



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

A G E N D A

DATE:	29 MARCH 2017
VENUE:	TOWN PLANNING COMMITTEE ROOM HERMANUS
TIME:	14:00

OVERSTRAND MUNICIPALITY

Office of the Municipal Manager
Civic Centre
HERMANUS
7200

8 March 2017

TO : THE CHAIRPERSON AND MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

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

NOTICE IS HEREBY GIVEN that a meeting of the **Municipal Planning Tribunal (MPT)** will go into session on **Wednesday, 29 March 2017 at 14:00, Town Planning Committee Room, 16 Paterson Street, Hermanus**, to consider the attached agenda.

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

**COENIE GROENEWALD
CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL**

Distribution:

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

MUNICIPAL PLANNING TRIBUNAL (MPT)

29 MARCH 2017

INDEX

<u>ITEM</u>		<u>PAGE NUMBER</u>
	APPLICATIONS FOR LEAVE OF ABSENCE	
3.1	ERF 11094 AND A PORTION OF THE REMAINING EXTENT OF ERF 1253, 62 MITCHELL STREET, EASTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: PROPOSED SUBDIVISION, CLOSURE OF A PUBLIC PLACE (ROAD), REZONING, CONSOLIDATION AND CONSENT USE : MESSRS WRAP ON BEHALF OF MG DELPORT	1
3.2	ERF 678, 87 JAN VAN RIEBEEK CRESCENT, SANDBAAI, OVERSTRAND MUNICIPAL AREA : PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND DEPARTURE : M LERM OF PLANACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF RED CHAIR PROPERTIES (EIENDOMS) BEPERK	149
3.3	ERF 631, 2 SHORT MARKET STREET, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA : PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE : MESSRS PRINSLOO ARCHITECTURAL DESIGN OFFICE ON BEHALF OF DM & N MORRIS	183
3.4	PORTION 143 OF THE FARM BAARDSCHEERDERS BOSCH NO. 213, DIVISION BREDASDORP, OVERSTRAND MUNICIPAL AREA : PROPOSED CONSENT USE : MESSRS WRAP CONSULTANCY ON BEHALF OF B GROENEWALD	209
3.5	ERVEN 3160 & 3161, 190 FIFTH STREET & 32 TENTH AVENUE, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA: PROPOSED CONSOLIDATION, REZONING, CONSENT USE, DEPARTURE: MESSRS PLAN ACTIVE ON BEHALF OF KINDOC INDUSTRIES (PTY) LTD	297

1. OPENING

2. APPLICATIONS FOR LEAVE OF ABSENCE

3. ITEMS FOR CONSIDERATION

- 3.1 ERF 11094 AND A PORTION OF THE REMAINING EXTENT OF ERF 1253, 62 MITCHELL STREET, EASTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: PROPOSED SUBDIVISION, CLOSURE OF A PUBLIC PLACE (ROAD), REZONING, CONSOLIDATION AND CONSENT USE : MESSRS WRAP ON BEHALF OF MG DELPORT**

Report attached

- 3.2 ERF 678, 87 JAN VAN RIEBEEK CRESCENT, SANDBAAI, OVERSTRAND MUNICIPAL AREA : PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND DEPARTURE : M LERM OF PLANACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF RED CHAIR PROPERTIES (EIENDOMS) BEPERK**

Report Attached

- 3.3 ERF 631, 2 SHORT MARKET STREET, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA : PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE : MESSRS PRINSLOO ARCHITECTURAL DESIGN OFFICE ON BEHALF OF DM & N MORRIS**

Report Attached

- 3.4 PORTION 143 OF THE FARM BAARDSCHEERDERS BOSCH NO. 213, DIVISION BREDASDORP, OVERSTRAND MUNICIPAL AREA : PROPOSED CONSENT USE : MESSRS WRAP CONSULTANCY ON BEHALF OF B GROENEWALD**

Report Attached

- 3.5 ERVEN 3160 & 3161, 190 FIFTH STREET & 32 TENTH AVENUE, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA: PROPOSED CONSOLIDATION, REZONING, CONSENT USE, DEPARTURE: MESSRS PLAN ACTIVE ON BEHALF OF KINDOC INDUSTRIES (PTY) LTD**

Report Attached

LAND USE PLANNING REPORT – MUNICIPAL PLANNING TRIBUNAL (MPT)

**ERF 11094 AND A PORTION OF THE REMAINING EXTENT OF ERF 1253, 62 MITCHELL STREET,
EASTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: PROPOSED SUBDIVISION, CLOSURE
OF A PUBLIC PLACE (ROAD), REZONING, CONSOLIDATION AND CONSENT USE :
MESSRS WRAP ON BEHALF OF MG DELPORT**

Reference number	11094 & Ptn 1253 HEC (3356)	Application submission date	30 June 2016	Date report finalised	16 January 2017
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PART A: AUTHOR DETAILS

First name(s)	Petrus				
Surname	Roux				
Job title	Town Planner				
SACPLAN registration number	A/2246/2015				
Directorate/Department	Infrastructure and Planning				
Contact details	028 313 8900 petrusroux@overstrand.gov.za				

PART B: APPLICANT DETAILS

First name(s)	Cornelius				
Surname	Pienaar				
Company name	WRAP Consultancy				
SACPLAN registration number	Pr.PlIn A/409/1985	Is the applicant authorised to submit this application			Yes
Registered owner(s)	MG Delport				

PART C: PROPERTY DETAILS

Property description (in accordance with Title Deed)	Erf 11094, Hermanus Erf 1253, Hermanus				
Physical address	62 Mitchell Street, Eastcliff	Town/City	Hermanus		
Current zoning	Erf 11094 - Residential Zone I : Single Residential A portion of Erf 1253 - Transport Zone 2	Extent (m ² /ha)	Erf 11094 - 977m ² A portion of Erf 1253 - 237m ²	Are there existing buildings on the property?	Yes
Applicable zoning scheme	Overstrand Municipality Zoning Scheme Regulations, 2014				
Current land use	Erf 11094 – Residential A portion of Erf 1253 – Open Space	Title Deed number & date	Erf 11094 T25279/2010 A portion of Erf 1253 T53506/2014		
Any restrictive title conditions applicable	No				
Any third party conditions applicable?	No				
Any unauthorised land use/building work	No				

PART D: PRE-APPLICATION CONSULTATION

Has pre-application consultation been undertaken?	No		
PART E: LIST OF APPLICATIONS			
Rezoning	√	Consolidation	√
		Consent use	√
PART F: EXECUTIVE SUMMARY			
<p>To consider an application received on 30 June 2016 from Messrs WRAP Consultancy on behalf of MG Delpont for the following:</p> <ul style="list-style-type: none"> ❖ subdivision in terms of Section 16(2)(d) in order to subdivide the property into Portion A ±237m² and a Remainder; ❖ closure of a public place in terms of Section 16(2)(n) in order to close a portion of the road; ❖ rezoning in terms of Section 16(2)(a) in order to rezone Portion A to Residential Zone I; ❖ consolidation in terms of Section 16(2)(e) in order to consolidate Portion A with Erf 11094 in order to create an erf which is 1214m²; and ❖ consent use in terms of Section 16(2)(o) in order to operate a five (5) bedroom guest house on the property concerned. 			
PART G: BACKGROUND			
<p>In 2012 the property owner wrongfully constructed a boundary wall on a portion of Erf 1253 (which is part of the road reserve) and not on his boundary. In order to legalise the encroachment, the owner applied to buy the portion of land on which the boundary wall is constructed. An in principal approval has been received from Council in 2016, subject to the subdivision, closure of the road, rezoning and consolidation of the subdivided portion with Erf 11094.</p> <p>The applicant received permission in 2015 to extend the dwelling and to construct a section of the dwelling over the street building line up to 2m away from the property boundary. The applicant built the extension onto the dwelling, however departed from the Site Development Plan (SDP) as submitted with the application in 2015. The property owner wishes to utilise this extension of the dwelling as a part of a guest house with five (5) bedrooms. It should be noted that at the stage of applying for the encroachment the owner already started building the extension. No building plans were submitted by the time that the construction was completed. Building plans were only submitted in 2016 for the extension which encroached over the building line; however the building plan cannot be approved prior to the approval of the subject application due to sections of the building being constructed over the property boundary.</p> <p>Considering the aforementioned the objectives of the application is to subdivide a portion of Erf 1253, closure of a public place, rezoning of the aforementioned portion, and consolidation of the portion with Erf 11094 and to operate a five (5) bedroom guest house on the property concerned.</p>			
PART H: SUMMARY OF APPLICANTS MOTIVATION			
<p>The applicant motivates that all changes which will be done will comply with the provisions of the Overstrand Zoning Scheme Regulations and are internal of nature, thus the character of the dwelling itself will remain unchanged.</p> <p>It is motivated that Hermanus is a famous holiday destination therefore the guest house will cater for tourists who require lodging during peak seasons.</p> <p>Access will be obtained from Mitchell Street by the use of two (2) existing access points.</p> <p>The guests will have access to the dining area where meals will be provided. Eight (8) parking bays will be provided which complies with Council's Policy.</p> <p>The guest house establishment will also promote economic viability for the owner and provide work opportunities.</p>			
PART I: SUMMARY OF PUBLIC PARTICIPATION			
Methods of advertising		Date published	Closing date for comments
Press	Yes	29 September 2016	4 November 2016
Notices	Yes	29 September 2016	4 November 2016
Ward councillor	Yes	29 September 2016	4 November 2016
Total valid comments	25 (TWENTY FIVE)		
Ward councillor response	No		
Total letters of support	None		

Was public participation undertaken in accordance with section 45- 49 of the Proposed Draft By-law on Municipal Land Use Planning

Yes

PART J: SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Twenty five (25) objections have been received from the adjacent neighbours as per attached list (Annexure D). Issues raised by the objectors overlap and therefore will be summarised and discussed together. The form of the objections and response will resemble that of the applicant's comments in order to ensure continuity.

Please note any objection made in terms of another erf or another occasion which is not relevant to this application will be disregarded.

The applicant firstly gives a brief background to the history of the property and structures on it before commenting on the issues raised by the objectors, the history is the same as summarised in Part G.

Objections were received against selling a portion of Erf 1253 and the subsequent subdivision, rezoning and consolidation thereof with Erf 11094. The applicant used the purchase to rectify his illegal encroachments. The sale of the portion is only in principle and not final. The portion is needed for pavement. The portion is more valuable than what it is sold for. Accidents will occur due to the portion being cut off.

Comment received from applicant

The portion of Erf 1253 was considered by the Overstrand Municipality in terms of Administration of Immovable Property Policy which allows for direct sales. After consideration it is determined that the portion does not require municipal services.

The portion is to be sold at market value as determined by a valuer, the cost of the public participation and the necessary town planning application must be covered by the property owner and the registration of the newly formed property. Considering all costing it is estimated that the purchase price of land is to be twice as much.

The public participation process for the sale of a portion of Erf 1253 must still be done by the Property Administration. Objection regarding the alienation of the land will be dealt with in that process.

It is not clear how the proposed consolidation will contribute to accidents on the specific corner. No objection has been received from the Engineering Department. The same applies to the width of the pavement.

Town Planner's response

It is a common application for owners to apply for municipal land adjacent to their subject erven. In most cases Council does not plan to use the land and could rather sell it or lease it to the adjacent property owner.

The remaining portion of the road reserve will allow sufficient width for public movement and for the observation of traffic. If this was not the case then negative comments would have been received from the adjacent property owners. The boundary wall has been constructed since 2012 and to date no knowledgeable accident has happened at that intersection.

It should be noted that an objection has been received from Electro Technical Services which will be considered in the evaluation.

Objections regarding the guest house. More than five (5) bedrooms will be rented. Influx of thirty (30) guests at a time will create noise nuisance. Excess bedrooms will be used for backpackers. Parking and manoeuvring spaces are inadequate. Guest house will be a security risk. There is an oversupply of guest houses. Job creation will be minimal.

