



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

A G E N D A

**DATE:
VENUE:
TIME:**

**1 JULY 2021
VIRTUAL
10:00**

OVERSTRAND MUNICIPALITY

Office of the Chairperson: MPT
Civic Centre
HERMANUS
7200

14 June 2021

TO : THE MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

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

NOTICE IS HEREBY GIVEN that, due to the Covid-19 lockdown, a meeting of the **Municipal Planning Tribunal (MPT)** will go into session by means of a virtual platform on **Thursday, 1 July 2021 at 10:00**, to consider the attached agenda.

H JANSER (MS)
CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL

Distribution:

1. Ms H Janser (Chairperson)
2. Mr S Müller (Vice Chairperson)
3. Mr S Madikane (Member)
4. Mr H Blignaut (Member)
5. Ms R Louw (Member)
6. Mr R Kuchar (Authorised Official)
7. Mr S van der Merwe (Senior Town Planner)
8. Ms H van der Stoep (Senior Town Planner)
9. Mr H Olivier (Town Planner)
10. Secretariat

**MUNICIPAL PLANNING TRIBUNAL
(MPT)**

**1 July 2021
(June 2021 Cycle)**

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1. OPENING

2. APPLICATIONS FOR LEAVE OF ABSENCE

3. CONFIRMATION OF MINUTES

3.1 Minutes of a Municipal Planning Tribunal Meeting held on 29 April 2021

4. ITEMS FOR CONSIDERATION

4.1 ERF 939, VERMONT, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR AMENDMENT OF THE CONDITIONS OF AN EXISTING APPROVAL: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF AFRICA EVANGELISTIC CHURCH

Report attached.

4.2 ERF 6165, 32 HARDEPEER AVENUE, KLEINMOND, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS AND DEPARTURE: R COETZEE

Report attached.

4.3 ERF 3383, 11 BOB LAUBSER STREET, KLEINMOND, OVERSTRAND MUNICIPAL AREA: PROPOSED DEPARTURE: MESSRS ARCHITECTURAL HOME DESIGN ON BEHALF OF SL VERRUGGIO

Report attached.

4.4 ERF 80, 9 GNIDIA ROAD, ROOI ELS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR THE REMOVAL OF A RESTRICTIVE TITLE DEED CONDITION AND DEPARTURE: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF T THORSSON AND C THOMPSON-THORSSON

Report attached.

4.1**ERF 939, VERMONT, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR AMENDMENT OF THE CONDITIONS OF AN EXISTING APPROVAL: MESSRS PLAN ACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF AFRICA EVANGELISTIC CHURCH****939 HVM****H Olivier****26 March 2021****(028) 313 8900****Hermanus Administration****1. EXECUTIVE SUMMARY**

An application was received on 1 June 2020 from Messrs Plan Active Town and Regional Planners on behalf of Africa Evangelistic Church on Erf 939, Vermont for an application in terms of Section 48 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the amendment of conditions of approval in terms of Section 16(2)(h) to allow the registration and transfer of the new erven prior to the construction of the public road.

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, and the approved subdivision plan is attached as Annexure C.

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

An approval for the submission and rezoning of Erf 939, Vermont was approved on 6 September 2012 to create three (3) Resort zoned portions and one (1) public road portion.

An extension of the validity of the approval for an additional five (5) years was granted on 24 October 2017.

In terms of the approval the public road portion must be constructed prior to the registration of the new Resort zone portions.

This application is to amend council's conditions of approval to enable the transfer of two (2) of the new erven to developers, prior to the construction of the public road.

4. SUMMARY OF APPLICANT'S MOTIVATION

Although it is the opinion that the closure of the existing access off the R43 and construction of the new public road should not hold back the transfer of the newly created portions, this viewpoint is not supported by the Municipality, hence this application to amend the relevant conditions.

Erf 939 is zoned Resort Zone at this stage.

The existing land use approval will lapse on 7 September 2022.

In the Department of Transport's original approval, conditions were included which stipulated the existing access off the R43 be closed, and a public road portion be

created with access off Vermont Avenue to provide access to the new portions created. It also stated the construction of the roadwork be completed before any construction activities may commence on any new portion.

The conditions are open for interpretation; therefore the Department of Transport provided an amended comment on 21 February 2014, stating the above-mentioned construction work must be done before any building plans may be approved or development occurs on the affected portions.

The Municipality still insisted that the original conditions must still be amended to accommodate transfer of the new portions prior to construction of the public road.

It is proposed that the municipal conditions of approval for these applications, as confirmed in the letter of approval dated 5 November 2010 (and final approval with finalization of the appeal on 6 September 2012), be amended as follows:

- “(h) that all the conditions by die Department of Transport and Public Works in their letters dated 4 March 2009, 21 February 2014 and 29 July 2020, be complied with.
- (i) that all the conditions imposed in the Services Report inclusive of the amended conditions proposed with this application, be complied with.”

That the approval conditions for the extension of validity period dated 24 October 2017 be amended as follows:

- “(d) that all the conditions in the Services Report inclusive of the amended conditions proposed with this application, (attached as Annexure D), be complied with.

That the conditions in the Services Report referred to in the approvals dated 5 November 2020 and 24 October 2017 be amended as follows:

“14.1 the existing access (described as “farm” access in the application) from Trunk Road 228 section 1 (R43) must permanently be closed and the existing bell mouth demolished. The existing access of Trunk Road 28 Section 1 does not have to be closed in order for the subdivision to be registered;

14.2 that this application, proposed portion C must be rezoned to Transport Zone 2, and the public road must be constructed in order to gain access from Vermont Avenue. The new access road does not have to be built in order for the subdivision to be registered.

14.5 to be replaced:

“14.5 The access to Vermont Road and associated access road must be constructed in full providing unfiltered access to all portions and the access off Trunk Road 28 Section 1 must be closed before any building plans may be approved.”

- ❖ The two developers are responsible for the application fees, and will also be for the survey, transfer and development costs. This was part of their offer to purchase contract with the landowner.

- ❖ The two new owners must however first take transfer, before they can meet the conditions of approval pertaining to the construction of the road, to ensure they can obtain the finance for the construction.
- ❖ The construction of the road will also have to take place prior to any development of the new portions.
- ❖ If the conditions are not amended the properties will not be developed with a negative economic impact, as development will have a positive impact on bulk service levies, rates and taxes. Employment opportunities will also be created.
- ❖ Will not have a negative social impact.
- ❖ Compatibility with surrounding land uses were already considered with the original application.
- ❖ Services are available and all conditions regarding services will be complied with, excluding some conditions regarding the public road.
- ❖ New services will be installed for the two (2) new un-serviced portions.
- ❖ No impact on safety, health and wellbeing of surrounding community, as the status quo of the existing access off the R43 will remain unchanged.
- ❖ The amendment will not trigger the National Heritage Resources Act.
- ❖ An EIA was done in terms of NEMA for the original application, but in a letter dated 30 March 2011 from EA&DP it was indicated that no environmental listed activities are triggered by the development, thus the previous approval was superfluous.

Access and Parking

- The existing access off the R43 will be used, but before development can start taking place on the new portions, the new public road linking with Vermont Avenue will be constructed.
- This application will have no bearing on additional traffic flows.
- There are no applicable restrictions in the Title Deed.

Western Cape SDF

- In line as the application will promote densification.

Overstrand Municipality SDF

- Identifies the area for residential development. This application has no impact on the original subdivision approval.

Overstrand Municipal Growth Management Strategy, 2010

- Earmark the area for densification up to 20 – 30 units/ha. This application has no impact on this policy document.

Planning Principles:

Spatial Justice

N/A

Spatial Sustainability

The amendment application has no additional impact on the area than the original land use approval. Therefore, it will not impact on urban sprawl nor upon a sensitive environment. The proposals are also in line with spatial planning policies.

Efficiency

The application will have no additional impact on the character or ambiance of this existing residential area. The application still discourages the phenomena of urban sprawl, and a better use of resources and infrastructure.

Good Administration

The Municipality follow a good public participation process in line with the planning By-Law.

The amendment of the conditions merely proposes changing the timing of these specific conditions.

- no rights will be taken away or given to the property owner, prospective buyers or adjacent properties.
- The application is fully compliant with the applicable principles described in the LUPA (2014) and SPLUMA (2013).

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Notices	Yes	4/09/2020	9/10/2020
Ward councillor	Yes	4/09/2020	9/10/2020
Total comments	THREE (3) (includes one (1) late objection)		
Total letters of support	NONE		
Was public participation undertaken in accordance with Section 46 - 50 of the Proposed Draft By-Law on Municipal Land Use Planning?			N/A
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
Fire Department	7/09/2020	No objection
Building Department	8/09/2020	No objection.
Engineering Branch	19/05/2021	See Annexure F
Department of Transport	21/02/2020	See Annexure G.
Telkom	10/09/2020	See Annexure H
Eskom	20/09/2020	See Annexure I
Environmental Branch	4/09/2020	See Annexure J

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Three (3) letters of objection were received, of which one (1) objection from Mr PP du Preez was a late objection.

The objections, applicant's response and municipal town planner's response can be summarized as follows:

OBJECTION 1

The applicant shows no regard for the impact the development of Portions A and B have on the Vermont Salt Pan.

Applicant's Response

The application at hand (to amend conditions of approval) has no impact on the Vermont Salt Pan. There is already an approval for the subdivision of the subject property into three portions and a road portion. The road is therefore already approved, and the impact was already considered with the previous land use application. The comment is therefore irrelevant to the application and should be dismissed.

Town Planner's Response

The applicant's comments are supported.

OBJECTION 2

The prospective owners should have considered the conditions of sale and conditions of approval when they made an offer to purchase the respective portions. The risks and costs involved should have been included in their calculations and feasibility of the sites.

Applicant's Response

The offers to purchase was signed prior to the land use approval and thus the prospective buyers could not have known what the approval conditions would be and how the approval conditions will read.

In addition, as stipulated in our application, it is clear from both the municipal and Department of Transport approval documents that there is no requirement that an access road (and/or) the current farm access must be closed prior to the registration of subdivision. Any suggestion that the access road be constructed and farm access be closed clearly comes from an apparent requirement from the Municipality that is not contained in the statutory approval documents relating to the subdivision of Remainder Erf 939, Vermont into four subsequent portions (portion A and B (being Erven 2388 and 2389, Vermont), Portion C being the road reserve for the proposed new access road and the Remainder of Erf 939, Vermont).

Town Planner's Response

The comments regarding the sales agreement is noted, and this point was addressed by the applicant.

The additional comment by the applicant that it was never a municipal requirement that the road be constructed prior to the registration of the erven are noted. This point will be discussed in detail under the desirability heading.

OBJECTION 3

An objector asks who will bear the costs for the construction of the road.

Applicant's Response

All costs for the construction of the new public road will be for the account of the two prospective buyers/developers. The construction of the road will not place a financial burden on the municipality and in effect the taxpayers.

Town Planner's Response

The applicant did address this point. Note that there is no debate over who will pay for the construction of the road, but only at what time the construction must be done and how the financing will be dealt with at a later stage, due to the fact the three (3) properties will be created immediately when the registrations takes place of the erven. This will also be elaborated on in the desirability heading.

OBJECTION 4

One of the objectors state that they have commented in other application proposals (previous application for the subdivision of Erf 939 and the application on Erf 927, Vermont) that the two fundamental development links between Erven 939 and 927, Vermont cannot be ignored: the new public road and the wetland. These objections were ignored and as a result Erf 927 still do not have and Environmental Authorisation that they can act upon. In Addition, the prospective owners of Erf 939, Vermont want to develop the property without knowing the risks and are now requesting the municipality to intervene to suit their agenda to develop the property.

Applicant's Response

The road reserve for the new public road on Erf 939, Vermont stretches to the eastern boundary of Erf 927, Vermont. The width and position of the road reserve was informed by the municipality at the time of the initial subdivision application. Thus, it is deceitful to state that the road did not consider the adjacent properties. We have no insight into the application on Erf 927, Vermont. However, since the road will be a public road, it is available as an option for access if the traffic impact studies confirms the latter and the municipality and district roads engineer agree.

A Basic Environmental Impact Assessment was undertaken for the initial subdivision and rezoning application for Remainder Erf 939, Vermont where the listed activities and impact n the Vermont Salt Pan were considered and evaluated. An Environmental Authorization was issued at the time. However, in a letter addressed to one of our clients dated 30 March 2011 it was confirmed that the authorized activities are no longer listed in terms of the NEMA EIA Regulations of 2010. As a result, the Environmental Authorization issued by the Department of Environmental Affairs & Development Planning (DEA&DP) on 28 July 2009 is superfluous, no longer of any force or effect and has therefore actively lapsed.

There is no hidden agenda. To amend the conditions relating to the closure of the existing access road and the construction of the new access road (public road) does neither take away any rights nor does it give more rights to the respective portions after subdivision. It is not proposed to remove this condition. It is merely proposed to clarify the time of meeting and implementing these conditions to allow the existing access road to be closed and the new public road to be constructed prior to the development of the respective erven (unregistered Erven 2388 and 2389, portions of Erf 939, Vermont) after subdivision has been registered and not prior to taking transfer of the already approved portions of land. This is to ensure that the prospective buyers/developers can apply for the necessary funds and to ensure that the burden of constructing the road does not fall on the current owner (AEB).

Town Planner's Response

Both comments are noted. Erf 927, Vermont is a development that will have to be considered on its own merits, and the traffic issues and proposals will be duly addressed in such application. The planning application on Erf 927, Vermont has not been finalized, due to the fact that the EIA process has not been finalized, not due to the planning application. This office therefore cannot consider the application on Erf 927, Vermont when considering this application, as each application submitted must be considered on its own merit and must process such application.

The prospective owners of Erf 939, Vermont does have a professional team advising them and therefore should be aware of their risks. It is also to be noted that the applicant did consult with EA&DP regarding required processes with the initial land use application and the extension of time application and complied with their requirements at that time.

OBJECTION 5

An objector did not receive a notification of the application during the public participation period.

Applicant's Response

The Municipality was responsible for the distribution of the registered notices to the public and thus we cannot comment as to why a surrounding property owner did not receive a notice. To send out notices per email is not the norm at the municipality.

Town Planner's Response

Mr Lukey indicated he only became aware of the application on 8 October 2020 and requested additional time to comment.

The notice records were checked, and it was established that the property Mr Lukey owns interest is Erf 1152, Vermont owned by Velvet Moon Properties 24. A registered letter was sent out to the postal address on the municipal records on 7 September and the postal tracing system shows that the registered slip to inform the person to collect the registered notice was delivered to such address. The correct notice process was therefore followed, and therefore an additional period for comment could not be allowed.

