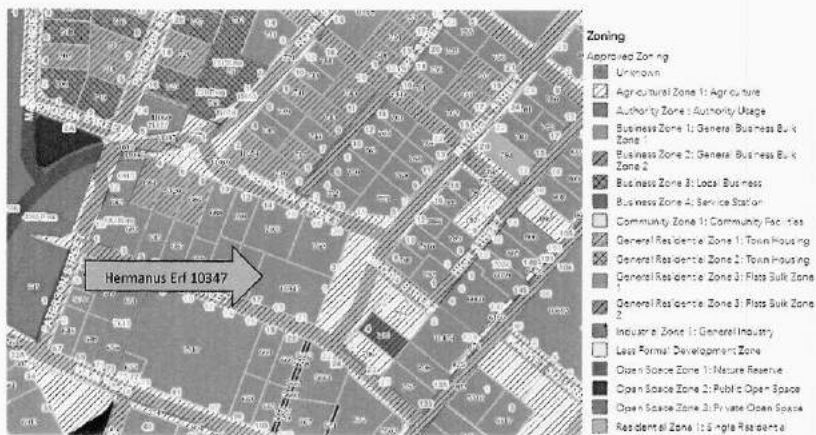
With reference to both abstracts above it is clear that Erf 10347 Hermanus is indeed located in the centre of the CBD. The referral of the objector to a Google Map only depicts the built character of an area, it is difficult to determine land use from the use of an aerial photograph other than roads,

parks, schools etc. It is very difficult to determine business premises and differentiate between office blocks and retail shops if you are not familiar with the area.


With reference to the Zoning Map of the CBD area it is safe to make the following statement: All the erven south-east of Hope Street, south-west of Dirkie Uys Street, Main Road (south-east) and extending Hope Street to Main Road (south-west) erven have a Business Zone 1, Bulk Zone 1 zoning with the exception of Erf 795 Hermanus that is used as a parking area for the surrounding business erven and has a zoning of General Residential Zone 3. Please refer to the aerial photograph below depicting the existing parking area.



With reference to the above statement can it be confirmed that taking the immediate erven abutting the subject property and within the business block described above into consideration that Erf 10347 Hermanus is purely within a business use area. Please refer to the abstract below of the Zoning Map of the area.



Erf 10347 Hermanus is situated within the Heritage Overlay Zone as determined by the Overstrand Municipality Growth Management Strategy (2010). The property is also earmarked for heritage conservation purposes in terms of the Overstrand Heritage Survey Report (2009). Please refer to the abstract below from the Heritage Survey Report:

Hermanus House	10347	Hermanus 19 Long Str 34 25' 09.22" 19 14' 26.72"	3B	Architectural aesthetic; typical, period example with some alterations incl extended basis overhang. Surviving small pane-front sash windows. Interior appears to be intact. Contributes to streetscape in terms of scale & overall envelope mass	
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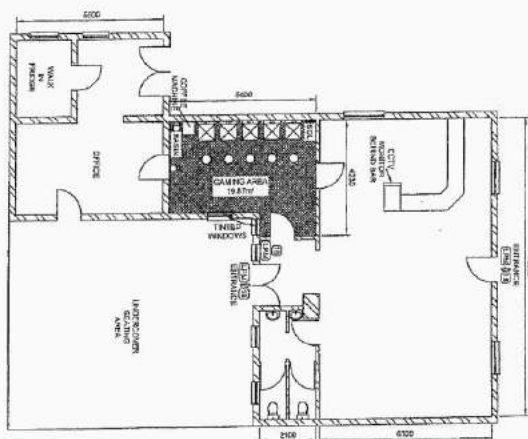
The 3B Grading Criteria and management implications are tabled as follow:

	Intrinsic Significance	Associational Significance	Contextual Significance
GRADE 3B	<ul style="list-style-type: none"> Historical fabric is partially intact (past damaged is reversible) Some evidence for historical layering Some elements of construction are authentic Fabric dates to an historical period in the evolution of a place Typical or good example of a type and form Fabric illustrates an historical period in the evolution of a place Fabric illustrates the key uses and roles of a place over time 	<ul style="list-style-type: none"> Some association with an historic person or social dynamic Some association with historic events or activities Some association with the uses or roles of a place over time Some association with public memory Some association with living heritage 	<ul style="list-style-type: none"> Contributes significantly to the historical, visual-spatial character of a place Contributes significantly to the quality of setting of a Grade 3A heritage resource.

Grade 3B Buildings/Predicts	Heritage resources of considerable local architectural aesthetic, social and historical value. Structures and sites of considerable intrinsic value for social, historical, scenic and/or aesthetic reasons either individually or as part of a whole.	Local Authority HRS	<ul style="list-style-type: none"> Conserve. Retain and enhance significance. Retain historical fabric (predominantly building exterior).
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The application mainly constitutes the change of land use and no physical changes to the existing structures. Please refer to the aerial photograph below and an abstract of the proximity plan indicating the location of the slot machines within the current building:





In the light of the above mentioned it is evident that the proposed consent use application will not have a negative impact on the heritage value of the subject property or the greater area of the Hermanus CBD area.

- **Numbers 3.8 and 3.9 are missing from the motivation report.**

We can confirm that the motivation report that accompanied the notices were complete. The automated numbering of the sections of the motivation report skipped from Section 3.7 to 3.10. we apologise for the inconvenience caused.

We trust that you would find our comments and information above in order and that the application will be dealt with favourably.

Yours faithfully

John Mc Lachlan

ANNEXURE F

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR CONSENT USE: ERF 10347, NORTHCLIFF
(3232/2019)**

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

Conditions:

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the owner's cost;
3. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 10400 – P: 2010: Drainage*;
4. that, should any upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Area Manager: Hermanus for written approval;
5. that stormwater be allowed to discharge through Erf 10347, Northcliff, unobstructed;
6. that any additional and / or extended vehicle entrances will be for the owner's account;
7. that no on-street parking be allowed.


 DENNIS HENDRIKS
 SENIOR MANAGER:
 ENGINEERING SERVICES


 DATE