Comment received from applicant

Application is made for five (5) bedrooms and sufficient parking is provided.

The main dwelling will only be used for the owner and his extended family. It was never his intention to develop backpackers' accommodation.

The Overstrand Municipality will only consider the application at hand which is the proposed five (5) bedrooms.

After discussing the application with Property Administration it was decided to situate the proposed parking on the existing erf and not on the property purchased from Council. This is due to the conditions of sale that the portion of Erf 1253 can only be used for gardening purposes.

Some objectors feel that there are too many guest houses in the area. However, any owner can apply for a consent use. Furthermore it is well known that Eastcliff is particularly popular for guest houses due to its location.

The proposed five (5) guest rooms will only accommodate ten (10) additional people which should not put additional constrain on the municipal services, this will however be determined by the Engineering Department.

At most only five (5) additional vehicles will be accommodated on the property; this amount by itself will not lead to additional traffic. Arriving and departing will be at different times. Parking was provided in terms of the Overstrand Zoning Scheme Regulations and is regarded adequate.

The dining room will only be used for guest and not for the public. Noise created here will not influence the whole neighbourhood.

Guest houses are normally more security orientated, because the owners would like to insure the security of the guests.

The statement made that the job creation will be minimal and that the owner is only self-enriching is considered malicious. Any job created is more than what there was before, especially in an area such as the Overstrand with a high unemployment rate.

Town Planner's response

Any owner of a property can apply for a consent use in terms of the Zoning Scheme. With the evaluation of the application all the aspects of the application will have to be considered. There have been two (2) recent applications for guest houses with five (5) bedrooms, in the immediate vicinity which were also circulated to the residents in Eastcliff. No objections were received against the guest houses. Therefore the objection that there are too many guest houses is not correct, furthermore two (2) guest rooms can be rented out from a single residential dwelling as a primary right. It should be noted that town planning, in the ambit of the law cannot work on assumptions, thus legal action can only be taken if the property owner transgresses the laws and regulations.

It should be noted that in the motivation for the departure of the building lines in 2015 the property owner motivated that the additional bedrooms will be used for his extended family. Since the approval in 2015 the property owner went to great lengths and costs to equip the extended portion of the dwelling with bedding, signs (number plates) on the newly built extension and a website, which all indicated that the property owner intends to open a guest house before applying for the consent use. The guest house's website has since been removed.

Although the original and revised SDP indicated a sufficient amount of parking (the former indicated eight (8) parking bays and the latter indicates seven (7) parking bays), the manoeuvrability of the vehicles on site is problematic and will be discussed under the desirability heading.

Appearance of building, building lines and building plans. House was built without the approved building plans. Buildings encroach over building lines. Buildings are unsightly and don't blend with the environment.

Comment received from applicant

Building plans were approved in 2014. With construction, certain amendments were made which encroached over some of the building lines.

The opinion that the building is unsightly is a personal opinion. The property is not listed as a heritage erf and all building work complies with the National Building Regulations.

The applicant attached a letter from the property owner to the response letter which outlines his response dealing with the personal attacks. This letter reiterates the response from the applicant.

Town Planner's response

The application for departure from the building lines was approved in 2015; however the new extension was not built in line with the approved SDP. Furthermore, the departure application was subject to conditions of approval which stated that building plans must be submitted to the Building Department. No building plans were submitted while the new extension was constructed. Building plans was only submitted in 2016 due to legal actions taken against the property owner for the illegal building work. The building plans could not be approved due to portions of the structure encroaching over the portion of Erf 1253 which the owner intends to purchase. The property owner therefore acted outside of the ambit of the law and was fined a penalty fee.

PART K: SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments	Recommendation
Health	03/10/2016	Approval is recommended.	Positive
ESKOM	03/10/2016	Attached as Annexure F.	Positive
Local Heritage	04/10/2016	No objection.	Positive
Building Department	04/10/2016	Outside bedrooms to be enclosed and interleading with dwelling.	Positive
Area Manager	31/10/2016	I recall the previous Council Item regarding this property earlier this year. I objected to the sale as I foresaw an ideal opportunity to create on-street public angle parking from the open park area and along Stemmet Street up to Mitchell Street, which would have added 29 NEW parking bays right at the edge of the CBD. It is a wide street with a wide sidewalk. It was also stated that the parking bays need not be created immediately but within the foreseeable future. I also stated that Mitchell Street (across the traffic circle in Eastcliff) is already filled with parked vehicles on a daily basis. Therefore, additional parking would relieve parking issues. My proposal was not even considered or investigated but simply wiped off the table - in favour of the applicant. Therefore the flimsy excuse presented by Town Planning that it was	Comment

		<p>not viable, was without grounds. Council was urged to approve the sale of the so-called "non-viable property". However, it was a condition that the area be used for gardening purposes only. This 361m² piece of land in the heart of Hermanus was sold for a measly R51 000, to the detriment of the community and the expansion possibilities of the town. The valuation of the property, if included in an existing property, would be valued at 10 - 20 times the above mentioned amount. In my opinion, the Municipality did not act in the interest of the community.</p> <p>This application for a guest house and to utilise the "non-viable" portion of the property is the only way in which the applicant can accommodate parking on the property. I am of the opinion that the applicant already knew what his plans were before the latest application for the operation of a guest house.</p> <p>The factual situation is that the property was sold under particular conditions namely that it be used for garden purposes only. The application for the guest house can therefore not be approved as the applicant does not have adequate on-site parking. Should the matter have to be re-considered, the current position would have to be nullified and the process would have to start over.</p>	
Property Administration	11/11/2016	<p>No objection to the proposed application is given as Council has given in principle approval for the sale of the said portion to Mr MG Delport. A public participation process must still be followed and final approval for the transfer must still be obtained from Council.</p> <p>Any Town Planning approval given as to a portion of Erf 1253 Hermanus must be subject to Council giving final approval for the sale of the subject portion. Furthermore the subject portion of Erf 1253 Hermanus may ONLY be used for gardening purposes. This means no structures may be erected on the said portion and no converting it to parking areas with paving/cement/etc. (Attached as Annexure G).</p>	Positive
Traffic	03/11/2016	"Geen parkering op perseel. Gaan geen verkeer affekteer." (sic)	Positive
Engineering Services	04/11/2016	Attached as Annexure H.	Positive
Electro Technical Services	04/11/2016	The application cannot be approved by the Electrical Department. In view of the fact that there is electrical feeder cables on Erf 1253 and in some places the existing wall was built on these cables and must be rectified.	Negative
Fire Department	08/11/2016	Attached as Annexure I.	Positive
PART L: SUMMARY OF APPLICANT'S REPLY TO COMMENTS			
The applicant's comment is contained in Part J.			
PART M: MUNICIPAL ASSESSMENT OF COMMENTS			
<p>It is clear from the comments received from the various departments that most of the departments support the application. Electrical Services do not support the application; this will be considered in the evaluation of the application along with the comment received from Property Administration.</p> <p>The comments received from the Area Manager reflect the comment given in the sale of a portion of Erf 1253. The comments regarding the sale would have been considered by Council before the principle approval could have been given. The statement regarding the inadequate provision of parking will be considered in the evaluation of this application.</p> <p>The objections received from the objectors are noted and will be considered in the evaluation of the proposed application.</p>			
PART N: MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)			
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
<u>(In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)</u>			
The applicant motivated and included the reasons for the consistency. Below is the Town Planning Department's point of view on the consistency of the application with the development principles.			

The objectives relating to:

Spatial Justice

The subject property is within the existing township therefore spatial justice does not apply to this application. The applicant motivates however that the application will create/provide training/employment opportunities of employees who live in previous disadvantaged areas.

Spatial sustainability

The proposed application is limited to the subject property and therefore does not require additional use of resources such as services or land, which is inherently seen as a sustainable practice. There is further no increase impact on the environment.

Efficiency

The Overstrand Municipality is committed to the development of efficient and streamlined timeframes. Therefore the application process followed the timelines as set forth in the By-Law. The subject property is relatively close to the CBD which will promote less time travelling and a range of facilities are provided for on-site which will reduce the need to travel.

Good administration

The Overstrand Municipality seeks to maintain a good administrative quality which give adherence to well established administrative procedures.

Spatial Resilience

Not applicable.

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

Same as SPLUMA.

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

The subject property is situated in Eastcliff and Planning Unit 14 in terms of the Spatial Development Framework (SDF) and Overstrand Municipal Spatial Growth Management Strategy (GMS). The objective of the SDF is to protect and maintain the character of the established areas in the Overstrand as well as balance growth in those areas. Planning Unit 14 in the GMS is earmarked for residential use and that the density of the residential units can be increased through means of subdivision and/or the provision of a second dwelling.

The applicant motivates that the application is in line with the SDF and GMS, due to the proposed application only being a consent use and that the character of the dwelling will remain unchanged. It should be stated that a consent use is not a primary right and therefore the desirability of the proposed use must be determined.

(In)consistency with guidelines prepared by the Provincial Minister

Not applicable.

Impact on Municipal Engineering Services

Comments received from Electrical Services state that the existing wall is built on sections of the electrical feeder cable and therefore the application cannot be supported. If the application is not approved then the wall will have to be demolished and relocated to Erf 11094. The Services Report (attached as Annexure F) also indicates that an electrical feeder cable is situated on Erf 1253 and that it must be relocated on the owner's cost. Therefore two (2) possibilities are given. The first is that the wall is demolished and relocated to Erf 11094 or the electrical feeder cable is relocated on the owner's cost. This will be further discussed under the desirability heading.

The Services Report also states that parking must be provided on site with the necessary manoeuvring space, to the satisfaction of the Department: Engineering Services. As stated earlier in response to an objection, the original SDP indicated sufficient amount of parking, eight (8) parking bays to be exact. However, due to the comment received from Property Administration a revised SDP was submitted which indicates seven (7) parking bays. The manoeuvrability of the vehicles on site was questioned. The revised plan was circulated to the Engineering Department which indicated that parking bay seven (7) must be removed in order to allow sufficient space to turn a vehicle around on site.

No further services will be affected in terms of the Services Report (Attached as Annexure G).

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

N/A

Existing and proposed zoning comparisons and considerations

As stated earlier the character of the subject property and the surrounding area is single residential. A single residential zoned property has consent uses which can be acted upon with the consent from the Municipality. The consent uses for a single residential zoned property are: *crèche, green house, guest house, house shop, institution, place of instruction, place of worship, residential building, and tourist accommodation.*

The current zoning of Erf 1253 is Transport Zone 2 and it has a primary right for public road and public parking. Before the portion can be consolidated with Erf 11094 it must first be subdivided from the remainder and rezoned for residential use.

Desirability

In the motivation it was stated that the applicant had a pre-consultation meeting to discuss the application. The applicant stated that the Planning Department will support the application in principle, provided that all municipal requirements are met. It should therefore be noted that the municipal official cannot state whether or not an application will be approved but rather the legislation which must be considered and adhered to.

It must firstly be determined if the subdivision and consolidation of a portion of Erf 1253, Eastcliff with Erf 11094 is considered desirable. In general the similar applications have been approved by the municipality. The comments received from Property Administration, Electro Technical Services and in the Services Report must be considered. Sections of the building constructed on this portion must be removed in order to comply with the comments received by Property Administration. On the Site Development Plan it is indicated that portions of the dwelling encroach the property boundary onto the portion of Erf 1253, these structures include the covered stoep which is indicated for parking and the corner of one of the north-eastern bedrooms. Due to the comment received from Property Administration it can conclude that these structures must be removed.