OBJECTION 6

The wetland delineation is fatally flawed and therefore Council's original planning approval was also fatally flawed.

Applicant's Response

It is an objector's opinion that the previous subdivision application is fatally flawed, and since that a fatally flawed environmental study informed the municipal decision at the time.

As previously mentioned, a Basic Environmental Impact Assessment was undertaken for the initial subdivision and rezoning application for Remainder Erf 939, Vermont where the listed activities and impact on the Vermont Salt Plan were considered and evaluated. An Environmental Authorization was issued at the time. However, in a letter addressed to one of our clients dated 30 March 2011 it was confirmed that the authorized activities are no longer listed in terms of the NEMA EIA Regulations of 2010. As a result, the Environmental Authorization issued by DEA&DP on 28 July 2009 was superfluous, no longer of any force or effect and has therefore actively lapsed.

Thus, considering the above paragraph, it is evident that a similar subdivision and rezoning application will not trigger the latest NEMA EIA regulations. We disagree with the statement that the land use decision is flawed, since due process was followed at the time (inclusive of specialist studies that where required).

Town Planner's Response

The objector's opinion is noted. However, due process was followed in consultation with EA&DP with the original land use application and extension of time of validity, and thus the Municipality and applicant acted correctly and followed due process. The existing rights therefore stands until it lapses, or as indicated by the objector himself, the decision is challenged in court.

The objector makes various references to investigations carried out by National Government Investigating matters around the salt pan, however no concrete information was provided by the objector to consider.

The application being considered also does not give any additional land use rights, and therefore the municipal environmental department also indicated that, if the construction of the road occurs within the surveyed road portion, no additional environmental processes will be required.

OBJECTION 7

An objector contests that the subdivided portions are undevelopable in the light of the Wetland Study undertaken by National Government. The development footprints will be too small. Since there are no proposed site development plans that have been disclosed to the public, speculation to approve a road will place the owner, future owners and the municipality at great risk.

Applicant's Response

A wetland study was undertaken with the initial subdivision and rezoning application. Yes, the wetland, the buffer area and setback line have a great impact on the developable area of the respective Portions A and B. However, the prospective developers considered the impact and based on their calculations feasible developments can still take place. Site development plans are irrelevant to the application at hand.

The onus is with the prospective property owners to meet the conditions of approval pertaining to the construction of the road. However, they must first take transfer of the respective portions to allow them to finance the development and secure the funds. Our clients have full intent to proceed with the proposed development of the respective portions after registration. The land use application/s for future development of the respective portions will follow the necessary application procedures as determined by the By-Law and will include site development plans for perusal by the public. Additional studies (if required) will be submitted on request of the authorities.

Town Planner's Response

The comments are duly noted. The developers are fully aware of the risk they are taking, as is indicated in the applicant's response. The objector is also speculating on development footprints at this stage, and this does not mean the proposed road to be constructed will not be relevant anymore.

This application is not for additional development rights but is to phase the registration of the new erven and construction of the road in an already approved road portion.

For any future development on the three (3) portions detailed SDP's with relevant studies will have to be submitted, which will be send to the public for comments.

OBJECTION 8

No site development plans were submitted to inform the size, cost and payment for the proposed public road. It is therefore impossible and irresponsible to speculate what the impact of the proposed road will have on the community and the wetland. Another objector states that the new public road that will connect to Vermont Avenue will create a traffic nightmare and as a result the new road will not be constructed ("born dead").

Applicant's Response

Site development plans are irrelevant to the application at hand. As previously mentioned, the width and position of the road reserve was informed by the municipality at the time of the initial subdivision application, who gave due consideration with regards to this road to accommodate future developments as well as future road upgrades in the area. The municipality's bulk road infrastructure planning is informed by input from traffic engineers. The road design was based on a Traffic Impact Assessment (TIA) prepared for the initial development of 150 retirement units and was part of the subdivision exercise at the time prior to approval. That development was abandoned after the results of the Wetland Study performed by Freshwater Consulting Group. This TIA was subsequently revised and updated

by JG Afrika and reinforces and confirms the adequacy of the current road design, designed to support both Erf 939, Vermont and Paradise Park. It is apparent from the land use application on Erf 927, Vermont that Paradise Park does not intend to utilize this road.

The mere subdivision and rezoning to create three (3) portions and a public road portion did not require a traffic impact statement/assessment at the time. Future development of the respective portions will include an updated TIA to address any concerns of the public.

Town Planner's Response

The applicant's comments regarding the necessity of an SDP and TIA that was originally done for this land use application, is supported. The concerns regarding traffic impact for this application is therefore not relevant.

OBJECTION 9

Interpretation and speculation in favour of third parties with undisclosed interest.

Applicant's Response

The statement is incorrect. Our clients don't merely want to buy time – they fully intend to proceed with developing the respective portions. They are merely requesting to take transfer to allow them to apply for the necessary funds with the security to finance the construction costs involved with providing the road.

Town Planner's Response

The comments are duly noted.

OBJECTION 10

Listed activities already triggered – bias and undisclosed approvals and payments. The objector contends that the substantial clearing, excavation and dumping of loose material on Erf 939, Vermont is in contravention of NEMA and which we are informed was done for the purpose of building the proposed road. A full investigation into these activities should be undertaken.

Applicant's Response

According to one of our clients the "dumping" is in fact stock piling for the construction of the already approved road. It is understood that one of the developers has an agreement with the contractor for the municipality to take the material (fit for fill) from one of the municipality's projects (bulk water upgrade) in town. According to our client they have considered the impact on the environment and thus the stock piling falls outside of developable areas and buffer areas. It is basically a cut and fill operation with very low impact as the road base works are from excavation in town. The material will be used for layer work fill, stockpiled for the off ramp.

The comment is therefore considered irrelevant to the application at hand and should be dismissed.

Town Planner's Response

The Municipality did receive complaints regarding the activities (clearing, excavation and dumping of loose material) on one portion of Erf 939, Vermont.

The landowner is responsible to ensure there is compliance with all NEMA regulations.

The policing of the NEMA regulations is not performed by the Municipality, but EA&DP. The municipal Environmental Department however did forward the complaint regarding the matter to EA&DP: Law Enforcement Section, for their attention.

OBJECTION 11

There is an objection to any agreement or decision that contemplates an "agreement to agree" in respect of unregistered erven that may not come into existence or receive development rights.

Applicant's Response

Comment is noted, but irrelevant to the application at hand.

Town Planner's Response

Both comments are noted.

OBJECTION 12

An objector is asking whether there is a Water Use License in place for the clearing, excavation, dumping and levelling work carried out on Erf 939, Vermont which is clearly within 500m of a wetland. An enquiry was sent to the Department of Water and Sanitation and the objector awaits their response.

Applicant's Response

This comment is irrelevant to the application at hand and should be dismissed.

Town Planner's Response

The applicant is correct in that this is considered a separate matter and does not relate to the desirability of the application being considered.

Also note the town planner's comment under Objection 10, which addressed this issue.

OBJECTION 13

The objector indicated (Anton Moldan of the Moldan Family Trust - Erf 635, Vermont) he did partake in the original land use planning application and provided comments, but never received any feedback.

Applicant's Response

No comment.

Town Planner's Response

The municipal town planning records for the original application was scrutinized. A registered letter was sent to the owner of Erf 635, Vermont, and BIS Cowlay was the registered owner at that time. BIS Cowlay also submitted an objection, which was considered as part of the original land use planning application.

The application was approved and in a registered letter dated 5 November 2010, the property owner was informed of their right of appeal to, at that stage, the Western Cape Government. The Municipality therefore did follow due process.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See Paragraph 7 above.

9. MUNICIPAL ASSESSMENT OF COMMENTS

See Paragraph 7 above.

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

At this stage there is no concrete proof that this application will have an impact on environmentally sensitive areas or valuable agricultural land. The road portion and three (3) resort portions are existing rights, and only the road portion can be developed at this stage.

The registration of the erven prior to the construction of the road would however mean that the only access to the Amana Resort will be over other properties, which is not acceptable.

Efficiency

It will be more efficient for the landowner and developers for this application to be approved, as it will help them register the erven and obtain finance to

construct the public road. It would however place pressure on the Municipality to ensure the road is ultimately constructed and therefore fully serviced.

Spatial Resilience

N/A

Good Administration

The application followed a good public participation process. There is from an administration point of view concerns that should the erven be allowed to be registered before the construction of the road, due process in terms of the clearance process Section 30(2) would not have been complied with, as the road would not be in place. All services must be in place prior to the registration of an erf within a development.

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

Same.

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

The property is identified for residential development in terms of the Overstrand Municipality SDF.

The Overstrand Municipal Growth Management Strategy earmark this area as a densification area with a density of 20 – 30 units/ha.

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

N/A

10.6 Impact on Municipal Engineering Services

There are already services in the area. The two (2) new portions will have to be linked up with services prior to registration. It is then the applicant's intension to construct the road prior to any construction on the new portions. The Municipal Engineering Branch however indicated in their latest comments the road must be constructed prior to the subdivision.

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

N/A

10.8 Existing and proposed zoning comparisons and considerations

The existing zonings will stay in place.

10.9 THE DESIRABILITY OF THE PROPOSAL

An approval for the Amana site, Erf 939, Vermont for a rezoning and subdivision was ultimately approved (after the appeal process) on 6 September 2012. Due process was followed, and provision was made for one (1) Public Road portion and three (3) Resort Zone portions.

An extension of the validity period for the approval was also granted for an additional five (5) years, meaning the approval will lapse on 5 September 2022.

Over the years the developers for the site had various consultations with the Municipality to transfer the new portions prior to the construction of the road. However, concerns of the Municipal Engineering Department that this will be in conflict with conditions of approval, and also put additional pressure on the Municipality to ensure the road is build in future, were the reasons the Municipality could not consider such process.

The application to amend the conditions of approval was submitted, to amend conditions relating to the services report and Department of Transport's original approved conditions, to try to enable the registration of the erven prior to the construction of the road. These conditions have been dealt with in detail in this report.

In the public participation process three (3) objections, of which one (1) was a late objection, were received. The objections relating to environmental concerns, opinions that the previous planning approval was flawed, the necessity for an SDP and TIA, late notification or lack of consultation during previous land use applications, and existing activities which is non-compliant with NEMA, were discussed in detail in this report.

The issues that will be elaborated on is the applicant's expectation that erven can be transferred prior to the construction of the public road, the motivation that there is a sales agreement between the land owner and two (2) prospective developers, and also the fact that the proposal is that more than one party will then be involved to finally constructing the public road.

In consultation with the landowner and developers there were always concerns regarding compliance with conditions of approval from the Municipal Engineering Branch. This means conditions of approval must be complied with prior to any erf being transferred.

The Engineering Department also pointed out that they always interpreted that the original conditions of the Department of Transport stipulated, the public road had to be constructed in full and the access point off the R43 closed permanently, prior to registration of the first erf. In this application further comments have been received from the Department of Transport indicating that registration can take place prior to the construction of the road, but that no further construction on the sites may take place prior to the construction of the road or closure of the entrance/exit point off the R43. The Department of Transport's original conditions have thus been amended. It is noted that the Department of Transport would allow the phasing of the construction of the road, but this office must also consider the implication thereof for the Municipality.

This application was circulated to the Municipal Engineering Branch, who provided a Services Report with their conditions. Although they excepted some of the new conditions of Department of Transport, they stipulated new conditions. Condition 14.2 then clearly stipulates:

“14.2 that the access to Vermont Road and associated access roads must be constructed in full providing unfettered access to all portions before subdivision can be registered or any building plans may be approved.”

This clearly shows the Municipal Engineering Branch is non-support to allow the registration of the erven prior to the construction of the road.

If the Municipality allow the registration of the new two (2) portions prior to the construction of the road, it would mean that the only way to access the existing Amana Resort will be over the two (2) new portions registered in the new developers' names. This is not allowed.

Then also, if transfers take place the public road vests with the Municipality.

Considering the above, should the Amana Resort or any other portion then be transferred prior to the construction of the road, which the Municipality may then not hold back, the new landowners could have the expectations that the Municipality must construct the road.

The applicant motivates that the landowner has a sales agreement with two (2) developers, and that they will ultimately be responsible for the construction of the road. It is further motivated that the developers can only secure the finances for the construction of the road once the portions are registered in their names. The objectors are then also of the opinion that the landowner and developers' sales agreement and their financial matter is a matter for the landowner and developers to deal with, and should not be used to motivate the construction of the public road at a later stage.

The objectors' comments are supported, and the fact that there will be two (2) to three (3) parties involved to see that the road is finally constructed, also creates additional concerns. The Municipality will be reliant on the existing land owner and two (2) developers as to when the road work will be finalized, as the development then cannot lapse anymore. The Municipality will also, in terms of the Sales Agreement provided, have to deal with two (2) developers who will have to obtain finance, and will also have to obtain additional development rights and construct the road at the same time to finalize the road work. The objectors' concerns of what would happen if the developers' expectations for additional development rights are not allowed, is a valid comment. If the developers then decide not to proceed, the road would have vested, with the Municipality thereby creating possible challenges for the Municipality to ensure the road is ultimately constructed.

The Amended Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 stipulate requirements with the transfer of erven. In Section 30 Certification by the Municipality, the following subsection are applicable:

“30(2) The Registrar of Deeds may register the transfer of a land unit, as the case may be, only if the Municipality has issued a certificate in terms of this section certifying that all requirements and conditions for the approval have been complied with.”

As previously mentioned, public places do vest with the Municipality once any one erf has been registered in a development. It is therefore considered a

requirement that the roads to be constructed be to municipal standards and finalized to their satisfaction.

Considering the above, it is the opinion that the “requirements and conditions” to be complied with prior to transfer of the first erf is that all services related matters be finalized, including the construction work to the road. The applicant’s proposal will place a risk on the Municipality, which could even become a bigger risk if other developers requests the same rule apply to their developments (precedent).

It is the opinion that in terms of the General Principle of Good Administration a Municipality must ensure good internal processes to ensure developments take place in an ordained manner. The municipal officials must also ensure that the interests of the Municipality are protected, as ultimately the Municipality is an extension of the wider community. It would not be considered Good Administration, should the transfer of an erf be allowed prior to the construction of the road, as it would place the Municipality at risk.

It is also the opinion that the general principle and spatial sustainability would not be complied with, as the Amana Resort and at least one (1) other portion would have no formal road to obtain access, which is not considered a acceptable situation.