By consolidating a portion of Erf 1253 with Erf 11094 it will enable the owner to enlarge his property without impacting negatively on the public space, this is due to the wide road reserve and the location of the stop sign which ensures that sufficient view lines of oncoming traffic are kept. Comments received from the Engineering Department and Electro Technical Services indicate that there is an issue with the placement of the wall on the electrical feeder cable on Erf 1253. Although Electro Technical Services do not support the application due to the aforementioned issue, there is a way to mitigate it. The Services Report states that the electrical feeder cable can be relocated on the owner's cost. It should be noted that the existing wall has been constructed since 2012 and has not led to any known issues regarding service delivery (in terms of electricity) or traffic issues. Therefore, the opinion is held that the proposed subdivision, closure of public place, rezoning and consolidation can be supported subject to the conditions as stated in the recommendation.

The second segment of the application is the consent use in order to operate a five (5) bedroom guest house. The site plan indicates seven (7) parking bays on site. However as stated previously the parking layout and parking bays do not comply with the minimum requirements for manoeuvring. Therefore, parking bay seven (7) must be removed in order to alleviate the issue. Additionally parking bay four (4) does not comply with the standard size of a parking bay in terms of the relevant zoning scheme which is 2,5m in width by 5m in length. Parking bay four (4) measures less than the required 5m length and therefore will result in vehicles parking proportionally in the area designated for manoeuvring which will cause manoeuvring issues on site. With parking bay seven (7) and four (4) unusable, due to the aforementioned reasons, only three (3) parking bays will be available for the guest house. In view of the aforesaid only three (3) bedrooms can be rented out.

It must also be stated that a consent use is not a primary right and therefore the objections received from the surrounding property owners must be noted. However, as stated earlier; two recent applications for guest houses with five bedrooms have been received in the immediate vicinity, which was also circulated to the residents of Eastcliff. No objections were received against these two guest houses. The objection that there are too many guest houses is therefore not correct, furthermore two guest rooms can be rented out from a single residential dwelling as a primary right. Many owners choose to open guest houses in Eastcliff due to the character of the area and the close proximity to Hermanus and its recreational facilities.

The opinion is held that the issues raised by the objectors have been addressed. Furthermore, considering the issues regarding manoeuvrability only five (5) parking bays can be provided on site and therefore only three (3) bedrooms can be rented out and comply with the provision of the Zoning Scheme. Due procedures was followed by the Building Department in order to prosecute the owner for the building work done. The proposed guest house application is considered on its merit. It must comply with the Town Planning Zoning Scheme Regulations. All the rooms must be inter-leading with the main dwelling and parking must be provide on-site to the satisfaction of the Department: Engineering Services. Considering the fact that the main use of the dwelling will remain for single residential use and due to municipal departments supporting the application; the proposed guest house can be supported subject the conditions as stated in the recommendation.

PART O: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS (REFER TO ROR GUIDELINE)

The financial or other value of the rights

N/A

The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal

N/A

The social benefit of the restrictive condition remaining in place, and/or being removed/amended

N/A

Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights

N/A

PART P: CONCLUSION

The issues raised by the objectors are addressed. The opinion is held that the proposed subdivision, closure of public place, rezoning, consolidation and consent use can be supported subject to the conditions as stated in the recommendation.

PART Q: RECOMMENDATION

1. that the application received on 30 June 2016 from Messrs WRAP Consultancy on behalf of the owner of Erf 11094 and a Portion of the Remaining extent of Erf 1253, Eastcliff, Hermanus, MG Delport, for the following:
 - ❖ subdivision in terms of Section 16(2)(d) in order to subdivide the property into Portion A ±237m² and a Remainder;
 - ❖ closure of a public place in terms of Section 16(2)(n) in order to close a portion of the road;
 - ❖ rezoning in terms of Section 16(2)(a) in order to rezone Portion A to Residential Zone I;
 - ❖ consolidation in terms of Section 16(2)(e) in order to consolidate Portion A with Erf 11094 in order to create an erf which is 1214m²;

be approved, subject to the conditions listed in paragraph 3.
2. that, in terms of Section 16(2)(o) the application for consent use on Erf 11094, Eastcliff, Hermanus in order to operate a five (5) bedroom guest house on the property **be partially approved**, subject to the conditions listed in paragraph 3.;
3. that the approval given in paragraphs 1. and 2. be subject to the following:
 - a) that this approval only has reference to Site Development Plan No. 3, as submitted with the application and attached as Annexure C;
 - b) that building plans be submitted to the Building Department for approval;
 - c) that all the conditions compiled in the Services Report (attached as Annexure H) and by the Fire Department (attached as Annexure I), be complied with;
 - d) that all the conditions compiled by the Property Administration (attached as Annexure G), be complied with;
 - e) that all structures which encroach the boundary of Erf 11094 and onto a portion of Erf 1253 be removed within sixty (60) days of this decision;
 - f) that all structures adhere to the new 4m street building line of the consolidated property;
 - g) that only a three (3) bedroom guest house can be conducted from the dwelling;
 - h) that the three (3) guest rooms be indicate on the site development plan and submitted to the Town Planning Department for record keeping;
 - i) that the guest bedrooms to be enclosed and inter-leading with the dwelling;
 - j) the guest house cannot be operated until an occupation certificate from the Building Department has been provided by the owner of the property to the Town Planning Department;
 - k) that the accommodation facility complies with Health and Safety Legislation and that this approval will be subject to regular inspections by the Fire Control Co-ordinator and the Health Inspector;
 - l) that parking be demarcated on site indicating which parking may be used for guests;
 - m) that the owner/manager resides on the premises;
 - n) that the guest house is utilized as such - no self-catering will be permitted;

- o) that no facilities (bar/restaurant or any other) be provided for non-residents of the accommodation establishment and that these facilities only be used by bona fide guests of the establishment;
 - p) that commercial rates and service tariffs, as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - q) that a single non-illuminated sign that complies with the Municipal By-Law on signage, may be displayed on the premises;
 - r) that the selling or serving of liquor on the premises will be subject to the applicant obtaining the necessary liquor licence;
 - s) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
 - t) that the accommodation facility complies with Council's policy with regard to accommodation establishments;
 - u) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
 - v) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
4. that the applicant/objector be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2016 with regard to the above conditions of approval.

PART R: REASONS FOR RECOMMENDATION

- ❖ the objections against the proposed application are addressed;
- ❖ the application is consistent with the principle of Spatial Sustainability in terms of SPLUMA and LUPA;
- ❖ the main use of the property will remain single residential;
- ❖ the impact of the proposed application is minimal to the surrounding owners and the environment;
- ❖ the application has followed due procedure; and
- ❖ only three parking bays for guests can be accommodated on site in order to allow for proper manoeuvring space.

PART S: ANNEXURES

Annexure A:	Locality plan
Annexure B:	Motivation
Annexure C:	Proposed Site Development Plan
Annexure D:	Objections received
Annexure E:	Applicant's reply to objections received
Annexure F:	Eskom
Annexure G:	Comment from Property Administration
Annexure H:	Engineering Services
Annexure I:	Fire Services

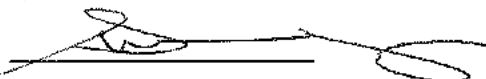
PART T: SIGNATURES

Author name: **P Roux**

Author signature: 


Date: 22/02/17

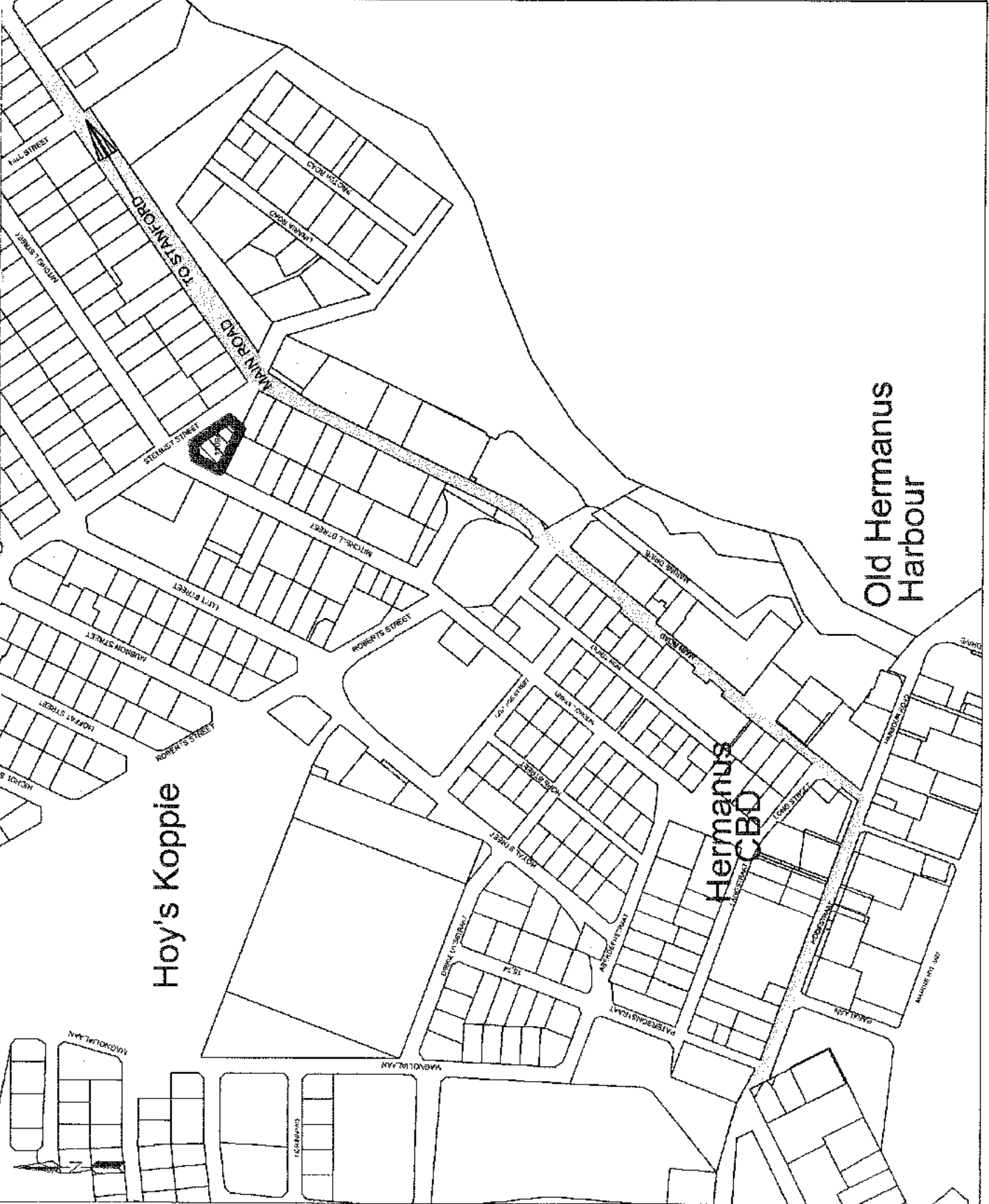
Registered planner name : **SW van der Merwe**

Registered planner signature : 

SACPLAN registration number: **A/1850/2014**

Date: 22/02/17

<p>Locality Plan 11094 Hermanus</p>	<p>Ef 11094 (1336 m²)</p> <p>Provincial road</p>	<p>Plan 1</p>	<p>Plan prepared by : Reaitehile Jankie</p>	<p>Scale 1 : 5 000</p>	<p>All distances approximate and subject to survey.</p>	<p>WRAP makes no warranty of any kind, expressed or implied with regard to data and shall not be held liable in any event for any incidental or consequent damages in connection with or arising out of the use of this data. The data remains the property of the client and may only be used for the purposes of a project with the prior written approval of the client.</p>	<p>35 Duiker Street Pobox 1247 Hermanus 7200</p>	<p>Tel: 028 313 1411 Fax: 086 508 3248 Email: wrap@teikomisa.net Web: www.wrapgroup.co.za</p>	 <p>WRAP</p>
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1. PRE-APPLICATION MEETING

A pre-application meeting between the Overstrand Municipality Town Planning officials and WRAP Consultants was held on 24 June 2016.