11. RECOMMENDATION

1. that the application in terms of Section 48 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the following:

- ❖ Amendmend of the conditions of approvals in respect of an existing approval in terms of Section 16(2)(h) of the By-Law to allow the registration and transfer of the new erven prior to the construction of the public road,

not be approved in terms of the provisions of Section 61.

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 conditions of approval.

12. REASONS FOR RECOMMENDATION

- ❖ The objections relating to the applicant’s motivation that the landowner and developers want to transfer the erven to comply with a Sales Agreement and to secure finance, is supported, as it is a matter between the parties concerned how the road construction must be financed, and not the Municipality.
- ❖ In terms of Section 30 of the Amended Overstrand By-Law on Land Use Planning, 2020, all requirements and conditions must be complied with prior to the registration of an erf in a development. The construction of the road prior to transfer is still considered a requirement to ensure all services, including road access to each new erf is provided to municipal standards. The Amana Resort and at least one (1) other site will have no formal access, if the road is not constructed.

- ❖ The Municipal Engineering Branch in their Services Report for this application only supported some of the Department of Transport's revised conditions, and clearly stipulate the road be constructed prior to the subdivision can be registered.
- ❖ Should the transfers be allowed, prior to the construction of the road, the development rights would not lapse anymore, and the public road will vest with the Municipality. This will enable the new property owners to transfer the properties should they wish to do so, and it could create an expectation by new landowners that the Municipality would construct the road.
- ❖ If transfer take place, the Municipality would not be able to enforce a time frame when the construction must take place as it would be in the hands of the developers.
- ❖ The Municipality is not a party to the Sale Agreement between Amana Resort and the two (2) developers. Considering that both developers must still obtain additional rights for development and only then will be able to apply for finances to obtain finances for the construction of the road, there is a risk that the projects are not seen through. This will create challenges with regard to the construction of the road. It could also create challenges to the phasing of the construction of the road if one developer does not proceed with his/her development.
- ❖ The general principle of good administration is also to ensure that development take place in an ordered manner. If this application is supported it will put additional strain on the Municipality and some risk, while should the road be constructed prior to any transfer, no further administrative pressure or risk will be placed on the Municipality.
- ❖ The general principle of spatial sustainability promotes viable communities. This also include the provision of services to ensure viable communities. Should the road not be constructed before transfer, at least two (2) properties will be created without formal road access, which is not considered spatially sustainable.
- ❖ The property owner and developers can amend their sales agreement and can submit a full detailed planning application showing the new proposed developments, and again applying for the subdivision of the road portion and erven with it. If successful, they will be able to use such an approval to obtain finances, and it will enable the Engineering Department to prepare a better service contract with all parties responsible for the finance and construction of the road.

13. ANNEXURE

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Approved Subdivision Plan
Annexure D:	Objections Received
Annexure E:	Applicant's Response to Objections
Annexure F:	Services Report
Annexure G:	Comments: Department of Transport
Annexure H:	Comments: Telkom
Annexure I:	Comments: Eskom
Annexure J:	Comments: Municipal Environmental Department

SIGNATURES**AUTHOR:**Name: **H OLIVIER**

Signature: _____

Date: _____

REGISTERED PLANNER:Name: **H VAN DER STOEP**SACPLAN Reg No: **A/1708/2013**

Signature: _____

Date: _____

ANNEXURE A



Scale: HTS
 Drawing and
 Date: OCTOBER 2015

Plan Description:
LOCALITY MAP

Property Description:
**REMAINDER ERF
 939 VERMONT**

All distances approximate
 and subject to survey.
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PLAN Stads-en Streekskeplanners
Active Town & Regional Planners

**PROPOSED AMENDMENT OF CONDITIONS
OF APPROVAL**

REMAINDER ERF 939 VERMONT

DIVISION: CALEDON

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. BACKGROUND

The company, Plan Active Town & Regional Planners has been instructed by Daniël Andries Myburgh, on behalf of the African Evangelistic Band, the owners of Remainder erf 939 Vermont, to apply for the amendment of the conditions of approval of Remainder erf 939 Vermont.

A land use application for the subdivision of Remainder erf 939 Vermont into three portions and a public road was approved by the Overstrand Municipality on 5 November 2010. An appeal from an objector was submitted but was unsuccessful – refer to the appeal decision from the Department of Environmental Affairs & Development Planning dated 6 September 2012. An extension of the validity of approval was granted on 24 October 2017 and the approval will lapse on 7 September 2022 (refer to Annexure A – approvals).

The prospective new owners of unregistered erven 2388 and 2389 Vermont, portions of Remainder erf 939 Vermont, want to take transfer of the subject properties. Although the statutory approvals do not specifically read that the public road has to be constructed prior to the registration of the subdivision, it seems that the timing of adhering to the closure of the existing access and the construction of the new public

road is open for interpretation. Since a consensus could not be reached with the municipality to allow the prospective property owners to take transfer of the respective properties prior to building the public road, a land use application is submitted for the amendment of the condition referring to the closure of the existing access point and the construction of the new public road. It should be emphasised that neither the property owner nor the prospective property owners seek to change the council's decision regarding the conditions they have imposed, but are merely requesting that the conditions be re-worded to be in line with the conditions of the Department of Transport.

Since the municipal officials are not authorized to act contrary to the Council decision or to change the decision a formal land use application is submitted to amend the original Council resolution. Refer to the email from the Manager: Engineering Services dated 11 December 2019 confirming the way forward to address the conditions that prohibits the registration of the subdivision.

This application therefore intends that council's conditions must be reviewed and revised to address the misinterpretation of the approval conditions specifically relating to the timing of the closure of the existing access and the construction of the new road.

2. APPLICATION DETAILS

Application is made in terms of:

- The amendment of conditions of an existing approval for Remainder erf 939 Vermont in terms of Chapter 4, Section 16(2)(h) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2015.

3. NEED & DESIRABILITY

3.1 PROPERTY DESCRIPTION

Remainder erf 939 Vermont is situated south of the Trunk Road 28 (R43), west of Erven 1417 – 1424 and 1172 – 1173 Vermont. Paradise Park is situated west of the property. Refer to the locality plan attached. A portion of the Vermont Salt Pan is situated on the subject property. For the previous subdivision application on Remainder erf 939 Vermont (to create erven 2388 and 2389) a Wetland Delineation Study prepared by the Freshwater Consulting Group dated August 2006 was included. The edge of the Vermont Salt Pan as determined by the wetland study is indicated on the subdivision plan. The subdivision plan will remain unchanged for the purposes of this application.

Remainder erf 939 Vermont is 17,5142ha in extent and held by title deed no. T5951/1975. The property is situated in a resort and residential (single residential and town house) environment.

3.2 ZONING

Remainder erf 939 Vermont is zoned for Resort Zone: Holiday Resorts (RZ) purposes.

Surrounding properties are zoned for resort, single residential, general residential, commercial, agricultural, transport (public road) and open space purposes.

As previously mentioned, there is an existing valid land use approval for the subdivision of erf 939 Vermont into three portions and a public road.

3.3 LAND USE

The Africa Evangelistic Band currently uses Remainder erf 939 Vermont for resort purposes. The largest extent of the subject property is however vacant, and the Vermont Salt Pan takes up a large portion of the land.

Land uses that surround Remainder erf 939 Vermont are resorts (Paradise Park), town house developments, single dwellings, shops and offices (Onrus Trading Post), farms (to the north), public open spaces and public roads.

3.4 THE POTENTIAL OF THE PROPERTY

There is an existing approval to subdivide the subject property into three (3) portions and a public road. The subdivision layout, land use (resort) and zoning (Resort Zone) will remain unchanged for the purposes of this application.

The condition of approval that is the subject of this application is the condition imposed by the Department of Transport and Public Works of the Western Cape Government, which is that the existing access to the property must be closed and a new public access road be constructed. The Municipality's interpretation of this condition is that these activities must be completed before transfer of the respective portions can take place. To amend the conditions relating to the closure of the existing access road and the construction of the new access road (public road) does neither take away any rights nor does it give more rights to the respective portions after subdivision. It is not proposed to remove this condition. It is merely proposed to change the time of meeting and implementing these conditions to allow the existing access road to be closed and the new public road to be constructed prior to the development of the respective erven (unregistered erven 2388 and 2389, portions of erf 939 Vermont) after subdivision has been registered and not prior to taking transfer of the already approved portions of land.

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It is therefore submitted that the subject property has the potential to accommodate the amendment of approval conditions without having an adverse impact on the land use rights of the property owner, the prospective buyers or surrounding erven.

3.5 THE PROPOSAL

- The amendment of conditions of an existing approval of Remainder erf 939 Vermont in terms of Chapter 4, Section 16(2)(h) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2015.

A land use application for the subdivision of Remainder erf 939 Vermont into three (3) portions and a public road was approved by the Overstrand Municipality on 5 November 2010. An appeal from an objector was submitted but was unsuccessful – refer to the appeal decision from the Department of Environmental Affairs & Development Planning dated 6 September 2012. An extension of the validity of approval was granted on 24 October 2017 and the approval will lapse on 7 September 2022 (refer to Annexure A – approvals).

For the previous subdivision and rezoning application for erf 939 Vermont, the Department of Transport specified certain approval conditions that were included in the conditions of approval of the Overstrand Municipality. Refer to page 2 of the municipality's letter of approval dated 5 November 2010 and the annexure / letter from the Department of Transport and Public Works dated 4 March 2009. The following conditions refer:

2. This Branch offers no objection to the application, provided that the following are adhered to:
 - 2.1 The existing access (described as "farm" access in the application) from Trunk Road 28 section 1 (R43) must permanently be closed and the existing bellmouth demolished.
 - 2.2 As per the application, proposed Portion C must be rezoned to Transport Zone II, and the public road must be constructed in order to gain access from Vermont Avenue.
 - 2.3 All the properties that currently use the existing "farm" access must be ensured of access via the new public road. Should properties not have direct access (land locked) to the new public road, then the necessary servitudes right of way must be registered from the new public road to such land locked properties.
 - 2.4 Future development proposals, on any portion, must be submitted to this Branch for approval before subdivision and / or construction may commence.

2.5 The existing "farm" access must be demolished and the new public road constructed in full before any construction activities may commence on any portion.

As stipulated by the Manager: Engineering Services in his email dated 11 December 2019 both conditions 2.1 and 2.5 are open for interpretation as to when it should be met (prior to subdivision registration or once construction / development commence). However, the above conditions clearly state that the existing "farm" access must be demolished, and the new public road constructed in full before construction activities may commence on any portion (and not prior to registration of the subdivision). The municipality misinterprets condition 2.5 and suggests that these conditions must be met prior to taking transfer of the newly created erven (unregistered erven 2388 and 2389, portions of Remainder erf 939 Vermont). It is nowhere stated in the condition or other conditions of approval that the road must be constructed before transfer of the newly created portions.

Since meeting these conditions prior to registering the subdivision is clearly not a condition that has to be met prior to transfer, the future owners of unregistered erven 2388 and 2389 Vermont sent an enquiry to the Department of Transport after the land use approval was issued (when considering all conditions for registration) to clarify the department's intent with these conditions. The Department of Transport and Public Works: Road Network Management confirmed in a letter dated 21 February 2014 (copy attached) that they do not require the existing "farm" access to be demolished or the new access road, referred to in par. 2.2 of their letter dated 4 March 2009 (conditions quoted above) to be built for the subdivision to be registered. They added that the new access and associated access road must be constructed in full for access to all portions before any building plans may be approved or development occurs on the affected portions:

3. In order for the subdivision to be registered this Branch does not require that the access road, referred to in Paragraph 2.2 of this Branch's letter dated 4 March 2009, be built.
4. The access (to TR28/1) and associated access road must be constructed in full providing unfettered access to all portions before any building plans may be approved or development occurs on the affected portions.

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It is clear from both the municipal and Department of Transport approval documents that there is no requirement that an access road (and/or) the current farm access

must be closed prior to the registration of subdivision. Any suggestion that the access road be constructed and farm access be closed clearly comes from an apparent requirement from the municipality that is not contained in the statutory approval documents relating to the subdivision of Remainder erf 939 Vermont into four subsequent portions (portion A and B (being erf 2388 and 2389 Vermont), Portion C being the road reserve for the proposed new access road and the remainder of erf 939 Vermont). However, to avoid any further misinterpretation of these conditions, it is proposed to amend these conditions to allow for the registration of the subdivision without a. demolishing the existing "farm" access and b. constructing the public road at this point in time.

The initial letter of approval dated 5 November 2010 (valid from the date of the appeal decision letter from the Department of Environmental Affairs & Development Planning dated 6 September 2012) stipulates the following:

"1. That in terms of Sections 16 and 25 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) application for the rezoning of Erf 939, Vermont from Resort Zone I to Subdivisional Area and the subdivision thereof into three (3) portions for Resort Zone I purposes measuring 6,5059ha (Remainder), 5,1677ha (Portion A) and 5,1677ha (Portion B) and a Public Road portion (Transport Zone II) measuring approximately 7389m², be approved, subject to the following conditions:

- h) that all the conditions imposed by the Department of Transport and Public Works in their letter dated 4 March 2009 be complied with;*
- i) that all conditions imposed in the Services Report be complied with,"*

An extension of the validity of the 2012 approval was granted on 24 October 2017 and stipulated the following:

"1. That the application in terms of Section 47 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 (By-Law) of an application in terms of Section 16(2)(i) on Erf 939, Vermont to extend the approval for the extension period of a development on Erf 939, Vermont, be approved, subject to the following conditions:

- (d) that all the conditions in the Services Report (attached as Annexure D), be complied with."*

The conditions of the Department of Transport and Public Works dated 4 March 2009 were included in the approval conditions of the Services Report referred to in the above letters of approval. The conditions imposed in the letter from the Department of Transport and Public Works dated 21 February 2014 came after the land use

application was approved. These conditions are the same as the new updated comment / approval conditions obtained from the Department of Transport and Public Works, with the exception that the existing access is addressed more specifically. It is proposed to amend the following conditions specified in the Department of Transport and Public Works letter dated 4 March 2009 that was included in the Services Report of the Overstrand Municipality dated 15 June 2010 that reads as follows:

"14. that the following conditions according to the letter dated 4 March 2009 by the Department of Transport and Public Works be adhered to:

- 14.1 the existing access (described as "farm" access in the application) from Trunk Road 28 section 1 (R43) must permanently be closed and the existing bell bouth demolished;
- 14.2 that as per application, proposed Portion C must be rezoned to Transport Zone 2, and the public road must be constructed in order to gain access from Vermont Avenue;
- 14.5 that the existing "farm" access must be demolished and the new public road constructed in full before any construction may commence on any portion;"

Since the approval conditions of the 2014 letter of the Department of Transport were not included in the previous land use approvals (the letter stem from an enquiry when our clients wanted to take transfer of the properties), the department's updated comments were obtained. Find attached a copy of the Department of Transport and Public Works's comments / updated approval conditions dated 29 July 2020. It is proposed that the new approval conditions of the Service Report should include both the 2014 and the latest comments from the Department of Transport to allow our clients to take transfer of the subject properties. It is therefore proposed that the above conditions of approval should be amended to read as follow (amendments highlighted and indicated in bold format):

The following conditions of approval letter dated 5 November 2010 (subdivision and rezoning application; valid from the date of the appeal decision letter from the Department of Environmental Affairs & Development Planning dated 6 September 2012) must be revised:

"1. That in terms of Sections 16 and 25 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) application for the rezoning of Erf 939, Vermont from Resort Zone 1 to Subdivisional Area and the subdivision thereof into three (3) portions for Resort Zone 1 purposes measuring 6,5059ha (Remainder), 5,1677ha (Portion A) and

5,1677ha (Portion B) and a Public Road portion (Transport Zone II) measuring approximately 7389m², be approved, subject to the following conditions:

- h) that all the conditions imposed by the Department of Transport and Public Works in their letters dated 4 March 2009, **21 February 2014 and 29 July 2020** be complied with;
- i) that all conditions imposed in the Services Report **inclusive of the amended conditions proposed with this application** be complied with,"

The following conditions of approval letter dated 24 October 2017 (extension of validity application) must be revised:

"1. That the application in terms of Section 47 of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 (By-Law) of an application in terms of Section 16(2)(i) on Erf 939, Vermont to extend the approval for the extension period of a development on Erf 939, Vermont, be approved, subject to the following conditions:

- (d) that all the conditions in the Services Report **inclusive of the amended conditions proposed with this application** (attached as Annexure D), be complied with."