The application for subdivision, closure of a public place (road), rezoning of the subdivided portion and consolidation thereof with Erf 11094 Hermanus is the execution a Mayoral Committee decision dated 30 March 2016.

It was agreed in principle that the planning department will support an application for a consent use for a guest house on the consolidated erf, provided that all municipal requirements are met.

2. PROPOSED DEVELOPMENT

Erf 11094, Hermanus is situated in Eastcliff, a neighbourhood of Hermanus and forms part of Planning Unit 14 in terms of the Overstrand Growth Management strategy. The property is also within close distance from the Hermanus CBD, the beach, golf course and the Fernkloof Mountain hiking trails and access is gained from Mitchell Street. The owner has built a large dwelling on this property and intends to utilise five bedrooms for a guest house.

The owner has also built a boundary wall around the property and has by mistake built the wall over portions of the road reserve of Stemmet- and Mitchell Street, also known as the remaining extent of Erf 1253 Hermanus. To rectify this situation, the owner has applied to the Overstrand Municipality to purchase this portion of the road reserve which was approved by the Mayoral Committee at their meeting on 30 March 2016, subject thereto that the portion be closed as a road reserve, subdivided, rezoned and consolidated with Erf 11094, Hermanus. Further on condition that this portion only be used for garden purposes.

The objectives of the application are to obtain approval for:

1. The subdivision of the Remaining extent of Erf 1253 Hermanus into **Portion A**, (237 m² in extent) and the remainder. Portion A, was surveyed by Geomatics Africa. Although the Mayoral Committee approved an extent of 361 m², the actual surveyed extent is only 237 m².
2. The closing of a public place (road) being the subdivided **Portion A**.
3. The rezoning of the subdivided **Portion A** to Residential Zone 1 on a condition that it may only be used for gardening purposes.
4. The consolidation of the subdivided **Portion A** with Erf 11094 Hermanus.
5. Consent use for a five (5) bedrooms guest house. Meals will only be provided to guests of the establishment and so will all the other facilities. Liquor will only be provided to guests, as per the Overstrand Municipality Policy for Conducting an Accommodation Establishment on a Single Residential Erf. Eight (8) parking bays will be provided on the site and more details are provided later in the report. All the necessary health and safety certificates will be obtained upon approval of this application.

In light of the aforementioned, Wright Approach (WRAP) Consultancy was appointed to prepare an application to the relevant authorities (Refer **Annexure A**) for the following:

- **Subdivision** of Erf 1253 Hermanus into Portion A, 237 m² in extent and the Remainder in terms of Section 16 (2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning 2015;



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EXECUTIVE SUMMARY

-
- **Closure** of a public place (road) (**Portion A**) in terms of Section 16 (2)(n) of the Overstrand Municipality By-Law on Municipal Land Use Planning 2015;
 - **Rezoning of Portion A** to Residential Zone 1: Single in terms of Section 16 (2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning 2015;
 - **Consolidation of Portion A** with Erf 11094 Hermanus in terms of Section 16 (2)(e) of the Overstrand Municipal By-Law on Land Use Planning 2015;
 - **Consent use** in terms of Section 16 (2)(0) of the Overstrand Municipality By-Law on Land Use Planning 2015, for a guest house on the consolidated erf.



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1. CHARACTER OF ENVIRONMENT

Erf 11094 Hermanus, is located in the neighbourhood of Eastcliff (Plan 1) and is zoned Residential Zone 1: Single Residential (SR1) in terms of the Overstrand Zoning Scheme. The erf is developed with a double storey dwelling house and a boundary wall around the property was built over the road reserve of Stemmet- and Mitchell Street, also known as the remaining extent of Erf 1253 Hermanus. To rectify this situation the owner has applied to the Municipality to purchase this portion of the road which was approved by the Mayoral Committee at their meeting on 30 March 2016 subject thereto that the portion be closed as a road reserve, subdivided, rezoned and consolidated with Erf 11094, Hermanus. Further on condition that this portion only be used for garden purposes. (refer Annexure B and Plan 2)

The owner intends to operate a five bedroom guest house on the consolidated erf with sufficient parking. (refer Plan 3). Guests will have access to the entertainment/dining room. The kitchen will be utilised for the preparation of guest's meals, which meals will only be served to residents of the establishment. All facilities will only be for the use of guests and no facilities will be open to the general public. The manager/owner will reside on the property. The proposal therefore complies with the Policy for Conducting an Accommodation Establishment of the Overstrand Municipality.

Parking bay requirements;

- Five bedrooms (5) on property to be rented out will require Five (5) parking bays and the owner/manager requires two (2) parking bays.

Eight (8) bays are provided that complies with the Policy for Conducting an Accommodation Establishment of the Overstrand Municipality dated 31 May 2001. These parking bays as indicated on Plan 3 will be demarcated once the application is approved. There is also an extra parking bay for the use of the owner/manager or their guests.

Access to the property is obtained directly from Mitchell Street by means of two existing access points. It is proposed to utilise these specific access points for purpose of the application. No additional access points will therefore be created.

The subject property enjoys views of the mountain. The slope of the property is fairly level and provision will be made for people with disabilities. The property also enjoys a beautiful garden with some trees.

The picture below shows erf 11094 Hermanus

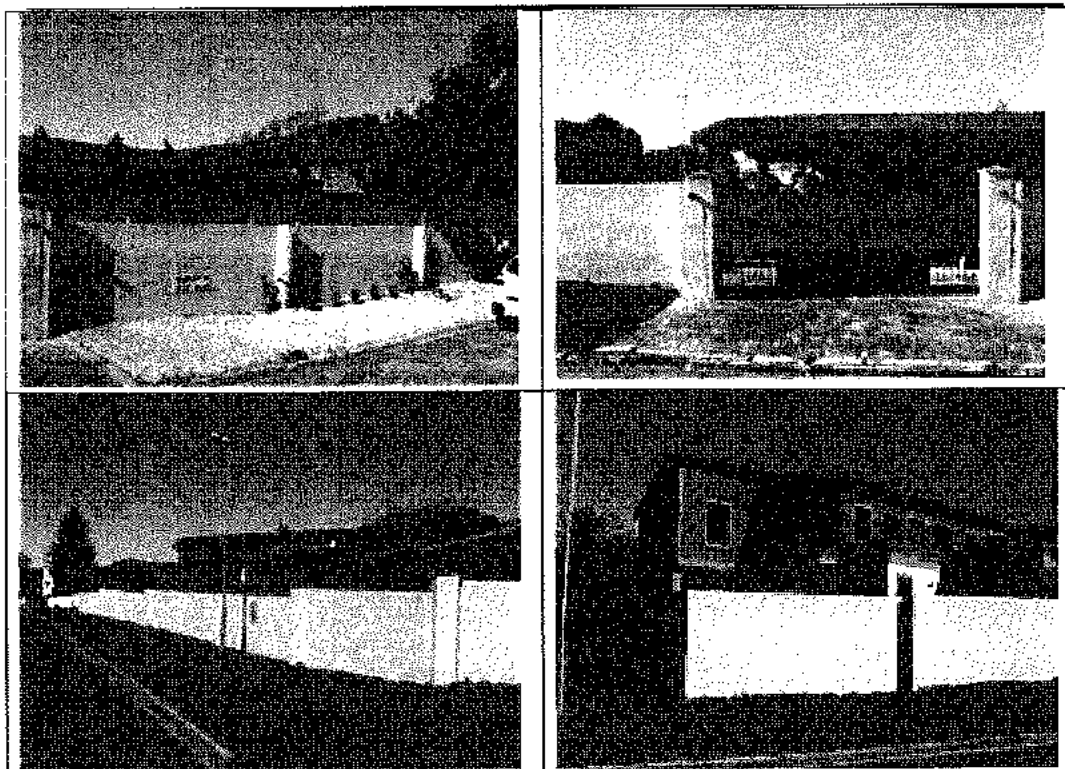


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File 11094 and 1253 Hermanus June 2016 Page 9

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MOTIVATION



5. DESIRABILITY

Hermanus is a typical coastal tourism town and the need for overnight accommodation for tourists always exists. As the town of Hermanus is also locally and internationally known for whale watching and many visitors and even overseas tourists consider this as a "bucket list must see" to visit Hermanus. The proposed facilities will therefore provide for the influx of tourists to the town and a need for accommodation establishment therefore exists. It is also a well-known fact that there is a shortage of accommodation in the town during peak seasons. Apart from the need, the land use proposal is also desirable in the sense that the facility will not have the appearance of an accommodation establishment (for example a hotel, etc) and will still appear to be a single residential unit, blending in with the existing neighbourhood and will therefore not have a negative impact on the surrounding area.

The land use for a guest house is regarded in the same category as a residential land use and the reason being that guest's usually only sleep at the facility. During the day they will explore Hermanus town as well as numerous smaller villages in close proximity. In Hermanus there is so much to do that visitors can spend days visiting the beach, art galleries, historic and cultural places, parks, mountain drives, golf courses and wine estates in and around the town. In general guest houses are operated without loud music or noisy functions and are not a disturbance to neighbours. In this case the existing house is orientated in such a manner that the privacy of surrounding property owners will not be infringed upon.

The additional land use rights that will be established with the approval of this application, is the operation of a guest house and the zoning will remain unchanged. The application is furthermore for a consent use and is permanent in nature. Should the land use however

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have one or another negative impact on the surrounding neighbourhood during its operations, the Municipality can enforce the conditions of approval. It is however maintained that no negative impacts on existing land use rights will result with the approval of this application.

5.1 Services

All the necessary services like electricity, water, sewerage and stormwater are already installed.

5.2 Surface water

All surface water will be accommodated on the property.

5.3 Economic and Social Impact

The proposed development will result in the following economic spin offs that will have positive social implications.

Economic and social beneficiary	Implications for the beneficiary
Property owner	An additional income will be created for the owner of the guest house.
Employees	The employees would be able to earn a salary and bearing in mind that they might have family members that are dependent on this income and this will contribute towards their welfare. The skills and experience that the employees will gain at the guesthouse will also improve their future job prospects and lead to skills development.
Businesses in and around Hermanus	The tourists who will stay at the guesthouse will also go on tours in and around Hermanus, go whale watching and may purchase a variety of local items. This will contribute towards other businesses within Hermanus increasing turnovers and becoming more viable. These positive experiences at the guests will lead to them promoting Hermanus in their countries or places of origin which can potentially attract more tourists to the greater Hermanus area. This can potentially lead to an increase in the tourists that will visit the town and would meaningfully grow the economy of the town.

The table above has clearly illustrated the proposed development will have economic and social benefits for the property owner, employees and other businesses in Hermanus. This development will also add great value to the tourism profile of the Hermanus areas.

5.4 Traffic impacts, parking access and other transport related considerations

The proposed guest house complies with the parking requirements of the Overstrand Zoning Scheme for a guest house. The parking layout shows that the entrances and exit for parking is considered adequate.

6. TITLE DEED

Below are the details of Erf 11094 Hermanus as per the title deed.

Property Description	Extent	Ownership	Title Deed Number
Erf 11094 Hermanus, in Overstrand Municipality, District Caledon, Western Cape Province.	1336 m ²	Marfin Gerhardus Delpont	T25279/2010

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A copy of the title deed of the subject property is attached as **Annexure C**. A study of the deed revealed that no restrictive conditions have been registered that may prohibit the approval of this application. There is bond registered over the property and the bond holders consent was applied for. (**Annexure D**)

Below are the title deed details of Erf 1253 Hermanus.

Property Description	Extent	Ownership	Title Deed Number
Erf 1253 Hermanus, in Overstrand Municipality, District Caledon, Western Cape Province.	To be determined: Subdivided portion 237 m ²	Overstrand Municipality	T16775/2004 T3350/1924

7. ZONING OVERLAY

The zoning of the property is Single Residential Zone 1: Single Residential (SR1) in terms of the Overstrand Municipality Zoning Scheme of November 2013. (See **Plan 4**)

The land use parameters associated with this zoning is therefore as follow:

Residential Zone 1: Single Residential	
Primary use	Dwelling house, day care centre, guest rooms, home occupation and second dwelling unit.
Consent use	Crèche, guest house , green house, house shop, institution, place of instruction, place of worship, residential building and tourist accommodation.
Land Use Restrictions	
Coverage	50%
Street building line	4 metres to any street boundary provided that in the case of a corner site with an average depth of 20m or less has a 3m street building line.
Side and Rear building line	Side and Rear building lines for erven greater than 400m ² are 2m.
Height	8m measured from the base level to the top of the roof.
Parking	Parking and access shall be provided on the land unit in accordance with Section 17.1 of the Overstrand Municipality Zoning Scheme of November 2013.

The table below indicates the primary uses, zoning scheme parameters, development proposal and how the proposed development complies or deviates from the proposal.

	Zoning Scheme Parameters	Development Proposal	Comply/ Deviate
Primary uses	Dwelling house, day care centre, guest rooms, home occupation and second dwelling unit.	Dwelling house	Comply
Consent use	Crèche, guest house , green house, house shop, institution, place of instruction, place of worship, residential building and tourist accommodation.	Guest house	Deviate

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MOTIVATION

Coverage	Erf 11094 = 1336 m ² Erf 1253 = 237 m ² Total = 1573 m ² 50% (786.5 m ²)	48.76 % (767.9 m ²)	Comply
Height	The maximum height of a building measured from the base level to the top of the roof is 8,0 m	7.3m	Comply
Street building line	4.0 m	4.1m Mitchell Street 4.38m Stemmet Street	Comply
Side building line	2 m	2.7m Eastern boundary 2.1m Southern boundary	Comply
Rear building line	NA	NA	NA
Parking	1 Bay per two persons accommodated which equates to 5 bays. 2 Onsite bays for the manager.	5 Bays provided for the guest house. 3 Onsite bays provided for the manager.	Comply

8. SPATIAL PLANNING INITIATIVES

The purpose of this section is to assess the consistency of the proposed application with the existing spatial planning initiatives. This is to ensure that the development does not deviate from the spatial planning initiatives and that it is in line with the urban structure that is envisaged by Local- and Provincial Authorities.

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

Below is a list of the spatial logic that underpins the PSDF and how the proposed development is in sync with the spatial logic.

Spatial logic	Alignment of the proposal with the spatial logic
Capitalise and build on the Western Capes competitive advantages.	The competitive economic advantage of the Hermanus and the subject property is the vibrant tourism industry particularly during peak season. The purpose of the application is to capitalise on the vibrant tourism industry by developing a guest house.
Consolidate existing and emerging regional economic nodes as they offer the best prospects to generate jobs and stimulate innovation.	Although the proposal does not include the consolidation of regional economic nodes the application includes the consolidation of a road reserve with the subject property

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	and that will result in the entire guest house establishment being more viable. This therefore will unlock the potential to generate jobs for people who will be working at the guest house and stimulate innovation on how to implement new ways to improve the service to the customers.
Connect urban and rural markets and consumers, fragmented settlement and critical biodiversity areas.	The guest house will provide the accommodation services to customers in both urban and rural areas. The proposal will not contribute the fragmentation of the existing settlement and will not have an adverse impact on critical biodiversity areas.
Cluster economic infrastructure and facilities along public transport routes.	The subject property is an economic infrastructure that will contribute meaningfully to the economy of the town and is located 40m from Main Road where some public transport from Hermanus to Stanford passes through.

The PSDF provides a clear framework for the nature of development that is envisaged in the province. The table above indicates the proposed consent use, subdivision, closure of a public place (road); rezoning and consolidation are well aligned with spatial logic that is envisaged by DEADP.

Overstrand Spatial Development Framework (SDF)

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

The table below sets out the goals of the SDF and assess the consistency of the proposal with the goals and objectives.

Goals	The consistency of the proposal with the goals
"To provide an environmentally and economically sustainable bulk service infrastructure and road transport network."	The proposed development will use the current water supply, sewerage and solid waste removal services that are available. The proposed SDP (refer Plan 3) indicates the additional proposed parking provision on the property.
"To ensure that ongoing pressure and its spatial implications are managed in a sustainable manner that protects the unique character of the existing cultural landscapes and the place-specific character and form of the existing settlement pattern."	The character of Eastcliff consists of single residential dwellings. The proposed application will contribute towards maintaining the exiting single residential character as the subject property fits into the character of the neighbourhood.
"Restrict development within the carrying capacity limitation of the natural resources."	The proposed development will occur within the existing service carrying capacity of the erf and will not result in the

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<p>To promote tourism as a community based driven industry with substantial potential for providing direct and indirect economic benefits for the community.</p>	<p>need for additional services. The proposed guest house is driven by a community member and will provide direct benefits to the community through job creation and indirect benefits through tourists that will tour the town and purchase items that are available locally.</p>
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The table above indicates that the proposed development is well aligned with the core goals of the SDF and will maintain the existing character of the town. The SDF also identifies the Greater Hermanus as a tourist destination and the proposal seeks to capitalise on this.

Overstrand Growth Management Strategy 2010

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

Below is a table with the core objectives of the strategy and how the proposed development is aligned with these objectives.

<p>Goal</p>	<p>The consistency of the proposal with the goals.</p>
<p>"Ensure optimal land use planning and the efficient use of infrastructure, services, facilities and land."</p>	<p>The proposed development is within the urban edge and seeks to optimally utilise the tourism development potential that exist on the erf in an efficient manner.</p>
<p>"Support the development of mixed land uses providing for vitality, opportunities and integrated living environments."</p>	<p>The proposed development will provide for a mixture of land uses on the subject property as there will be accommodation, entertainment room, food and beverages will be provided only to guest and guest will also be able to relax in the garden. The proposed uses will provide for vitality on the subject property and the living environment will promote integration as people from different parts of the country will be living together on a short term basis.</p>
<p>"Contribute to place making and the development of attractive and safe urban environments."</p>	<p>The proposed guest house is attractive and contributes meaningfully to maintaining the character of the town. The parking layout of the proposed development is designed in manner to minimise the likelihood of pedestrians falling victim to accidents as a result of vehicular movement into and out of the subject property.</p>
<p>"Ensure that the scale and character (in terms of bulk, height and architectural styling) of the higher density areas are appropriate to the immediate context."</p>	<p>The proposed scale, character and architectural styling of the proposed development are appropriate within the immediate context.</p>

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The table above outlines how the proposed development is aligned with the core goals of the Overstrand Growth Management Strategy and will contribute to maintaining the logical character that exists in Eastcliff.

In addition the property forms part of "Planning Unit 14" and there are no provisions in the Overstrand Municipal Growth Management Strategy that prevent the proposal for a guest house, subdivision, closure of a public place (road), rezoning and consolidation.

9 PLANNING PRINCIPLES

The purpose of this section is to analyse the consistency of the application with the planning principles and also to provide a recommendation to the Municipality for the development. These spatial planning principles are in terms of Section 42 of the Spatial Planning and Land Use Management Act, 2013 and also Chapter VI of the Land Use Planning Act, 2014.

Below are the spatial principles and the consistency of the proposed development with these planning principles:

PLANNING PRINCIPLES	CONSISTENCY WITH THE PLANNING PRINCIPLES
Spatial Justice It refers to the need to redress the past apartheid spatial development imbalances and aim for equity provision of access to opportunities, facilities, services and land.	<ul style="list-style-type: none"> • Creating jobs to include the unemployed into the formal economy. • Providing training to the employees that will lead to skills development. • Encourage a culture of entrepreneurs
Spatial Sustainability This essentially refers to a sustainable development that promotes less resource consuming development, promote compaction, pedestrianisation and mixed use urban environments. A spatially sustainable settlement ensures the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas.	<ul style="list-style-type: none"> • Proposed guest house provides for a mix of uses that range from overnight accommodation and provision of food and beverages to guests. • Occurring within the urban edge. • No impact on environmentally sensitive and biodiversity rich areas.
Efficiency Efficiency refers to the need for settlements that optimise space, energy, infrastructure, resources and land. This also has to do with the manner in which the settlement is designed and functions, which should reduce the need to travel long distances to access services land.	<ul style="list-style-type: none"> • No negative impact on land use rights of the surrounding properties. • Guest house in walking distance of the CBD, beach and other amenities. • Guests can enjoy all facilities on the premises which will reduce need to travel. • The manager also resides on the property which would eliminate the need for the manager to travel a long distance to get to work.
Spatial resilience Spatial resilience also refers to the requirement for flexibility in spatial plans,	The spatial plans and policies compiled by the Department of Environmental Affairs and Development Planning (DEADP) and


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<p>policies and land use management systems to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks.</p>	<p>the Overstrand Municipality all promote spatial resilience in land use management. The proposed consent use, subdivision, closure of a public place (road), rezoning and consolidation is well aligned with the different policies and guidelines as set out by the competent authorities and promotes resilience.</p>
<p>Good administration In the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure a joint planning approach is pursued.</p>	<p>The proposed development will promote consultative planning as the Municipality will advertise the proposal to the general public to allow the comments of the public to be taken into consideration. WRAP will also respond to the comments of the general public and take the comments into consideration in the planning of the project. All of the above measures ensure that a joint planning approach is pursued to the benefit of the property owner and the community.</p>

The table above outlines that the application is well aligned with the planning principles as outlined in LUPA and SPLUMA and can therefore be seen as sound from a general planning perspective.


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RECOMMENDATION

16. RECOMMENDATION

This motivational report has provided a clear and complete analysis of the land use proposal. It was shown that the proposal is indeed consistent with existing spatial planning initiatives and that there is a definite need for development such as this to be approved.

This application furthermore attempts to establish the land use in the most desirable manner, being located close to the central business area and beach of Hermanus. It enjoys excellent accessibility and it is maintained that the subject property is well located for the proposed development.