The conditions of the Services Report being referred to in both the 5 November 2020 decision letter as well as the 24 October 2017 decision letter must be revised as follows:

"14. that the following conditions according to the letters dated 4 March 2009, 21 February 2014 and 29 July 2020 by the Department of Transport and Public Works be adhered to:

- 14.1 the existing access (described as "farm" access in the application) from Trunk Road 28 section 1 (R43) must permanently be closed and the existing bell bouth demolished. **The existing access off Trunk Road 28 Section 1 does not have to be closed in order for the subdivision to be registered;**
- 14.2 that as per application, proposed Portion C must be rezoned to Transport Zone 2, and the public road must be constructed in order to gain access from Vermont Avenue. **The new access road does not have to be built in order for the subdivision to be registered;**
- ~~14.5 that the existing "farm" access must be demolished and the new public road constructed in full before any construction may commence on any portion;"~~

replace with

14.5 The access to Vermont Road and associated access road must be constructed in full providing unfettered access to all portions and the access

off Trunk Road 28 Section 1 must be closed before any building plans may be approved or development occurs on the affected portions.

The proposed new owners of unregistered erven 2388 and 2389, portions of Remainder erf 939 Vermont, want to take transfer of the respective portions. The Chablis Trust (unregistered erf 2388 Vermont) and Empire Earth Investments 18 (Pty) Ltd (unregistered erf 2389 Vermont) have offer to purchase agreements respectively with the current owners of Remainder erf 939 Vermont (African Evangelistic Band / AEB) that all costs pertaining to the land use application, meeting the conditions of approval, transfer, etc. are for their account. It was never the intention that the current property owner (AEB) is responsible for any application, survey, transfer or development costs – refer to clause 3 of the Offers to Purchase attached.

Since it was part of the agreement that the current landowner (AEB) is not responsible for any costs pertaining to the sale of the respective portions of land, the onus is with the prospective property owners to meet the conditions of approval pertaining to the construction of the road. However, they must first take transfer of the respective portions to allow them to finance the development and secure the funds. Our clients have full intent to proceed with the proposed development of the respective portions after registration. The land use application/s for any future development of the respective portions will follow the necessary application procedures as determined by the By-law.

In addition, should development not commence for the respective portions after registration, the existing access point and access road can accommodate the three portions only. Any site development plan or building plan submission or future construction will necessitate the construction of the road portion first. As a result, the construction of the road portion cannot be avoided and must be undertaken prior to the approval of any building plans for the respective portions in future.

To include the amendment of the conditions of approval application in a future land use application to accommodate the demolition of the existing access and the road construction after registration of the erven *is not an option due to the time constraints* that a land use application of this scale (and possible objections / appeals in the process) might have before the current approval lapses (leaving our clients with no land use rights at all).

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We therefore request that in the light of the information provided above, that the municipality considers our clients' agreements with the current property owner (AEB) and commitment for the demolition of the existing access and the construction of the road once future development commences on the respective erven to allow them to take transfer of the unregistered properties.

It is therefore proposed that the Overstrand Municipality reconsiders and amends condition 14 of the Engineering Services Department (dated 15 June 2010) also referred to in conditions (h) and (i) of the decision letter dated 5 November 2010 and condition (d) of the decision letter dated 24 October 2017 to specifically read that the demolition of the existing "farm" access and the construction of the public road must take place prior to the development of any of the newly created portions and / or prior to the approval of any building plans for the respective portions after the registration of the subdivision. The aforementioned conditions will then also be conditions of approval for any new land use application/s to be submitted on unregistered erven 2388 and 2389 (portions of Remainder erf 939) Vermont in future.

3.6 ECONOMIC IMPACT

The proposed amendment of the conditions of approval will have no impact on the local economy. However, to keep the conditions as they currently stand will imply that the prospective owners cannot take transfer and in turn develop the respective new erven in future. The future development of the respective erven will have a positive impact on the economy of the area where the municipality can attain bulk service levies as well as monthly rates and taxes from new units and erven. The future construction on unregistered erven 2388 and 2389, portions of Remainder erf 939 Vermont, will also create temporary employment opportunities and accommodate new families that will continue to invest in the Overstrand Municipal Area.

3.7 SOCIAL IMPACT

The proposed amendment of the conditions of approval will not have a negative social impact on the area. To amend the conditions of approval will however facilitate the ownership of the respective (already approved) unregistered properties.

To allow the prospective owners of unregistered erven 2388 and 2389, portions of Remainder erf 939 Vermont, to demolish the existing "farm" access and construct the public road before any development on the respective development may commence will have no impact on the social wellbeing and social coherence of the adjacent community.

3.8 COMPATIBILITY WITH SURROUNDING LAND USES

The compatibility with surrounding land uses (and the merit of the approved land use rights) were already considered with the previous approved subdivision application.

We are not proposing to change the zoning, land use or any approval conditions that could potentially impact the surrounding properties. It is also not proposed to remove these conditions of approval. The existing "farm" access and road will remain unchanged and fully operational until such time as unregistered erven 2388 and 2389, portions of erf Remainder 939 Vermont, are developed in future.

3.9 IMPACT ON EXTERNAL ENGINEERING SERVICES

For the existing subdivision approval, it was confirmed that there is sufficient capacity in the existing water reticulation network as well as in the existing sewer reticulation system to accommodate the subdivision proposal (three resort zone portions and a public road portion). Since the subdivision proposal remains unchanged for the purposes of this application, it is submitted that the civil services conditions pertaining to the existing subdivision approval is still relevant, except for the access and road conditions proposed for amendment.

As per the conditions of the Engineering Services Department the owners will be liable for bulk services levies as a contribution towards the bulk water and sewer infrastructure.

Remainder erf 939 Vermont is fully serviced since the subject property is developed with a resort (Amana Christian Resort). The remainder portion will retain the existing sewer and water services connections indicated on the subdivision plan. New services for the additional portions created will be provided in line with the Overstrand Municipality's regulations for installing services infrastructure.

3.10 IMPACT ON SAFETY, HEALTH AND WELLBEING OF SURROUNDING COMMUNITY

The proposed amendment of the conditions of approval will have no impact on the general safety and wellbeing of the surrounding community. The status quo of the existing access from the R43 will remain unchanged until such time as the new development application is approved for the respective portions after subdivision.

3.11 IMPACT ON HERITAGE

The application does not involve changing the character of a site larger than 5 000m² as well as the rezoning of a site larger than 10 000m². Consequently, the proposed application for the amendment of the conditions of approval does not trigger Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

Erf 939 Vermont is not earmarked for heritage conservation purposes in the Overstrand Heritage Report (2009). The subject property does not fall within the Heritage Overlay Zone demarcated in the Overstrand Municipal Growth Management Strategy (2010).

The subject property is not associated with any important persons or groups or important events and activities. The subject property has no association with the history of slavery and is not used for living heritage.

From the above it is evident that the proposed application does not encompass any heritage significance and therefore the impact on the heritage value of the area will be kept to a minimum.

3.12 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

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

A Basic Environmental Impact Assessment was undertaken for the initial subdivision and rezoning application for Remainder erf 939 Vermont and an authorization was issued accordingly. However, in a letter addressed to one of our clients dated 30 March 2011 it was confirmed that the authorized activities are no longer listed in terms of the NEMA EIA Regulations of 2010. As a result, the Environmental Authorization issued by the Department of Environmental Affairs & Development Planning (DEA&DP) on 28 July 2009 is superfluous, no longer of any force or effect and has therefore actively lapsed.

3.13 TRAFFIC IMPACT, PARKING AND ACCESS

3.13.1. Access and parking

The existing Amana Resort and Paradise Park gain direct access onto the R43 via a single two-way access point. There is a main road reserve, which will be utilised to gain access to the new developed erven in future. A surfaced public service road is

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proposed within this old road reserve with an intersection envisioned to connect with the intersection of Vermont Avenue / Main Road (Hoofweg), located east of the site.

Any future development of unregistered erven 2388 and 2389, portions of Remainder erf 939 Vermont, will close the existing "farm" access and provide access via the new service road connecting with the to-be-upgraded intersection of Vermont Avenue/Main Road, which will function as a public service road.

For the purposes of merely taking transfer of the newly created portions it is nonsensical to expect the future road and intersection construction to take place prior to the registration of unregistered erven 2388 and 2389, portions of Remainder erf 939 Vermont.

3.13.2 Traffic flows and traffic impact

To amend the approval conditions will have no impact on the traffic flow or traffic in the area.

3.14 TITLE DEED

Title deed no. T5951/1975 has no title deed restrictions that need to be removed for this application to be approved. Refer to the Conveyancer's Certificate compiled by H.L. van Zyl from Van Zyl Kruger Attorneys dated 28 March 2019 attached.

There is no bond registered against the subject property.

3.15 LEGISLATIVE FRAMEWORK: FORWARD PLANNING AND LAND USE DOCUMENTS

3.15.1 WESTERN CAPE PROVINCIAL SPATIAL DEVELOPMENT FRAMEWORK (PSDF, 2014)

The Provincial Spatial Development Framework (PSDF, 2014) supports densification. The PSDF (2014) regards subdivisions as one of the options of urban development

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tools available to achieve appropriate densification in the Western Cape.

The existing subdivision approval is therefore in line with the strategies of the PSDF (2014). The density (three resort zone portions with a public road portion) will remain unchanged for the purposes of the amendment of the conditions of approval application.

3.15.2 OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK (2006)

The Overstrand Spatial Development Framework (2006) earmarks the area where unregistered erven 2388 and 2389 (portions of Remainder erf 939) Vermont is situated, for residential purposes. Refer to the Spatial Development Framework Plan (2006) attached. The Overstrand SDF (2006) does therefore not consider the existing zoning of Resort Zone for the subject properties.

The merit of the existing approved subdivision application was already considered and remains unchanged for the purposes of this application. To amend the existing access and new road conditions of approval will have no impact on the merit of the already approved subdivision application. The Overstrand SDF (2006) and the status thereof therefore remains relevant to this application.

3.15.3 OVERSTRAND MUNICIPAL GROWTH MANAGEMENT STRATEGY (2010)

The Overstrand Municipal Growth Management Strategy (OMGMS, 2010) specifies that Remainder erf 939 Vermont forms part of Planning Unit no. 2. This planning unit proposes an increase in density from 9,8du/ha to 26,8du/ha (densification zone of 20-30du/ha).

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The amendment of the conditions of approval for Remainder erf 939 Vermont does not propose more density units than the already approved three portions and a public road portion. However, to amend the existing access and road construction conditions will assist in the registration of the respective portions, allow for new development proposals to be submitted in future and in turn meet the higher density objectives for this area.

3.16 PLANNING PRINCIPLES

The planning principle of spatial resilience does not apply to this application.

Spatial justice: This principle addresses the need to address the past imbalances regarding opportunity. This application is located on an erf as per the establishment of the Vermont Township and is this principle not applicable.

Spatial sustainability: The proposal to amend the conditions of approval related to the closure of the existing "farm" access and the construction of the public road still promotes land development that is spatially compact as motivated in terms of the relevant spatial planning policies. Furthermore the previous land use approval and merit of the previous application, the location of the subject property in an area earmarked for medium to higher density residential purposes, no impact on the traffic in the area, no impact on the layout of the approved subdivision plan, etc. allows for the consideration and approval of the amendment of the approval conditions without having an adverse impact on the spatial sustainability and long term planning of the area. The proposal to amend these approval conditions will imply that the approved subdivision will still promote land development in a location that is sustainable. The proposal will neither impact on urban sprawl nor upon a sensitive environment.

As contemplated in Section 3.15 the proposed land use application is in line with the spatial planning policies for the area.

Efficiency: The subject property is easily accessible and conveniently located close to major routes. The proposed amendment of the conditions of approval will have no impact on the character and ambiance of the existing residential area as motivated in this report. It proves to be efficient to allow the proposed land use application (amendment of the conditions of approval) since it is not feasible for these conditions to be met prior to taking transfer of the newly created portions (unregistered erven 2388 and 2389, portions of Remainder erf 939 Vermont).

The proposed amendment of the conditions of approval still proof the existing subdivision approval to be efficient since it discourages the phenomenon of urban sprawl, encourages densification and more compact towns and cities, all of which relates to more responsible resource and infrastructure use and sustainable development. Moreover, the proposal is efficient in that it optimizes existing resources and infrastructure and continues the existing suburban development typology.