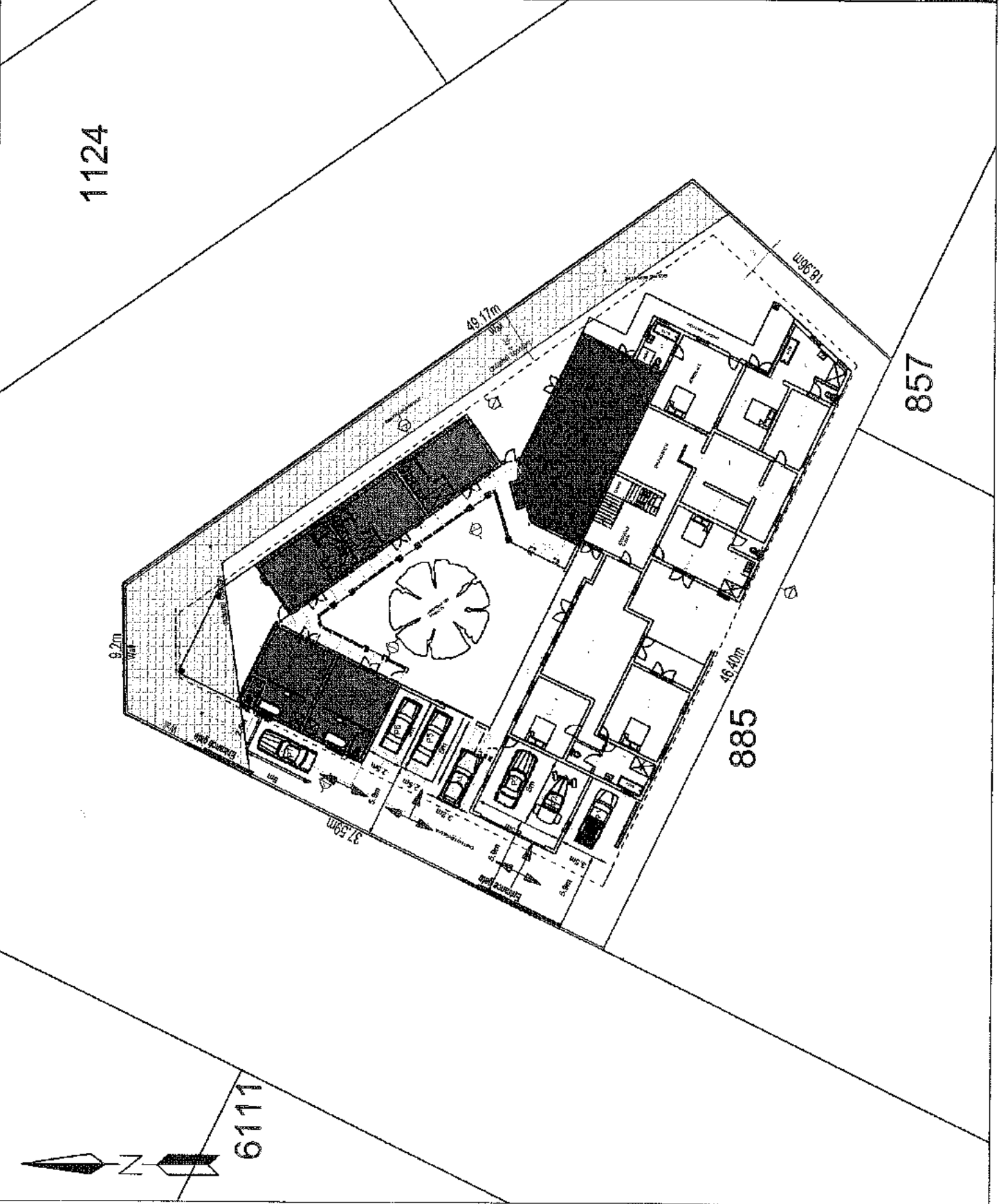
It was also shown that the proposed land use is compatible with the character of the surrounding area and that the approval of this application will not result in negative impacts on existing land use rights. Lastly it was shown that the impact of the development on service infrastructure will be minimal.

In light of the above, it is our recommendation that the following application be approved:

- **Subdivision** of Erf 1253 Hermanus into Portion A, 237 m² in extent and the Remainder in terms of Section 16 (2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning 2015;
- **Closure** of a public place (road) (**Portion A**) in terms of Section 16 (2)(n) of the Overstrand Municipality By-Law on Municipal Land Use Planning 2015;
- **Rezoning** of **Portion A** to Residential Zone 1: Single in terms of Section 16 (2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning 2015;
- **Consolidation** of **Portion A** with Erf 11094 Hermanus in terms of Section 16 (2)(e) of the Overstrand Municipal By-Law on Land Use Planning 2015;
- **Consent use** in terms of Section 16 (2)(o) of the Overstrand Municipality By-Law on Land Use Planning 2015, for a guest house on the consolidated erf.


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<p>Proposed consolidation of Erf 11094</p>	<p>Existing cadastral boundary Proposed cadastral boundary Building lines Wall</p>	<p>Portion A (a Portion of the remaining extent) 237 m² Second dwelling unit / guest house Entertainment and dining area to be used by guests of the guest house</p>	<p>7 Proposed parking bays</p>	<p>23</p>	<p>Plan: 1</p>	<p>Plan prepared by: Reatlethe Jenkile</p>	<p>NTS</p>	<p>All distances approximate and subject to survey. <small>WRAP makes no warranty of any kind, expressed or implied with regard to data and shall not be held liable in any event for any incidental or consequential damages in connection with or arising out of the use of this data. The data remains the property of the client and may only be used for the purposes of a project with the prior written approval of the client.</small></p>	<p>35 Duiker street PO Box 1247 Heimans 7200</p>	<p>Tel: 028 313 1411 Fax: 086 508 3248 Email: wrap@telkomsa.net Web: www.wrapgroup.co.za</p>	<p>WRAP</p>
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082 570 0143 lappingian@gmail.com

By hand and copied to alida@overstrand.gov.za

2 October 2016

Overstrand Municipality
16 Paterson Street
Hermanus

Attention: P Roux

TP-A Theart
(P Roux)



Dear Sirs

Erf 11094 and portion of the remaining extent of erf 1253 62 Mitchell Street, Eastcliff Hermanus, Overstrand Municipal area: Proposed subdivision, closure of a public place (road), rezoning, consolidation, and consent use - WRAP on behalf of M G Delpont

I refer to your public notice 123/2016, your registered letter of 29 September 2016 (received by myself on 31 October 2016) and the full application by WRAP regarding the above (which was made available for inspection at your offices).

I am the owner of erf 885 60 Mitchell Street, Eastcliff, Hermanus. I acquired this property in March 2016. My property borders that of Mr M G Delpont ("Delpont"), being erf 11094 62 Mitchell Street, Eastcliff, Hermanus. Consequently I have an interest in the above applications. My address and contact details are set out above.

I hereby comment on and object to the above applications, giving reasons therefor, as follows:

FILE NO:	EL 11094-HEC
SCAN NO:	
COLLABORATOR NO:	966932

TP

3 NOV 2016

Spatial Planning Initiatives

Contrary to the assertions (see section 8 in the executive summary attached to your letter of 29 September 2016) given in Delpont's application:

- the subject property does not fit into the character of the neighbourhood;
- the proposed guest house is not attractive and contributes negatively to maintaining the character of the town; and
- the proposed scale, character and architectural styling of the development are not appropriate within the immediate context.

Accordingly, Delpont's development is contrary to the Municipality's Spatial Planning Initiatives.

It is accepted that the Municipality has little control in regard to the architectural aspects of any development. However, the Municipality has considerable control in regard to ensuring compliance with planning and building regulations applicable to any development.

Delpont's application to the Municipality clearly states that: "the facility will not have the appearance of an accommodation establishment (for example a hotel etc) and will still appear to be a single residential unit, blending in with the existing neighbourhood and will therefor not have a negative impact on the surrounding area."

This statement is untrue. The development consists of three stand alone stark structures. Previously existing trees and shrubs have been removed. The overly large conglomeration dominates a corner stand un-necessarily enlarged by the proposed incorporation of municipal land. The buildings do not give the impression of a normal residential establishment in keeping with the neighbourhood, but rather of a purpose built fully walled utilitarian large hostel type establishment.

This development has had and will continue to have further negative impact on surrounding property values.

To date, and as demonstrated below, the municipality has failed to ensure compliance with the planning and building regulations pertaining to Delpport's development. Further, should the Municipality approve Delpport's five applications, then, together with the failings to date, the Municipality will facilitate a development which is contrary to it's own Spatial Planning Initiatives.

Building lines:

Delpport's property as currently constituted, and without the consolidation of Portion A of some 237 m², has building lines applicable to it in respect of which any building may not transgress. Various of Delpport's buildings have transgressed in respect of such building lines. I understand that the Municipality is fully aware of such transgressions.

Should the Municipality approve the four inter-linked applications regarding a subdivision, closure of a public place (road), rezoning and consolidation, then the Municipality will condone such transgressions and simultaneously actively facilitate the circumvention by Delpport of such transgressions. In addition, this in turn would have a number of unintended consequences.

I accordingly object to these four interlinked applications.

Further, it has come to light that the main double storey building has transgressed the 2 meter building line applicable to the boundary of my property erf 885. I shall be writing to the Municipality in this regard. However, it should be noted that I shall require the Municipality firstly to verify such transgression and secondly, if confirmed, as indicated by a recent survey undertaken on my behalf, to correct such transgression. Should the Municipality fail in it's obligation in regard thereto, I shall pursue whatever legal and / or other remedies are available to me.

Building regulations:

I am reliably informed that various building regulations have been contravened by Delpont in regard to various of the buildings constructed over recent times on the property. These relate to the construction of separate stand alone non-interlinked structures, internal non-adjoining rooms and structures beyond building lines.

I understand that the municipality is fully aware of such matters. I further understand that the municipality has a history of unsatisfactory dealings with Delpont in relation to these matters and is presently in litigation with him in regard thereto.

These matters negatively reflect upon the four inter-linked applications referred to above.

Guest house:

Delpont has made application for consent use to operate a five bedroom guesthouse on his property. The application extends to the provision of meals and liquor. Parking has supposedly been provided for eight vehicles. Further, if granted in it's present form, such consent use will be permanent.

Apart from the contentious and outstanding matters referred to above, the core difficulty with granting Delpont's guest house application is how to contain the usage to five bedrooms.

The building plan contained in the application:

- shows ten bedrooms;
- shows various other undesignated rooms that potentially could be used as bedrooms;
- is defective in that it fails to show the make up of the ground floor of the large double storey structure, whilst it is probable that there are additional bedrooms in the lower level; and
- again it fails to show an additional room very recently added to the top floor, which room likewise could be used as a bedroom.

The entire development could contain up to twenty bedrooms. Delpont, who it is understood has a limited family, and his partner K Rousseau are evidently the only two residents in the development. Delpont has failed to explain or justify a development of such extent. The consequence of granting guest house usage rights could very conceivably result in a problem establishment to the considerable detriment of both the Municipality and local residents and property owners.

In addition to the above, the following points are pertinent:

- given current capacity constraints, the Municipality has limited policing and remedial enforcement abilities with which to correct the inevitable transgressions;
- the required provision of parking has been falsely stated in that two and a portion of a third parking bays are indicated on the Portion A 237 m² of land to be acquired from the Municipality, it being a condition of such acquisition that this land may not be used for any purpose other than gardening;
- there is an increasing pre-dominance of guest houses in the immediate neighbourhood. It is submitted that a balance needs to be maintained between guest houses and normal residential usage if the "cultural landscapes and the space specific character and form of the existing settlement pattern" is to be sustained. Mr Delpont's specific guesthouse flies in the face of this goal as extracted from the municipality's Spatial Development Framework; and
- there is no need to attract accommodation customers by offering meals and liquor given the large number and variety of eating establishments within easy walking distance.

Given the above, permanent approval by the Municipality for Delpont to operate a guest house in the existing three structures on erf 11094 would further erode property values in the immediate neighbourhood. Further, it inevitably would impact negatively on the enjoyment by residents and owners of nearby properties. I accordingly object to this application.

Changed circumstances:

In March 2016 the Municipal Council agreed to the conditional sale of Portion A to Delpport. Portion A consists of 237 m² of road reserve land abutting Delpport's erf 11094. Delpport had "mistakenly" intruded upon this land. The price was set at R141.41 or some R33 000 in total. The intended sale was conditional upon two future events, namely:

- a full public participation process (which in turn has given rise to this letter); and
- approval by the Municipal Council of the four subdivision, closure, rezoning and consolidated applications referred to herein.

Should the Municipal Council now decide to reject the above four applications, the conditional sale of Portion A would fall away and the agreement of sale would be null and void.

Circumstances during the past seven months since March 2016 have changed to such a material extent that the Municipal Council is now justified in deciding not to make the sale of Portion A unconditional. Making the sale agreement null and void would consequently rectify a number of problem areas and prevent inevitable future problems. Future problems could be considerable.

Delpport has demonstrated complete contempt for and disregard of municipal regulations and the interests of other residents and property owners. He has consistently connived to circumvent virtually every municipal regulation placed in his way to achieve his objective. His objective, as demonstrated above and by his actions to date, is to achieve a disruptive commercial establishment at considerable variance to Council's objectives and the interests of local residents and property owners. Municipal officials are fully aware of persistent problems in relation to erf 11094. Current litigation between Delpport and the Municipality is evidence of this. Should specific examples in support of this assertion be required, then they will be forthcoming upon request.

When the municipality took the decision in March 2016 to conditionally sell Portion A to Delpport, it presumably was aware of the problematic situation. Subsequent to that date, the adverse situation has greatly worsened. Should it be allowed to continue, it might be argued that the municipality at worst is conniving with Delpport so as to facilitate his objectives or at best is in dereliction of it's obligations.

Recommendations:

In the light of the above changed circumstances and in regard to the four subdivision, closure, rezoning and consolidation applications, it is recommended that the Municipality decline all four applications. This would nullify Delpport's intended purchase of Portion A municipal land. This in turn would result in Delpport being compelled to demolish the two non-compliant single storey structures which intrude beyond the building lines of his erf 11094 as presently constituted. As a consequence his remaining double storey structure would begin to comply with all applicable building limits and regulations and with the composure of the immediate neighbourhood.

Also in the light of the above changed circumstances and in recognition of Delpport's actual intentions as fully demonstrated by the nature and extent of the various structures now on erf 11094, it is recommended further that the Municipality decline the guest house consent use application. It could be explained at the time of such rejection that a fresh application might be considered in the future once all building limits and regulations have been complied with.

Should the Municipality decide to accept the guest house consent use application, presumably having been able to reasonably justify such decision, then under current circumstances it would be inconceivable for such application being granted other than with specific conditions attached such as:

- not permanent consent usage but usage for a probationary period of say two or three years;
- Delpport having specifically designated five bedrooms within his extensive structures which will be used for commercial

purposes and a clear undertaking that no other bedrooms will be so used;

- a physical inspection by members of the Municipal Council of all structures prior to any decision being taken; and
- an undertaking by Delport that he will in no way hinder any future unannounced inspections by municipal officials.

Should the Municipality decide to act other than as recommended above and thereby facilitate Delport's activities to the detriment of local residents and property owners and to the detriment of the Municipality in various regards, then such irrational decisions would open it to future time consuming, costly and debilitating corrective actions. In this event, I reserve my rights.

Clarification and information:

Should you require any clarification or further information in regard to the above, please do not hesitate to contact me.

Yours faithfully



I E Lapping



56 MITCHELL STREET, EASTCLIFF, HERMANUS 7200
 083 325 3385 leigh@malibusofts.co.za
 LEIGH-ANNE GRADUS-SAMSON

TP-A Theart
(P Roux)

BY HAND AND COPIED TO alida@overstrand.gov.za

3rd October 2016

OVERSTRAND MUNICIPALITY
 16 PATERSON STREET,
 HERMANUS
 7200

FILE NO: EL 11094-HEC
SCAN NO: 07
COLLABORATOR NO: 967189

Dear Sirs,

ERF 11094 and portion of the remaining extent of ERF 1253 - 62 MITCHELL STREET, EASTCLIFF, HERMANUS, OVERSTRAND MUNICIPAL AREA: PROPOSED SUBDIVISION, CLOSURE OF A PUBLIC PLACE (ROAD, REZONING, CONSOLIDATION, AND CONSENT USE – WRAP (ON BEHALF OF M G DELPORT

With reference to the public notice 123/2016 and the registered letter received by myself, and the application regarding the above by WRAP.

I am the owner of Erf 6186, and previously up until April this year, my children Danela Contomichalos and Kyle Gradus-Samson were the owners of Erf 885 directly abutting the above mention property in question.

My objection to the above application and subdivision are as follows:

- On going through the plans of the above-mentioned Erf there are at least 10 bedrooms of which many are undersized and interleading rendering them not acceptable for a guest house, having owned and ran a four-and-a-half-star guesthouse, I am well aware of the regulations regarding size, quality and amenities. The sizes of the bedrooms are more in keeping with that of a Backpackers.
- There are also numerous areas that have potential for additional bedrooms
- The general appearance and layout of the objectionable building lend itself to a two star backpackers establishment.
- Eastcliff is a highly sought after upmarket residential area, both with families with children and retired folk, and therefore should not have a backpacker type establishment. Anything less than a four to five-star luxury rated Guesthouse, with all the amenities and facilities as required by South African Tourism, would not be acceptable for Eastcliff.

TP

3 11 2016

Our objections as previous family owners of ERF 885 being 60 Mitchell:

- On numerous occasions, we visited Town Planning and the Building Department of Overstrand Municipality, querying the bulk of the house being built on Erf 125362.
- Also of great concern to us was the possibility of a business or backpackers being run of that erf in due course. As Mr Delpont previously owned, or was a business partner of Mobys Backpackers in Mitchell Street, Hermanus. That establishment had amongst others a huge guests list of motor Bike clubs, arriving in their droves. It was also a seedy run down establishment with a bar that went on until early hours in the morning. With the view that the CBD has moved towards Lord Roberts Road, it was of great concern to us that his intention was to move that type of business, next door to us, thus extending the feeling of the CBD to Stemmet Street.
- When we put Erf 885, 60 Mitchell Street on the market, at least one of the potential buyers that viewed the house, showed serious concern regarding the said building being erected, and did not pursue the sale as a direct result of that house (?) being completed, as that took away all our privacy as it ran the entire length of the property with most toilets facing us.
- We also on several occasions queried with the Municipality the 2-meter building line on that boundary (between our properties) as we built the boundary wall on our side of our erf?
- As a direct result of the huge building that stretches the entire length of our property, thus taking away our view and rendering our pool and garden area very public, we believe this to have severely negatively affected the value of our property. It also has had a negative effect on the other surrounding properties, and should this proposal (for a guest house?) backpackers go ahead all the surrounding properties would be negatively impacted financially.

With reference to all the above, should the Overstrand Municipality decide to act other than the points above mentioned, and therefore facilitates the Delpont's application(s) to the detriment of the council and the property owners, then such decisions would lead to unnecessary legal costs, to which I reserve my rights.

Yours faithfully,


L. A. GRADUS-SAMSON

From: "Kari Brice" <karibrice@hermanus.co.za>
 To: "David Botha" <david@route2.co.za>
 CC: <rsmith@overstrand.gov.za>, "Stephen Muller" <smuller@overstrand.gov.za>
 Date: 2016/10/17 04:48 PM
 Subject: FW: Building on Corner Stemmet and Mitchell Streets

Hi David
 Please reply soonest and advise who (in the know) will attend the meeting with me.
 This is a storm brewing against the Overstrand Municipality
 Kind regards
 Kari

-----Original Message-----
 From: Andrew Embleton [mailto:andemb@hermanus.co.za]
 Sent: 17 October 2016 01:14 PM
 To: Kari Brice; ulrike beckmann
 Subject: Building on Corner Stemmet and Mitchell Streets

Dear ms Brice

I write formally to you as our Councillor .

I am disappointed in our municipal officials .

When I and others first raised the issue of the unusually large building on the corner of Mitchell and Stemmet I was assured via yourself by a Mr Kuchar that it was a residential building. It seems that the building officials must be very unobservant if they did not see fit to question this. We raised it again because it was clearly nonsense and were given the same assurance .

For the owner to suggest (as I hear he has) that he was "unaware " that the property on the triangulated corner was not part of his erf is disingenuous. For years this corner was fenced off to give a clear view of traffic coming from the slightly oblique street. It was NEVER part of the property. Why did the building inspectors allow it to be incorporated if they were doing their job properly? It is either a massive dereliction of duty or an attempt at a cover up.

One is left with the feeling that to get unpopular applications through our Council one starts with an innocent residential application and once the structure is complete one makes further application for a change in useage. It smacks of poor governance or worse, deliberate attempt to fool the public.

Eastcliff has enough commercial residences and we had always hoped to stop such further development at Lord Roberts- something promised when we objected to the Checkers development.

Many of us are disappointed in the way our municipal officials seem to think we can be so easily misled. I suggest the building concerned remain residential only. Clearly all the work which has taken place in enlarging it must have been done knowing the application would be granted. It should be refused.

*Erf 1124 } se ekle het in gebou in.
 > 585*

ad die set in Mast uitgeroet het

PARCEL TRACKING RESULTS

Item Number: CV003444326ZA was last scanned on: 2016/10/05 at 12:36

Location last scanned: VLAEBERG

Currently has status of: Item delivered to: D D LIEBENBERG

<u>TRACKING LINE</u>	<u>TYPE</u>	<u>DATE</u>	<u>TIME</u>	<u>BRANCH</u>	<u>COMMENTS</u>
1	Item delivered to: D D LIEBENBERG	2016/10/05	12:36	VLAEBERG	
2	In transit	2016/10/03	15:51	VLAEBERG	In Office
3	In transit	2016/09/30	19:58	CAPEMAIL (HUB)	
4	In transit	2016/09/30	09:36	HERMANUS	Out of office
5	In transit	2016/09/29	15:21	HERMANUS	In Office

PARCEL TRACKING RESULTS

Item Number: CV003444255ZA was last scanned on: 2016/10/03 at 10:17

Location last scanned: HERMANUS

Currently has status of: In transit

<u>TRACKING LINE</u>	<u>TYPE</u>	<u>DATE</u>	<u>TIME</u>	<u>BRANCH</u>	<u>COMMENTS</u>
1	In transit	2016/10/03	10:17	HERMANUS	In Office
2	In transit	2016/09/30	17:52	CAPEMAIL (HUB)	
3	In transit	2016/09/30	09:36	HERMANUS	Out of office
4	In transit	2016/09/29	15:21	HERMANUS	In Office

History of Erf 11094

Building plan was approved in 2014.

The boundary wall was built on the outside of the property boundary. To rectify the situations the property owner contacted Property Administration in order purchase a section of the road reserve.

In 6 January 2015 the applicant submitted a departure application in order to encroach upon the 4m street building by 2m. The application was approved with conditions and without any objections received. Approval conditions are:

RECOMMENDATION :

2. that in terms of Section 15 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), application for a departure from the Scheme Regulations on Erf 11094, Hermanus (Eastcliff) in order to relax the street building line from 4m to 2m in order to accommodate additions to the dwelling on the property, **be approved**, subject to the following conditions:
 - (a) that this approval only has reference to the plan no. HAJWTVAN-14-1, as submitted with the application;
 - (b) that if no lease agreement is reached between the owner and Property Administration the transgressed wall must be demolished and constructed on the correct cadastral boundary;
 - (c) that building plans be submitted to the Building Department for approval;
 - (d) that all the conditions compiled in the Service Report (attached as Annexure D), be complied with;
 - (d) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with; and
 - (f) that this approval does not absolve the applicant from compliance with any other relevant legislation.
2. that the applicant be notified of his right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above decision.

No building plan was submitted after the approval of the departure application.

30 March 2016 the Mayrol Committee approved the purchase of a section of the road reserve subject to it being subdivided, rezoned and consolidated with Erf 11094.

On 04 June 2016 an application was submitted to for the following for the abovementioned and a consent use in order to conduct a guest house from the property

To date no objections have been received. Closing dates for the comments are 4 November 2016.10.18

It should be noted that the Building department has taken the applicant to court for the illegal structures. A brief history of the illegal structures from the building department is quoted below:

Goeie dag Mnr Delport,

Op 14 April 2014 is 'n bouplan goedgekeur op erf 11094. Die plan wat goedgekeur was, was vir 'n enkel residensiele woning. Daar was ook 'n kondisie op hierdie plan aangebring wat staaf dat hierdie woning slegs as 'n enkel residensiele woning gebruik mag word. Met die fondasie inspeksie wat Jonty Abrahams op 17 Junie 2014 gedoen het het hy bevind dat die mates tussen die bestaande grensmuur en die fondasies nie korrek is nie, en die fondasie inspeksie was afgekeur. Op 6 Januarie 2015 is 'n stadsbeplannings aansoek ingedien om die kant boulyn van 4m na 2m te verslap. Die aansoek was op 12 Mei 2015 ingedien.