Good administration: Our firm 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:

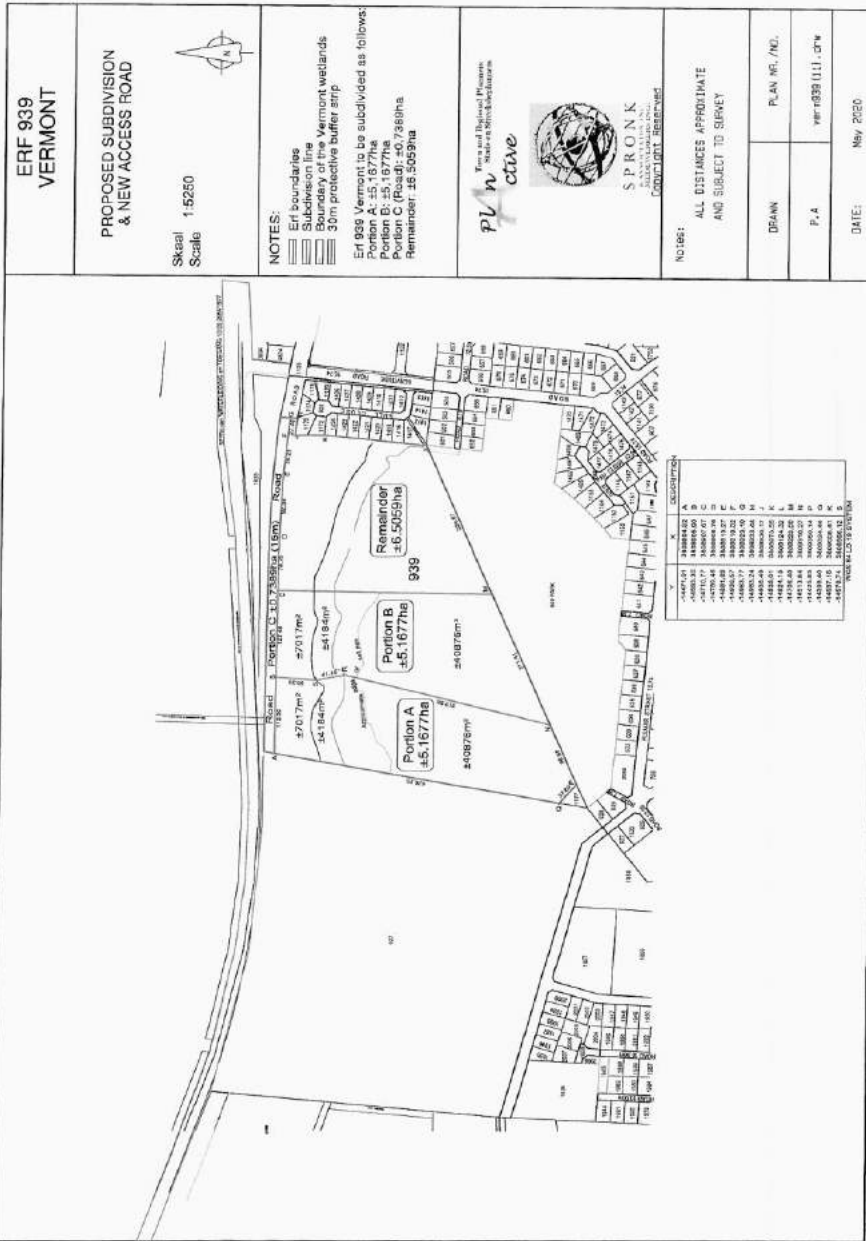
- The proposed amendment of the conditions of approval does not propose to remove the condition to close the existing "farm" access and to construct the public road. It is merely proposed to change the timing of meeting these specific conditions to once development of the newly registered erven occurs

(as stipulated in the statutory decision letters) instead of adhering to these conditions prior to the registration of the newly created portions (unregistered erven 2388 and 2389, portions of Remainder erf 939 Vermont);

- The proposed amendment of the conditions of approval does not give or take away any rights to the property owner, prospective buyers / developers or the adjacent properties;
- There are no title deed conditions that restrict the proposed amendment of the conditions of approval;
- The existing "farm" access from the R43 will remain fully operational until such time as unregistered erf 2388 and 2389 Vermont are developed;
- The merit of the original approved subdivision application remains relevant and unchanged;
- The proposed amendment of the conditions of approval complies with the spatial planning policies for the area;
- The proposed land use application does not trigger any listed activities in terms of NEMA (Act 107 of 1998);
- The proposed amendment of approval conditions will have no impact on the heritage value of the area;
- The application is fully compliant with the applicable planning principles described in the LUPA (2014) and SPLUMA (2013).

With regards to the above mentioned it would be appreciated if the application for the amendment of the conditions of approval be supported and approved.

ANNEXURE C



ANNEXURE D 1/21



9 OCTOBER 2020

TP. D. Heard
(H. Olivia)

Steven Lukey
Velvet Moon Properties 24
9 Soutpan Close
Vermont
Erf 1152

VIA EMAIL

ATTENTION: Henk Olivier

The Town Planner
Overstrand Municipality
16 Paterson Street
Hermanus

By e-mail: Loretta@overstrand.gov.za

FILE NO:	EF 939 v
	Vermont
SCAN NO:	SL
COLLABORATOR NO:	1469311

Dear Sir

ERF 939, VERMONT: OBJECTION TO PROPOSED APPLICATION FOR AMENDMENT OF CONDITIONS OF A DEFECTIVE APPROVAL: PLAN ACTIVE (obo AFRICA EVANGELISTIC BAND).

I submit our objection to the above application on behalf of Erf 1152, Vermont, registered in the name of Velvet Moon Properties 24 Pty Ltd.

Our interest in the application of the owners of Erf 939, commonly known as Amana Resort, is that we are a registered, interested and affected party in respect of the above property and the adjacent property, commonly known as Paradise Park Erf 927.

Since June 2018 the Municipality has received several correspondences from ourselves and our attorney, regarding various applications made to the Municipality and the Provincial Government in respect of various Town Planning applications and development preparation and Environmental Contraventions that have taken place on both Erf 939 and Erf 927 that are adjacent properties.

As part of our objections that we submitted to the Authorities, were two fundamental and development causal links between the applications of Erf 939 and Erf 927 being – The Road in question, in respect of the Erf 939 application and the Aspirations of Erf 927 to use this road as part of their development aspirations. The second common issue is that work took place at the same time using the same consultant Mr Duncan Heard on both properties and in the wetland on both properties in contravention to the law and clearly in the interest of developing the said properties.

The result to date is that due to the lack of public participation and engagement by the owners of erf 939 and erf 927 it became necessary to conduct several investigations on the said happenings and contraventions on their erven which has led to a report by National

Page 1 of 4

TP 16 OCT 2020

Government containing adverse findings in respect of due consideration of the environment an environmental process.

The resultant is that at todays date, the Owners of Erf 927 do not have an Environmental Approval that can be enacted upon. Similarly the wetland and future aspirations of the applicants in respect of potential development on erf 939 are also severely called into question; in that it appears suspensive sales agreements have been entered into in respect of hidden Trust Companies, who have aspirations to develop erf 939, without knowing the risks and in fact with no locus standi at all to request the Municipality to intervene to suit their agenda to develop the property.

OBJECTIONS

1. As at 8th October 2020 we had received no notification regarding the notice in respect of the ERF 939 application. We sent an email to the Municipality on equal date in this regard who averred that we had been sent a notice. At 16h55 on 9th October Henk Olivier from the Overstand Municipality sent me an email with a mime attachment that was not openable. I recorded this in my reply to Mir Olivier on equal date.

In this regard, I only became aware of ERF 939's application on the 8th October 2020 and I therefore request an extension of time to reply to the application more substantially and reasonably in terms of the prescripts of the PAJA, PAIA, NEMA and the Batho Pele Principles.

Whilst we have respectfully requested on several occasions to receive notification via e-mail and more so in the light of COVID-19 and the Postal Services lack of operation and reliability, we again respectfully request that our request for an extension of time be granted to make a more substantial submission.

2. **Fatally Flawed Subdivision Approval**

With reference to Plan Actives Diagram on page 20 of the Applicants Motivation Report and a subsequent report by National Government in respect of the wetland; we have been informed that the wetland studies undertaken by the Environmental Agents for the owners of both erf 939 and 927 and the delineation of the wetland itself are fatally flawed and have mislead both the residents of Vermont, the owners of the property and the Municipality.

We reserve our rights in this regard and respectfully request that any owner wishing to sell or purchase any part of erf 939 or 937 be informed of the National Government Report in respect of the Wetland and the contraventions in relation thereto.

It is our contention that a fatally flawed environmental study that informed a Municipality decision renders such Municipal decision fatally flawed. We reserve our rights in this regard to overturn the Municipal Approval on the same grounds that we understand that charges will be laid against those parties found to have contravened the law.

3. **Functus Officio and the Courts**

We object to the Councils Approval of the sub-division and the road; on the grounds that we have been misled by the environmental consultants and concomitantly the Municipality.

It is our understanding that any decision taken by the Municipality that may be functus officio, would have to be challenged through the courts and not via a public participation process to seek approval for a defect in respect of ERF 936's opportunistic interpretation (or their prospective successors in title or assigns) in respect of their obligations to provide guarantees and build and pay for the road in question upfront.

4. **Sub- Divided Property undevelopable.**

In light of the Wetland Study undertaken by National Government and the current defective delineation of the wetland, we contend that any proposed development on AMANA or the subdivided property; and the cost of the road to such developments, cannot be viable or sustainable as the developable footprint will be far too small to substantiate a viable development.

As there are no proposed development Plans that have been disclosed to the Public, and no Public Participation in this regard has taken place, speculation to approve a road based on undisclosed suspensive sale agreements will place the owners, future owners and the Municipality at extreme risk and several legal challenges are likely to follow.

5. **No Site Development Plans to inform the size, cost and payment for the proposed road.**

It is common practice that Traffic Impact Assessments are done to inform the size, location and signalling of roads as well as the roads and traffic on the environment.

Similarly, the size of developments determines the number of vehicles that in turn determine the type and size of roads.

As no development plans or related traffic impact studies relating to these have been disclosed to the interested and affected parties, it is not possible an irresponsible to speculate what the impact of the proposed road will have on the community of Vermont and the associated wetland, which has already been disturbed by irresponsible development.

We further contend that it would be irresponsible for the Municipality to put the cart before the horse by approving a road prior to understanding what in fact can be developed if anything on AMANA and its proposed sub-divisions.

6. **Interpretation and Speculation if favour of third parties with undisclosed interest.**

We object to the fact that the Owner of erf 939 and the Municipality appear to be debating the interpretation of a decision for the benefit of third parties with no locus standi (Trusts with unknown credentials) who have an interest in speculatively acquiring the sub divided properties (without Environmental Impact Assessments, Authorisations and Public Participation) but don't want to pay for a proposed access road upfront but to rather buy time to get their ducks in a row at a more convenient date to suit their pocket.

7. Listed Activities already triggered – Bias and undisclosed approvals and payments

We contend that the substantial clearing, excavation and dumping of loose material on ERF 939 is in contravention of NEMA and which we are informed was done for the purpose of building the proposed road.

We object to the above activities that have taken place on erf 939 prior to receiving any notice which presents a clear indication of bias in respect of possible agreements that have been reached prior to the notice being advertised.

In this regard we call for a full investigation into the applications, approvals and costs relating to the activities that have already taken place on site. We demand that full disclosure is made in respect of who the contractors were that undertook this work and who authorised and paid for this work to be done.

8. Agreements to Agree as contemplated in the Applicants Motivation do not pass muster.

We object to any agreement or decision that contemplates an "agreement to agree" in respect of unregistered erven that may not come into existence or receive development rights; yet sale agreements that have not been concluded and are clearly subject to suspensive conditions and are being interpreted and considered without disclosure to the public of such agreements or their proposed development aspirations.

We therefore object to and reject the Applicants Application to amend the conditions of approval that the Applicant, ERF 939 has applied for. We further object to and reject the contents of the Applicants motivation Report which is fatally flawed as it's foundation that informed the Municipalities decision to grant the subdivision is equally so.

We reserve our right in this regard and will be making further submissions in due course.

Yours faithfully,



Steven Lukey
082 415 4099

5/21

L Gillion

From: H Olivier
Sent: 15 October 2020 03:48 PM
To: L Gillion
Subject: FW: Erf 939, Vermont - Proposed Relaxation of Conditions
Attachments: ERF 1152 Objection Armana Amendment Application.pdf

Importance: High

Loretta

Print en laat colab. Dit het betyds ingekom. Sit ook op file.

Dankie

From: Steven Lukey <steve@seedstone.co.za>
Sent: 09 October 2020 10:40 PM
To: H Olivier <holivier@overstrand.gov.za>; L Gillion <loretta@overstrand.gov.za>
Cc: steve@seedstone.co.za; Tobie Lochner <tobie@archg.co.za>; lyn.zvogel@gmail.com; Pierre du Preez <dupreezp@mweb.co.za> <dupreezp@mweb.co.za>; antonmoldan@gmail.com; 'Clare Bromley' <clare@hermanushomes.co.za>; TAY DALL (tayd@hermanus.co.za) <tayd@hermanus.co.za>; 'Hannes Baard' <27829553373@vodamail.co.za>
Subject: RE: Erf 939, Vermont - Proposed Relaxation of Conditions
Importance: High

Dear Mr Olivier

Following my correspondence below, please find attached my comments and objections to the proposed relaxation of conditions in respect of erf 939.

I confirm that I have met the said time term but reserve my rights to submit a more substantial submission once I receive a reply and the information I have requested.

Yours Faithfully

Steven Lukey

082 415 4099

From: Steven Lukey <steve@seedstone.co.za>
Sent: Friday, 09 October 2020 18:01
To: Henk Olivier <holivier@overstrand.gov.za>
Cc: steve@seedstone.co.za
Subject: Re: Erf 939, Vermont - Proposed Relaxation of Conditions

Dear Mr Olivier

There is no attachment?

The mime attachment cannot be opened.

No registered letter was received at all.

Yours Faithfully

Steven Lukey

Sent from my iPhone

On 09 Oct 2020, at 16:45, Henk Olivier <holivier@overstrand.gov.za> wrote:

Mr Lukey

Thank you for confirming the erf number.

Attached please find proof that a registered letter was sent to the postal address for Erf 1152, Vermont. Also find the Parcel Tracking result of the Post Office.

Regards

Henk Olivier

Town Planner : Town & Spatial Planning

Overstrand Municipality

A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20

T: 028 313 8900 | F: 028 313 2093 | E: holivier@overstrand.gov.za

<mime-attachment>



Overstrand Municipality

A: 1 Magnolia Street, Hermanus, 7200 | P: P.O Box 20, Hermanus, 7200

T: +27 (0) 313 8000 | F: +27 (0) 312 1894

E: enquiries@overstrand.gov.za | W: www.overstrand.gov.za

Vision Statement: *"To be a centre of excellence for the community"*

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Please consider the environment before printing this correspondence.