Op 25 Junie 2015 het Mr Basil Brink 'n e-pos aan Me Delport gestuur en is daar versoek om binne 21 dae 'n bouplan in te dien vir die veranderinge. Op 24 Julie 2015 het hy weer 'n e-pos gestuur en toe verdere 7 dae kennisgewing gegee om 'n bouplan in te dien. (Sien Aanhangsel A) Die bouplan is toe op 7 Augustus 2015 ingedien en op 18 Augustus is daar 'n e-pos uitgestuur met die volgende kommentare op die plan

- Kamers is nie inter-toeganklik nie*
- Boulyne is uitstaande*
- XA berekening vir die dak*
- Wys bestaande erf voorgestelde nuwe erf*

Hierdie plan is deur Ignus Goosen by ons kantore afgehaal op 24 Augustus 2015 en het nie weer ingekom nie.

Op 13 April 2016 het ek saam met Gerrit Coetzee en Petrus Roux 'n inspeksie op die huis gaan doen. Daar is bevind dat die huis nie volgens die goedgekeurde plan gebou is nie en dat daar 3 woon eenhede op die erf was, 6 los staande kamers, 'n addisionele ingang tot die erf en 'n blombedding op munisipale eiendom aangebring is sonder goedkeuring. Ek het dadelik 'n brief uitgestuur gedateer 13 April 2016 en dis daardie selfde dag deur Wetstoepassing afgelewer. (Sien Aanhangsel B)

Daar was weer 'n bouplan ontvang op 30 Junie 2016 en die kommentaar was aan die Ignus Goosen deurgegee. Hy het 'n bespreking met myself en Gerrit Coetzee gehad oor die plan en ons het aan hom verduidelik dat die plan tot tyd en wyl die konsolidasie goedgekeur is, nie oorweeg kan word vir goedkeuring nie.

Soos ek gister aan Mev Delpont verduidelik het is die rede vir die uitreik van daardie brief as gevolg van vele klagtes en 'n inspeksie gedateer 14 April 2016.

Met my inspeksie het ek bevind dat daar van die oorspronlike goedgekeurde bouplan afgewyk was. Dus is die wet oortree en ongelukkig moet die oortreding aangespreek en vervolg word.

U sal ongelukkig by die hof moet teenwoordig wees al het u al sekere stappe geneem om die saak op te los.

Vriendelike Groete,

Liezl Potgieter

Building Inspector

Building Control

Hermanus

Overstrand Municipality



38 KENT ROAD
DUNKELD
JOHANNESBURG
2196

THE DIRECTOR: INFRASTRUCTURE AND PLANNING
OVERSTRAND MUNICIPALITY
16 PATERSON STREET
HERMANUS

BY E-MAIL TO: alida@overstrand.gov.za

ATTENTION: Mr Petrus Roux

YOUR FILE REFERENCE: 11094 HEC (3356)

Handwritten: *of A Thand*
C P Roux

FILE NO:	
SCAN NO:	1253 Heri
COLLABORATOR NO:	965051

26th October 2016

Dear Sir,

RE: ERF 11094 AND A PORTION OF REMAINING EXTENT OF ERF 1253 62 MITCHELL STREET, EASTCLIFF, HERMANUS, , OVERSTRAND MUNICIPAL AREA: PROPOSED SUBDIVISION, CLOSURE OF A PUBLIC PLACE (ROAD), REZONING, CONSOLIDATION AND CONSENT USE: WRAP ON BEHALF OF MG DELPORT.

Your registered letter dated 29 September 2016 addressed to Bramwell-Jones and Histed being two of the three registered owners of ERF 888 Hermanus refers.

I, Thomas Howard Bramwell-Jones having SA I.D. no 460123 5038 081, wish to take advantage of your invitation to comment on the proposals submitted and do so as follows also on behalf of my sister (DM Histed) and brother (RD Bramwell-Jones) who are both resident in England. (Their general Powers of Attorney in my favour can be submitted if required).

Sadly, the manner in which the said property has been developed has left us with a sense of betrayal and wonderment as to how the grotesque structure passed planning in the first instance. When advised of the initial development, we were informed that it was to be a private residence and that the developer was well within his rights. Now we are advised that the development is to become a Guest House offering five bedrooms. However, the impression is gained that the intention is to move toward a hostel type of business catering for backpackers. It is our opinion that the structure is the ugliest structure (bar the Telephone Exchange building at the southern end of Mitchell Street) in Hermanus and is most certainly not in keeping with the character of Eastcliff and Mitchell Street in particular. The applicant has even felled an old tree (believed to be the nesting site of eagle owls) that was not even on his property in total disregard of Heritage and Environmental regulations.

Following the above it is clear that I am in contention with WRAP's assertions in their MOTIVATION (see paragraph 5 – Desirability) *"Apart from the need, the land use proposal is also desirable in the sense that the facility will not have the appearance of an accommodation establishment (for example a hotel, etc) and will still appear to be a single residential unit, blending in with the existing neighbourhood and will therefore not have a negative impact on the surrounding area"*.

This is pure codswallop! Anyone looking at the structure will gain an impression that the building takes the appearance of an army barracks of sorts, hence the impression stated above that the owner intends to cater for backpackers over and above the five bedrooms to be provided for guests.

27 OCT 2016

23 OCT 2016

The above assertion by WRAP is repeated in their table that sets out the goals of the Overstrand Spatial Development Framework (SDF) and in their attempt to assess the consistency of the proposal with the goals and objectives of the SDF, even suggesting the development "*will maintain the existing character of the town*"

My family's property at 49 Mitchell Street is directly opposite the Delpport property. We have no doubt that this development has already impacted detrimentally on the value of our property and should the further proposals submitted by WRAP on behalf of MG Delpport be approved, and all municipal requirements are not met or enforced, the effects on both our own property and those of our near neighbours will be even more severe and have unintended longer-term effects on Municipal rates.

In our view then, Mr Delpport has been less than honest in his dealings with the Overstrand Municipality. WRAP Consultants state the owner 'mistakenly' built the boundary wall over portions of the road reserve of Stemmet- and Mitchell Street. Was it also a 'mistake' to cut down an old tree on municipal property. I am reliably informed, he has also 'mistakenly' infringed on building line regulations in four separate instances -

1. The west corner of the main double storey building facing on Stemmet Street projects over the present consolidated building line.
2. The single storey two bedroom structure facing Mitchell Street similarly projects over the present consolidated building line.
3. The front single storey three bedroom structure likewise projects over the present consolidated building line.
4. The south rear section of the main double storey structure extends beyond the 2 meter building line between Mr Delpport's erf no. 11094 and the adjoining erf no. 885 at 60 Mitchell Street.

Clearly, the building line contraventions listed above would be rectified should the municipality approve the first four inter-linked applications pending. However, if the municipality does approve these applications it may be seen to be following the softest possible option and if not a dereliction of duty to the residents of Eastcliff in the full legal sense, certainly a forsaking of responsibility. In other words the municipality may be seen to be setting a precedent in condoning and even facilitating such contraventions.

There have been numerous cases reported about developers who do not follow the correct procedures. That is to say, of people who build first and then try to get the plans approved once the work has been completed.

In this regard, I respectfully refer you to a somewhat similar matter in the case of Ndlambe Municipality v Matthew Lester and others (92/2011) ZAECGHC. The Ndlambe Municipality covers the village of Kenton-on-Sea in the Eastern Province – a smaller town than Hermanus but similarly catering to retirees, holidaymakers, tourists as well as the permanent residents. You will be aware that the judgement in this case "has given municipalities the green light to remove any illegal dwelling, even those that cost millions to build".

See attachment headed "Court orders Luxury Home to be Demolished".



It is acknowledged that legal action is time consuming and expensive and that much of what has been allowed to happen cannot easily be reversed. The example set by the Ndlambe Municipality demonstrates what can be achieved in the interests of the greater body of residents bearing in mind the longer term effects on Municipal valuations and rates. As I gather, there is a strong body of residents in Mitchell Street (and in Eastcliff generally) who are responding with their individual comments. It is my understanding that this group is considering what actions are available to them and I accordingly reserve my rights in this matter.

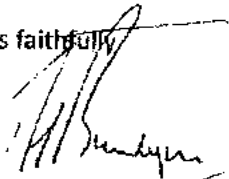
However, we can at least protest the latest applications and so urge the Infrastructure and Planning Department to stop the rot now and limit the operation of the proposed Guest House at worst to –

- Restricting the operation to a maximum of the five designated bedrooms for use by 'paying guests'.
- Acknowledgement by the owner and his successors that no other rooms will be used
- Acknowledgement by the owner and his successors that no off-street parking will be used over night
- Meals to be restricted to breakfast only
- Noise impacting on neighbours to be restrained and in the event of a complaint the manager to take immediate action to correct the matter
- Any repeated contravention of any condition imposed to result in the automatic cancellation of the Guest House usage right.

As a final point, does the condition that the portion (remaining extent of ERF 1253) that is to be subdivided, rezoned and consolidated with ERF 11094 be only used for garden purposes exclude the possible provision of additional parking? From the diagram it appears not.

We await, hopefully, to a positive outcome to your review and that the five applications be rejected and further that the municipal bye-laws be rigorously applied.

Yours faithfully



TH BRAMWELL-JONES

Court Orders Luxury Home to be Demolished

Lea Jacobs · Sep 4, 2013

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The Supreme Court of Appeal's decision to uphold an earlier judgment of the Eastern Cape High Court could have serious implications for South Africans who believe they are above the law when it comes to building a home. It could also have major consequences for those who have in the past flouted the law by building dwellings or offices that have not received the necessary approval from the municipality.

Matthew Lester, a law professor at Rhodes University, inherited a property in Kenton-on-Sea near Port Alfred. The property had originally been purchased by his grandfather in 1937 and had been handed down through the family until Lester inherited it in 1997. The property fronted the Bushman's River and had unobstructed views of the ocean. At the time, the only improvement was a small shack situated at the foot of the property. Shortly after acquiring the property Lester made additions to the 'shack' as, in the words of the judgement, 'rudimentary holiday accommodation' for himself and his daughter.

In 2002 he submitted plans for a single storey, pitched roof house, and the plans were approved. A neighbour complained to the local authority that, as an interested party, he should have been given notice of the building plans before approval was granted. Although the dwelling did obstruct his view to some extent, the neighbour did not object to the height, but did object to a second structure as, according to the title deed, the property prohibited a double residence on the stand.

It was the start of a lengthy court battle that dragged through the courts for nine long years. Lester had the plans amended and converted the 'shack' into a boathouse and out buildings. However, in 2003 he appointed a new architect and had fresh plans drawn up. The new dwelling was bigger, featured a dome roof and completely blocked the neighbour's view. According to Lester, he 'walked the officials of the various departments through the plans'. The plans were approved on the same day, but, despite an undertaking to do so, no one informed the neighbour of the new design. The plans were subsequently set aside on review.

The legal battle led to seven High Court applications heard over nearly a decade, opposing the 'architectural eyesore' until it was eventually ruled that the offending structure had to be demolished. The Appeal Court upheld this judgement, saying that the dwelling had been erected unlawfully, without any approved building plans as required by 4(1) of the National Building Regulations and Building Standards Act 103 of 1977.

The judgement sends out a clear warning to those who do not follow the correct procedures. There have been numerous cases reported about people who build first and then try and get the plans approved once the work has been completed. Beware - municipalities have, via the latest judgement, been given the green light to remove any illegal dwelling, even those that cost millions to build.

Homeowners often make the mistake of incorporating additions or converting an existing structure into a granny flat without finding out whether plans need to be submitted and approved before work can commence. Most additions require planning permission and those intent on improving their homes should contact their local authority to determine what, if any, permissions their intended improvements require.

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