TP. A. Heart
(H. Olivier)



L Gillion

From: Steven Lukey <steve@seedstone.co.za>
Sent: 15 October 2020 09:08 PM
To: H Olivier; L Gillion; L de Villiers; P Aplon
Cc: steve@seedstone.co.za; Tobie Lochner; lyn.zvogel@gmail.com; Pierre du Preez (dupreezp@mweb.co.za); antonmoldan@gmail.com; Clare Bromley (clare@hermanushomes.co.za); TAY DALL (tayd@hermanus.co.za); Hannes Baard (27829553373@vodamail.co.za); Steven Lukey; Tobie Lochner
Subject: RE: Erf 939, Vermont - Proposed Relaxation of Conditions
Attachments: ERF 1152 Objection Armana Amendment Application.pdf; PHOTO-2020-10-13-17-31-30.jpg; PHOTO-2020-10-13-17-31-30.jpg; PHOTO-2020-10-13-17-31-30.jpg; PHOTO-2020-10-13-17-31-30.jpg; VIDEO-2020-10-13-16-47-06.mp4

Dear Mr Olivier

Following my email below of 9 October 2020 and my attached objection, I have contacted the Department of Water and Sanitation to establish whether there is a Water Use License in place for the clearing, excavation, dumping and levelling work carried out on Erf 939 which is clearly within 500m of a wetland.

I await written confirmation from the Department that no Water Use License has been applied for in respect of erf 939 which in the circumstances is contrary to Section 21 of the National Water Act. I have attached some photos and a video in respect of the work that has taken place on erf 937 and I again confirm that I have heard nothing from Mrs Aplon in respect of the investigation she undertook to do some weeks ago. I have had no feedback in this regard.

Whilst I have received acknowledgements of receipt of my correspondences, more specifically my objection of 9th October 2020, I await an answer to the questions that I have raised therein.

Yours Faithfully

Steven Lukey
082 415 4099

FILE NO:	OF 939
	Vermont ✓
SCAN NO:	HVM 939
COLLABORATOR NO:	1469782

From: Steven Lukey
Sent: Friday, 09 October 2020 22:40
To: Henk Olivier <holivier@overstrand.gov.za>; 'Loretta@overstrand.gov.za' <Loretta@overstrand.gov.za>
Cc: steve@seedstone.co.za; Tobie Lochner <tobie@archg.co.za>; lyn.zvogel@gmail.com; Pierre du Preez (dupreezp@mweb.co.za) <dupreezp@mweb.co.za>; antonmoldan@gmail.com; 'Clare Bromley' <clare@hermanushomes.co.za>; TAY DALL (tayd@hermanus.co.za) <tayd@hermanus.co.za>; 'Hannes Baard' <27829553373@vodamail.co.za>
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TP
15 OCT 2020

Steven Lukey

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Henk Olivier
Town Planner : Town & Spatial Planning
Overstrand Municipality
A: 16 Paterson Street, Hermanus, 7200 P: P O Box 20
T: 028 313 8900 | F: 028 313 2093 | E: holivier@overstrand.gov.za

<mime-attachment>

9/21

9 OCTOBER 2020

Steven Lukey
Velvet Moon Properties 24
9 Soutpan Close
Vermont
Erf 1152

VIA EMAIL**ATTENTION: Henk Olivier**

The Town Planner
Overstrand Municipality
16 Paterson Street
Hermanus

By e-mail: Loretta@overstrand.gov.za

Dear Sir

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10/21

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12/21

We object to the fact that the Owner of erf 939 and the Municipality appear to be debating the interpretation of a decision for the benefit of third parties with no locus standi (Trusts with unknown credentials) who have an interest in speculatively acquiring the sub divided properties (without Environmental Impact Assessments, Authorisations and Public Participation) but don't want to pay for a proposed access road upfront but to rather buy time to get their ducks in a row at a more convenient date to suit their pocket.

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We contend that the substantial clearing, excavation and dumping of loose material on ERF 939 is in contravention of NEMA and which we are informed was done for the purpose of building the proposed road.

We object to the above activities that have taken place on erf 939 prior to receiving any notice which presents a clear indication of bias in respect of possible agreements that have been reached prior to the notice being advertised.

In this regard we call for a full investigation into the applications, approvals and costs relating to the activities that have already taken place on site. We demand that full disclosure is made in respect of who the contractors were that undertook this work and who authorised and paid for this work to be done.

8. **Agreements to Agree as contemplated in the Applicants Motivation do not pass muster.**

We object to any agreement or decision that contemplates an "agreement to agree" in respect of unregistered erven that may not come into existence or receive development rights; yet sale agreements that have not been concluded and are clearly subject to suspensive conditions and are being interpreted and considered without disclosure to the public of such agreements or their proposed development aspirations.

We therefore object to and reject the Applicants Application to amend the conditions of approval that the Applicant, ERF 939 has applied for. We further object to and reject the contents of the Applicants motivation Report which is fatally flawed as it's foundation that informed the Municipalities decision to grant the subdivision is equally so.

We reserve our right in this regard and will be making further submissions in due course.

Yours faithfully,



Steven Lukey
082 415 4099

13/21



14/21



15/21





17/21



Anton Moldan
Moldan Family Trust
31 Norfolk St
Claremont
7708

The Town Planner
Overstrand Municipality
16 Paterson Street
Hermanus

TP. N. Ahoort
(H. Olivier)

Attention: Mr. H. Olivier
By e-mail: Loretta@overstrand.gov.za

FILE NO:	af 939 ✓
	Vermont
SCAN NO:	HVM 939
COLLABORATOR NO:	1467315

Dear Sir

ERF 939, VERMONT: COMMENTS ON APPLICATION FOR AMENDMENT OF CONDITIONS OF AN EXISTING APPROVAL: PLAN ACTIVE (obo AFRICA EVANGELISTIC BAND).

I submit these comments on behalf of the Moldan Family Trust (of which I am a Trustee) which is the registered owner of Erf 635, situated at 26 Fulmar Street, Vermont, located on the Vermont Salt Pan, opposite Erf 939. I have been the owner of this property since November 1988 and to date, together with the Vermont community as a whole, have enjoyed the natural beauty, tranquillity and biodiversity supported by the Salt Pan. I, together with others, have a strong desire to preserve this unique environmental feature which has been recognised as having enormous conservation value. It is with this in mind and the fear that the ecological integrity of the Pan could be severely threatened by proposed developments that are not properly planned and regulated in terms of environmental protection principles and laws, that I submit these comments:

1. During the public participation phase relating to the original application for subdivision and rezoning of this property, I submitted comments in a letter addressed to yourselves. Since that time I have received no feedback regarding any approval granted for the rezoning or any further developments. Hence I am not up to speed as to how this current stage has been reached and hence do not have all the facts and proper understanding of the current proposals. Hence, my comments are limited in scope.
2. I have no problem with subdivision being registered prior to the said access roads being constructed.
3. However, it is not clear to me what further authorisations are required before any developments on the specified erven can take place. In my view, it is absolutely essential that a full environmental assessment needs to be carried out in relation to any potential impacts that any development might have on the ecological integrity of the Salt Pan and its surrounding shoreline. Under para 3.12 Impact on the "Biophysical Environment" of the proposed amendment document, it is stated that the original environmental authorisation relating to the rezoning application is now superfluous as the authorised activities are no longer listed. As I have not seen any follow-up documentation relating to this authorisation, I am not sure whether the applicants now consider that any development on these erven

TP 12 OCT 2020

does not require any environmental authorisation. This point is unclear to me. As stated before, it is felt that no development should commence until such time as a full environmental assessment is carried out relating to potential impacts on the Salt Pan and any authorisations granted must take into account of any of the assessment findings. I would be grateful if you could confirm that this is, in fact the case.

4. With Point 3, above in mind, I am very alarmed by the statement which appears at the bottom of the second para under 3.16 PLANNING PRINCIPLES where it is stated that "...will promote land development in a location that is sustainable. The proposal will neither impact on urban sprawl nor upon a sensitive environment". If the impact of a housing development on the shores of the Salt Pan is being referred to, I would be interested to know on what evidence this statement is based. I find it inconceivable that such a statement can be made without regard for the environmental sensitivity of this area and the lack of information (through a proper assessment) available to make such a judgement. This is compounded by the fact that other developments are proposed for this area and a holistic approach, taking into account the cumulative impacts of these proposed developments need to be properly taken into account.

I would be grateful if you could reassure me that full environmental assessments will be carried before any further developments take place on the shoreline of the Salt Pan. If these assurances cannot be made, I strongly object to the adoption of this application.

I look forward to hearing from you in this regard.

Yours faithfully,

Anton Moldan

Loretta Gillion - Erf 939, Vermont

From: Anton Moldan <antonmoldan@gmail.com>
To: <loretta@overstrand.gov.za>
Date: 09/10/2020 03:22 PM
Subject: Erf 939, Vermont
Attachments: Armana Amendment Application.docx

Dear Mr Olivier

Attached please find my comment regarding the application for amendment of conditions of an existing approval: Plan Active - Erf 939 Vermont.

Kind regards

Anton Moldan
31 Norfolk St
Claremont
7708
South Africa
Tel: 021 6716058
Mobile: 082 801 6215

TP. N. (Heart)
(H. Olive)



Aansoek om verandering van bestaande goedkeuringsvoorwaardes mbt Erf ~~393~~⁹³⁹, Vermont

As eienaar van Soutpanslot 17, wil ek my volslae teenkanting uitspreek teen hierdie aansoek.

Die voorwaardes, soos dit tans nog lees, is sinvol: Dit plaas 'n beperking op die ontwikkeling van die relevante voorsiene gedeeltes (A & B) van Erf ~~393~~⁹³⁹, totdat die bou van 'n openbare pad, wat sal aansluit by Vermontrylaan, afgehandel is. Ek voorsien dat die bou van so 'n openbare pad onderworpe sal wees aan velerlei probleme en die tyd wat dit in beslag sal neem, sal die aangrensende Soutpan noodsaaklike beskerming bied teen moontlike ontwikkeling op A & B se terreine.

Die duidelike afwesigheid van kommer oor die impak op die Soutpan by die aansoeker, voorspel niks goeds nie. Aangesien die pan reeds steier onder die vootgenome ontwikkeling van Paradise Park, sal ek dit verwelkom indien verdere skokke vir die pan so lank as moontlik kan uitgestel word.

Die implikasies van die huidige geldende voorwaardes en beperkings is alles deel van die aankoop en registrasie van die die gedeeltes van Erf ~~393~~⁹³⁹ ter sprake. Dat dit die voornemende kopers se regte op ontwikkeling gaan beperk, is alles deel van die prys van dinge. Hulle voorneme om te koop was immers terwyl die beperkings gegeld het en indien hulle dit besef het, moes hulle dit verreken het. Die verandering van voorwaardes kan tog nie nou versoek word nie. Alles geld steeds en die voornemende eienaars sal bloot hulle kans moet afwag totdat die openbare pad gebou is. Die voornemende eienaars van gedeeltes A & B het tans geen regte nie en kan daarom nie daarvan vervreem word nie. Die huidige eienaar van Erf ~~393~~⁹³⁹ in totaliteit wil klaarblyklik die veranderings bewerkstellig om 'n goeie/beter prys vir gedeeltes A en B te bekom, maar dit lyk my as 'n ligsinnige rede en word nie as 'n rede aangevoer nie.

Die kostes verbonde aan die bou van die voorgenome pad lyk astronomies en mens wonder wie dit gaan dra.

Die haalbaarheid daarvan om hierdie pad (en aansluiting by Vermontrylaan) te bou, is m.i. verdag. Dit sal 'n nagmerrie tov gladde verkeersvloei skep. Die tempo waarteen verkeer toeneem is onrusbarend en enige plan om dit hier (aansluiting / kruising) te ondervang, is m.i. doodgebore

PP du Preez (ID 491106 516 8084) Soutpanslot 17, Vermont

0215312875

FILE NO:	Of 939 ✓
	Vermont
SCAN NO:	PDP
COLLABORATOR NO:	1469316

TP

16 OCT 2020

L Gillion

From: H Olivier
Sent: 15 October 2020 03:51 PM
To: L Gillion
Subject: FW: Erf 939, Vermont objection
Attachments: Document 50.docx

Loretta

Die person verwys na Erf 393, Vermont. Ek glo dit is Erf 939.

Cola ben sit op file.

Groete

From: Pierre <dupreezp@mweb.co.za>
Sent: 10 October 2020 12:08 AM
To: H Olivier <holivier@overstrand.gov.za>
Subject: Erf 393 Vermont

**Overstrand Municipality**

A: 1 Magnolia Street, Hermanus, 7200 | P: P.O Box 20, Hermanus, 7200
T: +27 (0) 313 8000 | F: +27 (0) 312 1894
E: enquiries@overstrand.gov.za | W: www.overstrand.gov.za

Our Slogan: "To be a centre of excellence for the community"

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Please read the disclaimer before opening any attachment or taking any other action in terms of this e-mail. disclaimer.
By replying to this e-mail or opening any attachment you agree to be bound by the provisions of the disclaimer

Please consider the environment before printing this correspondence.

ANNEXURE E 1/5

Plan Active
Town & Regional Planners
Stads- en Streeksbeplanners



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

TP - A/Heals
(H. Olivier)

Our reference: PA19021/ML
Your reference: 939 HVM

17 NOVEMBER 2020

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

FOR ATTENTION: MR HENK OLIVIER

FILE NO:	EF 939
	Vermont
SCAN NO:	05
COLLABORATOR NO:	1478976

Sir

REMAINDER ERF 939 VERMONT: AMENDMENT OF CONDITIONS OF AN EXISTING APPROVAL

- AFRICA EVANGELISTIC BAND

Reference is made to our application submitted in May 2020 and your letter with objections attached thereto dated 26 October 2020.

Three objections were received from the public. Objections were received from S. Lukey (on behalf of Velvet Moon Properties 24), A. Molden and P.P. du Preez. Mr du Preez's objection was a late objection and this should be considered when evaluating the objections received.

Firstly, it is still our opinion that the municipality misinterprets the condition that refers to the construction of the road and suggests that these conditions must be met prior to taking transfer of the newly created erven (unregistered erven 2388 and 2389, portions of Remainder erf 939 Vermont). It is nowhere stated in the condition or other conditions of approval that the road must be constructed before transfer of the newly created portions.

Secondly, it is important to state that all the objectors refer to objections and matters already concluded. The objections neither relate to the application at hand (namely the amendment of a condition of an existing approval) nor the rezoning application to be submitted.

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
Pauline Spronk: B (Soc Sc) US, BA Hon (UNISA)
Meriké Lemm: B. Art et Scien Cum Laude (Town Planning) UNW; SACTRP

TP

17 NOV 2020

Herewith a summary of the objections received and our response thereto:

The applicant shows no regard for the impact the development of Portions A and B will have on the Vermont Salt Pan.

The application at hand (to amend a condition of approval) has no impact on the Vermont Salt Pan. There is already an approval for the subdivision of the subject property into three portions and a road portion. The road is therefore already approved, and the impact was already considered with the previous land use application. The comment is therefore irrelevant to the application and should be dismissed.

The prospective owners should have considered the conditions of sale and conditions of approval when they made an offer to purchase the respective portions. The risks and costs involved should have been included in their calculations and feasibility of the sites.

The offers to purchase was signed prior to the land use approval and thus the prospective buyers could not have known what the approval conditions will be and how the approval conditions will read.

In addition, as stipulated in our application, it is clear from both the municipal and Department of Transport approval documents that there is no requirement that an access road (and/or) the current farm access must be closed prior to the registration of subdivision. Any suggestion that the access road be constructed and farm access be closed clearly comes from an apparent requirement from the municipality that is not contained in the statutory approval documents relating to the subdivision of Remainder erf 939 Vermont into four subsequent portions (portion A and B (being erf 2388 and 2389 Vermont), Portion C being the road reserve for the proposed new access road and the remainder of erf 939 Vermont).

An objector asks who will bear the costs for the construction of the road.

All costs for the construction of the new public road will be for the account of the two prospective buyers / developers. The construction of the road will not place a financial burden on the municipality and in effect the taxpayers.

One of the objectors state that they have commented in other application proposals (previous application for the subdivision of erf 939 and the application on erf 927 Vermont) that the two fundamental development links between erven 939 and 927 Vermont cannot be ignored: the new public road and the wetland. These objections were ignored and as a result erf 927 still do not have an Environmental Authorisation that they can act upon. In addition, the prospective owners of erf 939 Vermont want to develop the property without knowing the risks and are now requesting the municipality to intervene to suit their agenda to develop the property.

The road reserve for the new public road on erf 939 Vermont stretches to the eastern boundary of erf 927 Vermont. The width and position of the road reserve was informed by the municipality at the time of the initial subdivision application. Thus, it is deceitful to state that the road did not consider the adjacent properties. We have no insight into the application on erf 927 Vermont. However, since the road will be a public road, it is available as an option for access if the traffic impact studies confirms the latter and the municipality and district roads engineer agree.

A Basic Environmental Impact Assessment was undertaken for the initial subdivision and rezoning application for Remainder erf 939 Vermont where the listed activities and impact on the Vermont Salt Pan were considered and evaluated. An Environmental Authorization was issued at the time. However, in a letter addressed to one of our clients dated 30 March 2011 it was confirmed that the authorized activities are no longer listed in terms of the NEMA EIA Regulations of 2010. As a result, the Environmental Authorization issued by the Department of Environmental Affairs & Development Planning (DEA&DP) on 28 July 2009 is superfluous, no longer of any force or effect and has therefore actively lapsed.

There is no hidden agenda. To amend the conditions relating to the closure of the existing access road and the construction of the new access road (public road) does neither take away any rights nor does it give more rights to the respective portions after subdivision. It is not proposed to remove this condition. It is merely proposed to clarify the time of meeting and implementing these conditions to allow the existing access road to be closed and the new public road to be constructed prior to the development of the respective erven (unregistered erven 2388 and 2389, portions of erf 939 Vermont) after subdivision has been registered and not prior to taking transfer of the already approved portions of land to ensure that the prospective buyers / developers can apply for the necessary funds and to ensure that the burden of constructing the road does not fall on the current owner (AEB).

An objector did not receive a notification of the application during the public participation period.

The municipality was responsible for the distribution of the registered notices to the public and thus we cannot comment as to why a surrounding property owner did not receive a notice. To send out notices per email is not the norm at the municipality.

The previous subdivision application is fatally flawed since it is an objector's opinion that a fatally flawed environmental study informed the municipal decision at the time.

As previously mentioned, a Basic Environmental Impact Assessment was undertaken for the initial subdivision and rezoning application for Remainder erf 939 Vermont where the listed activities and impact on the Vermont Salt Pan were considered and evaluated. An Environmental Authorization was issued at the time. However, in a letter addressed to one of our clients dated 30 March 2011 it was confirmed that the authorized activities are no longer listed in terms of the NEMA EIA Regulations of 2010. As a result, the Environmental Authorization issued by the Department of Environmental Affairs & Development Planning (DEA&DP) on 28 July 2009 is superfluous, no longer of any force or effect and has therefore actively lapsed.

Thus, following the above paragraph, it is evident that a similar subdivision and rezoning application will not trigger the latest NEMA EIA regulations. We disagree with the statement that the land use decision is flawed since due process was followed at the time (inclusive of specialist studies where required).

There is an objection against the municipality's decision and of the subdivision to create three portions and a public road.

This statement should be dismissed since the desirability of the approved subdivision and rezoning is not up for re-evaluation here – an approval was already issued, and the proposal remains unchanged. The objection is therefore irrelevant to the amendment of conditions application.

An objector contests that the subdivided portions are undevelopable in the light of the Wetland Study undertaken by National Government. The development footprints will be too small. Since there are no proposed site development plans that have been disclosed to the public, speculation to approve a road will place the owner, future owners and the municipality at great risk.

A wetland study was undertaken with the initial subdivision and rezoning application. Yes, the wetland, the buffer area and setback line have a great impact on the developable area of the respective Portions A and B. However, the prospective developers considered the impact and based on their calculations feasible developments can still take place. Site development plans are irrelevant to the application at hand.

The onus is with the prospective property owners to meet the conditions of approval pertaining to the construction of the road. However, they must first take transfer of the respective portions to allow them to finance the development and secure the funds. Our clients have full intent to proceed with the proposed development of the respective portions after registration. The land use application/s for future development of the respective portions will follow the necessary application procedures as determined by the By-law and will include site development plans for perusal by the public. Additional studies (if required) will be submitted on request of the authorities.

No site development plans were submitted to inform the size, cost and payment for the proposed public road. It is therefore impossible and irresponsible to speculate what the impact of the proposed road will have on the community and the wetland. Another objector states that the new public road that will connect to Vermont Avenue will create a traffic nightmare and as a result the new road will not be constructed ("born dead").

Site development plans are irrelevant to the application at hand. As previously mentioned, the width and position of the road reserve was informed by the municipality at the time of the initial subdivision application, who gave due consideration with regards to this road to accommodate future developments as well as future road upgrades in the area. The municipality's bulk road infrastructure planning is informed by input from traffic engineers. The road design was based on a Traffic Impact Assessment (TIA) prepared for the initial development of 150 retirement units and was part of the subdivision exercise at the time prior to approval. That development was abandoned after the results of the Wetland Study performed by Freshwater Consulting Group. This TIA was subsequently revised and updated by JG Afrika and reinforces and confirms the adequacy of the current road design, designed to support both erf 939 Vermont and Paradise Park. It is apparent from the land use application on erf 927 Vermont that Paradise Park does not intend to utilize this road.

The mere subdivision and rezoning to create three portions and a public road portion did not require a traffic impact statement / assessment at the time. Future development of the respective portions will include the updated traffic impact assessment to address any concerns of the public.

Interpretation and speculation in favour of third parties with undisclosed interest.

The statement is incorrect. Our clients don't merely want to buy time – they fully intend to proceed with developing the respective portions. They are merely requesting to take transfer to allow them to apply for the necessary funds with the security to finance the construction costs involved with providing the road.

Listed activities already triggered – bias and undisclosed approvals and payments. The objector contends that the substantial clearing, excavation and dumping of loose material on erf 939 Vermont is in contravention of NEMA and which we are informed was done for the

purpose of building the proposed road. A full investigation into these activities should be undertaken.

According to one of our clients the "dumping" is in fact stock piling for the construction of the already approved road. It is understood that one of the developers has an agreement with the contractor for the municipality to take the material (fit for fill) from one of the municipality's projects (bulk water upgrade) in town. According to our client they have considered the impact on the environment and thus the stock piling falls outside of developable areas and buffer areas. It is basically a cut and fill operation with very low impact as the road base works are from excavation in town. The material will be used for layer work fill, stockpiled for the off ramp.

This comment is therefore considered irrelevant to the application at hand and should be dismissed.

There is an objection to any agreement or decision that contemplates an "agreement to agree" in respect of unregistered erven that may not come into existence or receive development rights.

Comment is noted, but irrelevant to the application at hand.

An objector is asking whether there is a Water Use License in place for the clearing, excavation, dumping and levelling work carried out on erf 939 Vermont which is clearly within 500m of a wetland. An enquiry was sent to the Department of Water and Sanitation and the objector awaits their response.

This comment is irrelevant to the application at hand and should be dismissed.

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

Yours faithfully



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

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR AMENDMENT OF AN EXISTING APPROVAL: ERF
939, VERMONT**

Water	:	According to GLS Report
Sewer	:	According to GLS Report
Roads and traffic	:	According to the TIS
Storm water	:	According to the Storm water Management Plan
Electricity	:	ESKOM

Conditions:

1. That a Bulk Services Contribution Levy (BICL) be paid by the developer to supplement municipal services and amenities in accordance with the relevant legislation and as determined by the Council. The BICL tariff is adjusted by Council annually. The total BICL payable will be the amount as determined by the BICL Policy and tariff at the date of **actual payment**. BICL amounts quoted in any document will normally be applicable to the particular year in which the document was compiled and Council will not be bound by the quoted amounts.

1.1 Developments containing Sectional Title Units/ Commercial Buildings (non-free standing properties – property is not to be subdivided)

The BICLs are to be paid in full **prior** to submission of the building plans. Building Plans will not be accepted unless the BICL is paid in full.

1.2 Developments with free standing properties (property that is subdivided and plots to be sold individually).

The BICLs are payable **prior** to clearance being issued by the Income Department of the Municipality.

The contribution according to the current policy (2020/2021) is as follows:

Water	R 23 957.00 x 2	=	R 47 914.00
Sewerage	R 16 153.00 x 2	=	R 32 306.00
Roads	R 7 243.00 x 2	=	R 14 486.00
Stormwater	R 8 357.00 x 2	=	R 16 714.00
Solid Waste	R 1 448.00 x 2	=	<u>R 2 896.00</u>
TOTAL (inclusive of VAT)		=	<u>R 114 316.00</u>

Note:

The above figures:

- 1.1 **Are estimated amounts and should be confirmed before payment.**

- 1.2 **Do not include evaluation/investigation levies and connection fees.**
- 1.3 **Are only valid for the current financial year and are subject to annual tariffs adjustment on the 1st July of each year.**
2. that the developer at his cost constructs the internal municipal civil and electrical services for the development as well as any link or bulk municipal services that need to be provided;
 - 2.1 the Director: Infrastructure and Planning may require the developer to construct internal, link, and/or bulk municipal services to a higher capacity than warranted by the development for purposes of allowing other existing or future developments to also utilise such services, provided:
 - 2.2 the rates and prices of such work be established in terms of a system which is fair, equitable, transparent and cost effective;
 - 2.3 if link municipal services have already been provided, the developer to contribute towards the cost thereof, the Director: Infrastructure and Planning to determine the amount of such contribution in terms of a system which is fair and equitable;
3. that a plan of all existing services be submitted to the Director: Infrastructure and Planning, by the developer and that any of the services that need to be relocated, be done by the developer at his cost to the satisfaction of the Director: Infrastructure and Planning:
 - 3.1 way-leaves must be obtained from the Operational Manager;
 - 3.2 such way-leaves to be obtained prior to any excavation on public property or property where existing services are located;
4. that the developer may enter into an agreement with the Council to install or upgrade bulk and/or link municipal services and amenities at an agreed cost, subject to the following:
 - 4.1 such costs to be established in accordance with a system which is fair, equitable, transparent, competitive and cost effective;
 - 4.2 such costs shall be set-off against (part or full) development contributions payable in respect of engineering services;
 - 4.3 to the extent that such costs exceed the development contributions payable, the Council will refund the developer the difference with interest calculated at the prime rate, when funds are available;

5. that plans of all the internal municipal civil and electrical (high and low voltage supply) services and such link services as required by the Director: Infrastructure and Planning, prepared by an ECSA registered professional engineer/technologist, be submitted to the Director: Infrastructure and Planning for his prior approval;
6. the "Guidelines for the Provision of Engineering Services in Residential Townships" (Blue Book), SABS 1200 specifications and the Design and Construction Standards for civil and electrical services of the Council to be used as the standard design and construction criteria with which such plans must comply;
7. the Director: Infrastructure and Planning to be notified in writing of all deviations from the Standard Design and Construction Criteria when plans are submitted for his approval and such deviations to be separately approved in writing by the Director: Infrastructure and Planning;
8. the successful completion of such works to be supervised and certified by an independent professional civil engineer/technologist i.e. a professional civil engineer/technologist who has no direct financial interest in the development, other than payment as standard professional fees for the work concerned; and
9. such independent professional civil engineer/technologist to furnish the Director: Infrastructure and Planning with satisfactory proof of his professional indemnity insurance to an amount which shall not be less than that required by the SAACE and which insurance shall be valid for the relevant contract and maintenance period;
10. that a storm water management plan (s), which may include attenuation facilities to ensure that the pre-development run-off is not exceeded and that erosion and pollution is minimised, be submitted to the Director: Infrastructure and Planning for approval and that the approved management plan be implemented by the developer at his cost to the satisfaction of the Director: Infrastructure and Planning; before any building plans may be approved or development occurs on any of the affected portions;
11. that the above storm water management plan include the following:
 - 11.1 development run-off from the catchment area;
 - 11.2 post-development run-off from catchment area;
 - 11.3 existing storm water reticulation system and the capacity thereof;
 - 11.4 connection of internal storm water reticulation system; overland escape routes;
12. that all the relevant recommendation according to the Vermont Pan and wetlands Delineation Study be implemented in conjunction with the storm water management plan;

13. that the following conditions according to the letter dated 28 September 2020 by the Department of Transport and Public Works be adhere to:
- 13.1 that as per application, proposed Portion C must be rezoned to Transport Zone 2, and the public road must be constructed in order to gain access from Vermont Avenue.
 - 13.2 that all the properties that currently use the existing "farm" access must be ensured of access via the new public road, should properties not have direct access (land locked) to the new public road, the properties owners should be allowed to register a servitude right of way from the new public road;
 - 13.3 that future developments proposals, on any portion, must be submitted to the Department of Transport and Public Works for approval before subdivision and / or construction may commence;
14. that the following conditions specified by Overstrand Municipality be adhered to before subdivision can be registered:
- ✓ 14.1 that the developer of Erf 939 Vermont will assume full responsibility for construction and completion of the access road providing access to Vermont Road;
 - 14.2 that the access to Vermont Road and associated access roads must be constructed in full providing unfettered access to all portions before subdivision can be registered or any building plans may be approved;
 - 14.3 that the existing access (described as "farm" access in the application) from Truck Road 28 section 1 (43) must permanently be closed and the existing bell mount demolished;
 - 14.4 That damage to the existing roads, used as routes for access to the development, for the provision of services, be repaired by the developers.

p.p. D. Hendriks
DENNIS HENDRIKS
SENIOR MANAGER: ENGINEERING SERVICES

19/05/2021
DATE

ANNEXURE G



ROAD NETWORK MANAGEMENT
 Email: Grace.Swanepoel@westerncape.gov.za
 Tel: +27 21 483 4669
 Rm 335, 9 Dorp Street, Cape Town, 8001
 PO Box 2603, Cape Town, 8000

REFERENCE: 16/9/6/1-21/175 (Job 13539)
ENQUIRIES: Ms GD Swanepoel
DATE: 28 September 2020

*TP - A Theart
(Holvier)*



The Municipal Manager
 Overstrand Municipality
 PO Box 20
HERMANUS
 7200

Attention: Mr H Olivier

Dear Sir

ERF 939, VERMONT: APPLICATION FOR AN AMENDMENT OF THE CONDITIONS OF AN EXISTING APPROVAL

1. The following refer:
 - 1.1 Your letter 939 HVM dated 4 September 2020;
 - 1.2 This Branch's letters 13/3/5/1-21/10 (Job 13539) dated 4 March 2009 and 21 February 2014 and the letter 16/9/6/1-21/175 (Job 13539) dated 29 July 2020.
2. This application is to amend the approval conditions which relate to when the access off Trunk Road 28 Section 1 must be closed and also when the new access road must be built.
3. This Branch offers no objection to the application in terms of the Land Use Planning Act 3 of 2014.

Yours faithfully


SW CARSTENS
 For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

FILE NO: EL 939- HVM
SCAN NO:
COLLABORATOR NO: 1482933



TP- N. Hart
(H. Olivia)

Division of Telkom SA SOC Ltd

10 Jan Smuts Drive
Pinelands
7404

Loretta Hartman
Tel: 021 414 5725
Email: lorettah@openserve.co.za

Our Ref.: WWIP_WONR0717_20
Your Ref.: 939 HVM

10 September 2020

Attention: L Isaacs

OVERSTRAND MUNICIPALITY
PO BOX 20
HERMANUS
7200

FILE NO:	939
	Vermont
SCAN NO:	HVM 939
COLLABORATOR NO:	1456547

PLANT AFFECTED : OPTIC FIBRE

APPLICATION FOR WAYLEAVE: PROPOSED APPLICATION FOR AMMENDMENT OF CONDITIONS TO ERF 939, VERMONT.

With reference to your application received 8 September 2020.

As important optic fibre cables and other infrastructure are affected, please contact our representative MELT VAN AS 021 852 1717 / 081 363 7873 / MeltVA@openserve.co.za 48 hours prior to commencement of construction work.

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

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

61 Oak Avenue, Highveld, Techno Park, Centurion 0157,
Private Bag X881, Pretoria, Gauteng, 0001

Internal Use

TP 11 SEP 2020

Approval is granted, subject to the following conditions.

As per sketch attached, OpenServe infrastructure **WILL BE AFFECTED**, consequently the conditions below and on the attached legend will apply.

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

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

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

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

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

All OpenServe rights remain reserved.

Yours Sincerely,

Loretta Hartman

For Selwyn Bowers
Operations Manager
Wayleave Management: Western Region



Wayleave
OPENSERVE

This wayleave, Ref **WWIP_WONR0717_20** is valid for 12 months from date hereof and is subject to the following conditions.

1. No mechanical plant or vibrator type compactors may be used within three meters of any OpenServe Plant (i.e. any Telecommunications equipment above or below ground level)
2. The position of our plant affected by the proposal is indicated as approximate and our MELT van AS at Ph. (021) 852 1717 / 081 363 7873 must be contacted at least 48 hours prior to commencement of the work, upon which the actual location of OpenServe Plant will be indicated on-site.
3. A written request must be submitted to OpenServe for consideration should the applicant require our plant to be relocated. The cost of such relocation will be recoverable from the applicant
4. It is the responsibility of the applicant to verify the existence of the indicated plant and to notify OpenServe immediately should the applicant locate any Telkom plant which is not indicated on the plans.
5. Should the applicant expose any OpenServe, the safeguard thereof will be the applicants full responsibility.
6. Failing to comply with the above conditions or any special conditions addendum hereto will be regarded as gross negligence and the applicant will be held responsible for and damage or loss as a result thereof.

Date: 9/10/2020

For Regional General Manager
Western Cape

OPENSERVE Symbol Legend

1. Underground Pipe Route	
2. Underground Buried cable	
3. Pipe Junction Boxes	
4. Street Distribution Cabinet (SDC)	
5. Jointing Pillar (PJ) Above Ground	
6. Pole	
7. Robot Control	
8. Aerial Route	
9. Stay	
10. Strut	
11. Call Office	
12. OPTIC FIBRE Equipment	

The pipelines indicated contain **FIBRE OPTIC** cables.
MELT van AS at Email: MeltVA@openserve.co.za



Legend

	Existing Manhole		Existing P&B		Existing Pole		Planned Overhead Route
	Planned Manhole		Planned P&B		Planned Pole		To Be Recovered Overhead Route
	To Be Recovered Manhole		To Be Recovered P&B		To Be Recovered Pole		Existing Underground Route
	Existing Jointing Pt		Existing SDC		Shut		Planned Underground Route
	Planned Jointing Pt		Planned SDC		Stay		To Be Recovered Underground Route
	To Be Recovered Jointing Pt		To Be Recovered SDC		Access Point (Virtual Element)		Existing Overhead Route
	To Be Recovered SDC		To Be Recovered P&B Joint		Conduit Terminus (Virtual Element)		

Scale: 1:2500
Date: 10/26/2016
Created By: harnal



Overstrand Municipality

Loretta@overstrand.gov.za



ANNEXURE 11/4
TP. N. Theart
(I. Olivia)

Date: 20/09/07

Enquiries:

WayleavesWesternOU@eskom.co.za

WAYLEAVE APPLICATION: amendment of conditions of an existing approval in terms of Section 16(2)(h) to allow the registration and transfer of the new arven prior to the construction of a public road R43 Vermont

YOUR REF: HVM 939

ESKOM REF: 02256-20

THIS IS NOT AN APPROVAL TO START CONSTRUCTION

I hereby inform you that Eskom has no objection to the proposed work indicated on your drawing in principle. This approval is valid for **12 months** only, after which reapplication must be made if the work has not been completed.

1. Eskom services are affected by your proposed works and the following must be noted:

- Eskom has no objection to the proposed work and include a drawing indicating Eskom 11KV/LV underground services in close proximity.
- Please note that underground services indicated are only approximate and the onus is on the applicant to verify its location.
- There may be LV overhead services / connections not indicated on this drawing.
- The successful contractor must apply for the necessary agreement forms and additional cable information not indicated on included drawing, in order to start construction.

Application for Working Permit must be made to:

Customer Network Centre: Caledon

Dirk Swart / Francois Swart

028 214 5710 / 028 214 5713 / 083 502 2590

SwartDi@eskom.co.za

Include Eskom Wayleave as-built drawings and all documentation, when applying for Working Permit.

Should it be necessary to move, relocate or support any existing services for possible future needs, it will be at the developer's cost. Application for relocating services must be made to Customer Services on 08600 37566 or customerservices@eskom.co.za

Distribution Division - Western Region [Land Development]
Western Region
Eskom Road Brackenfell 7560 PO Box 222 Brackenfell 7561 SA
Tel +27 86 003 7566 www.eskom.co.za
Eskom Holdings SOC Limited Reg No 2002/015527/30

FILE NO:	af 939
	Vermont
SCAN NO:	10
COLLABORATOR NO:	1451564

2. Underground Services

The following conditions to be adhered to at all times:

- a) Works will be carried out as indicated on plans.
- b) No mechanical plant to be used within 3.0m of Eskom underground cables.
- c) All services to be verified on site.
- d) Cross trenches to be dug by hand to locate all underground services before construction work commences.
- e) If Eskom underground services cannot be located or is grossly misplaced from where the wayleave plan indicates, then all work is to be stopped and Graham Hector from the Land Development Office to be contacted on 021 980 3551 / HectorG@eskom.co.za, to arrange the capturing of such services.
- f) In cases where proposed services run parallel with existing underground power cables the greatest separation as possible should be maintained with a minimum of 1000mm.
- g) Where proposed services cross underground power cables the separation should be a minimum of 300mm with protection between services and power cables. (Preferably a concrete slab)
- h) No manholes; catch- pits or any structure to be built on top of existing underground services.
- i) Only walk-behind (2 ton Bomac type) compactors to be used when compacting on top of and 1 metre either side of underground cables.
- j) If underground services cannot be located then the Customer Network Centre (CNC) should be consulted before commencement of any work.
- k) **No work can take place within the servitude of a 66kV Cable or 13kV Cable if indicated.** Should you need to undertake any work within the proximity of our 66kV or 132kV Cables please contact Graham Hector on 082 7720 359 or graham.hector@eskom.co.za

3. O.H. Line Services:

- a) The following building and tree restriction on **either side of centre line** of overhead power line must be observed:

Voltage	Building restriction either side of centre line
11 / 22kV	9.0 m
66kV	11.0 m
132kV	15.5 m

- b) No construction work may be executed closer than **6 (SIX) metres** from any Eskom structure or structure-supporting mechanism.
- c) No work or no machinery nearer than the following **distances from the conductors:**

Voltage	Not closer than:
11 / 22kV	3.0 m
66kV	3.2 m
132kV	3.8 m

- d) Natural ground level must be maintained within Eskom reserve areas and servitudes.
- e) That a **minimum ground clearance** of the overhead power line must be maintained to the following clearances:

Voltage	Safety clearance above road:
11 / 22kV	6.3 m
66kV	6.9 m
132kV	7.5 m

- f) That existing Eskom power lines and infrastructure are acknowledged as established infrastructure on the properties and any rerouting or relocation would be for the cost of the applicant/developer.
- g) That Eskom rights or servitudes, including agreements with any of the landowners, obtained for the operation and maintenance of these existing power lines and infrastructure be acknowledged and honoured throughout its lifecycle which include, but are not limited to:
 - i. Having 24 hour access to its infrastructure according to the rights mentioned in (a) above,
 - ii. To perform maintenance (structural as well as servitude – vegetation management) on its infrastructure according to its maintenance programmes and schedules,
 - iii. To upgrade or refurbish its existing power lines and infrastructure as determined by Eskom,
 - iv. To perform any other activity not listed above to ensure the safe operation and maintenance of the Eskom power lines or infrastructure.
- h) Eskom must have at least a 10m obstruction free zone around all pylons (not just a 10m radius from the centre).
- i) Eskom shall not be liable for the death or injury of any person, or for loss of or damage to any property, whether as a result of the encroachment or use of the area where Eskom has its services, by the applicant, his/her agent, contractors, employees, successors in title and assignee.
- j) The applicant indemnifies Eskom against loss, claims or damages, including claims pertaining to interference with Eskom services, apparatus or otherwise.
- k) Eskom shall at all times have unobstructed access to and egress from its services.
- l) Any development which necessitates the relocation of Eskom's services will be to the account of the developer.
- m) Lungile Motsisi, Eskom: Transmission must be contacted on 011 800 5734 to comment on behalf of the 400 kV OVERHEAD POWERLINES. NO WORK WITHIN THIS SERVITUDE OR UNDERNEATH POWERLINES IS ALLOWED until comment from Eskom Transmission has been obtained.

4. NOTE

Wayleaves, Indemnity form (working permit) and all as-built drawings issued by Eskom to be kept on site at all times during construction period.

Yours faithfully

LAND DEVELOPMENT (BRACKENFELL)

File reference:	939 HVM
Date:	4 September 2020
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INTERNAL MEMORANDUM

From	:	Town Planning Department
Town Planner	:	Henk Olivier

TO:

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

Applicant	PLAN ACTIVE (obo AFRICA EVANGELISTIC BAND)
Property Details	ERF 939, VERMONT
Application Description	APPLICATION FOR AMENDMENT OF CONDITIONS OF AN EXISTING APPROVAL


ATTACHMENTS :

1.	Notice	<i>Should the information be insufficient for you to make an informative comment, please list any additional documentation that you would require to make informed comments.</i>
2.	Locality Plan	
3.	Motivation	
4.	Site Development Plan	

YOUR DEPARTMENT'S COMMENTS:

<p>This office has no objection to this application for the amendment of the conditions of the existing Town Planning approval.</p> <p>On 11/12/2017 DEA&DP issued a response letter to the applicability checklist to the owners of Erf 939, Vermont, stating that <i>the construction of an access road will not constitute any listed activities in terms of NEMA EIA Regulations 2014, as long as it is confined to the footprint of the former main road.</i></p> <p>However the applicants attention is drawn to section 5 and 6 of the letter:</p> <p>"5. <i>If the footprint of the new access road extends beyond the proclaimed main road area, and this results in the clearance of 300m² or more of indigenous vegetation Activity 12 of GN No. 324 of 7 April 2017 will be triggered.</i></p> <p>6. <i>Should any revision of the proposed development constitute a listed activity (ies) in terms of the NEMA EIA Regulations, 2014 (as amended) as defined in GN</i></p>
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No. 327, 325 and/or 324 an application must be submitted and environmental authorization obtained before such activity (ies) may commence."

Signature:		Date:	12/10/2020
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Please provide your comments (with specific reference to any conditions of approval that should be imposed) in the space provided above or in a separate Memo by not later than the date stipulated below. If you require an extension of time for submission of comments, kindly request this in writing. Should no comments be received, it will be assumed that you have no objection to the proposal and where appropriate, the Mayoral Committee will be informed accordingly.

- Building Control Department to confirm that all structures on the property/ies are in accordance with the approved building plans.

COMMENTS REQUIRED BY: 9 October 2020