

## 4.2

**PORTION 2 OF THE FARM LANGKLOOF RIVER 725, A DIVISION OF CALEDON, OVERSTRAND MUNICIPAL AREA: PROPOSED AMENDMENT OF CONDITIONS OF APPROVAL AND SITE DEVELOPMENT PLAN: MESSRS PLANACTIVE TOWN- AND REGIONAL PLANNERS ON BEHALF OF MISTY MOUNTAINS ESTATES (PTY) LTD**

**2/725 GRCA (3696)**

**P Roux**

**10 September 2018**

**(028) 313 8900**

**Hermanus Administration**

### **1. EXECUTIVE SUMMARY**

An application has been received on 31 May 2017 from Messrs PlanActive Town- and Regional Planners on behalf of the owners of Portion 2 of the farm Langkloof River 725, Misty Mountains Estates (Pty) Ltd, for the following:

- an amendment of conditions in respect of an existing approval in terms of Section 16(2)(h) to amend conditions 1 and 2 in the planning approval of 22 March 2007, and
- an amendment of the approved site development plan in terms of Section 16(2)(l) to accommodate an all spirits distillery and a craft beer brewery within a portion of 340m<sup>2</sup> within the existing wine cellar building on the farm.

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

### **2. DECISION AUTHORITY**

Municipal Planning Tribunal

### **3. BACKGROUND / SITE HISTORY**

Portion 2 of the farm Langkloof River 725 is zoned for agricultural use and is developed with a main dwelling, winery, bottling plant, wine tasting and sales office (within the cellar), a restaurant and two (2) additional dwelling units. The owners intend to add an all spirits distillery and craft beer brewery on the property which will be accommodated within the existing cellar. Therefore, the aforementioned application in section 1 of this report was submitted.

### **4. SUMMARY OF APPLICANT'S MOTIVATION**

The detailed motivation for the proposed application is attached to the item and must be read together with this summary below:

- ❖ The farm is owned by Misty Mountain Estates (Pty) Ltd and is held by Title Deed No. T45190/2005.
- ❖ Boundaries of the subject farm consist of the Kleinriviers Mountain, the R43 and farm land.
- ❖ The farm itself is 46,4691 ha in extent.

- ❖ Portion 2 of the farm Langkloof River 725 is zoned Agricultural Zone 1 with a portion of 5868m<sup>2</sup> zoned for Agricultural Zone 2 (wine cellar and bottling plant) purposes.
- ❖ The farm has a tourist facility and two (2) additional dwelling units to allow them to operate a wine tasting and sales office (within the cellar), a restaurant.

Application is made for:

- an amendment of conditions in respect of an existing approval in terms of Section 16(2)(h) to amend conditions 1 and 2 in the planning approval of 22 March 2007, and
- an amendment of the approved Site Development Plan in terms of Section 16(2)(l) to accommodate an all spirits distillery and a craft beer brewery within a portion of 340m<sup>2</sup> within the existing wine cellar building on the farm.

The amendment of conditions 1 and 2 of the planning approval of 22 March 2007 is proposed to read as follows:

- “1. *that in terms of Section 16 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) the application for the rezoning of Portion 2 of the farm Langkloof River 725, Division Caledon, Overstrand Municipal Area from Agriculture Zone 1 to Agriculture Zone 2 in order to operate a wine cellar, a bottling plant, **and an all spirits and a craft beer brewery** on the property concerned, **be approved**, and*
2. *that in terms of the Section 4.7 of the relevant Scheme Regulations application for special consent for a tourist facility and additional dwelling units in order to operate a wine, **spirits and beer tasting facility**, a restaurant and sales office (for wine, **all spirits and beer**) within the cellar and to erect two additional dwelling units on the property concerned as indicated on plans no. **farm 725-2sdp.drw dated May 2017 and farm 725-2floor.drw, be approved**, subject to the following conditions:”*

- ❖ No additional footprint will be added as the spirits distillery and craft beer brewery will be accommodated within the existing cellar building positioned within the Agriculture Zone 2 area.
- ❖ The spirits distillery process will produce no effluent and the solid waste is used as compost. The spirit will be sold locally from the farm, nationally and internationally. The beer brewery will have minimal effluent as a by-product which will be treated in the effluent treatment system (three (3) dams), solid waste produced in the brewery process will be used as animal feed, compost or sold to pig farmers.
- ❖ Spirits and beer tasting will be done at the same time and in the same manner as the existing wine tasting.
- ❖ The proposal will not be detrimental to the surrounding farms and the subject property’s zoning will remain unchanged. Further, the process involved will not lead to uncalled for smoke, smells, noise or dust and will not have a negative impact on the adjacent property owners.
- ❖ Additional parking bays will be provided in terms of the Zoning Scheme Regulations; further the existing entrance will be retained.
- ❖ Environmental approvals have been obtained.

- ❖ The subject property is optimally situated next to the R43 which helps promote agri-tourism, and the diversification of land use will diversify tourist attractions in the area.
- ❖ The proposal is motivated in terms of the Planning Principles
- ❖ The proposal is motivated in terms of the forward planning frameworks applicable in the area.

#### 5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Notices	Yes	26/06/2018	04/08/2018
Ward councillor	Yes	26/06/2018	04/08/2018
Total letters of objection	<b>TWO (2)</b>		
Was public participation undertaken in accordance with Section 45 - 49 of the Proposed Draft By-Law on Municipal Land Use Planning?			<b>Yes</b>
Was the application processed correctly?			<b>Yes</b>
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			<b>Yes</b>

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

Name	Date received	Summary of comments	Recommendation
Electro Technical Services	26/06/2017	Eskom distribution area.	Positive
Building Department	18/07/2017	No objection. Disabled toilet and parking must be provided on site.	Positive
Operational Services	27/07/2017	No objection.	Positive
Department of Transport and Public Works	02/08/2017	Annexure F.	Positive
Breede-Gouritz Catchment Management Area	04/08/2017 and 11/04/2018	Annexure G.	Positive
Environmental Section	04/08/2017	No objection.	Positive
Overberg Health	18/08/2018	Annexure H.	Positive
Eskom	23/08/2017	Annexure I.	Positive
Telkom	19/09/2017	Annexure J.	Positive

Department of Agriculture	18/10/2017	No objection.	Positive
Engineering Services	18/12/2017	Annexure K.	Positive

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

Two (2) objections were received against the proposed application. The first objection was received from the property owner of Erf 321, Stanford (Guido Costa on behalf of Astrodome). The second objection was received from the owners of Portion 4 of the Farm 725 (Fitzmore Investments (Pty) Ltd). Most of the issues raised in the objections correlate with each other and will therefore be summarised together. The full objections are attached to this item and should be read together with the point of objection as summarised below:

- 1. The additional development will lead to the further depletion of the water supply from the mountain (stream) and put further strain on the historical water supply of the surrounding property owners. The owners want assurance that their water supply will be preserved and protected. Misty Mountains already takes out more water above the surrounding property owners to irrigate their vineyards and for use at their wine cellar and bottling plant - leaving the neighbours with no borehole water for domestic use purposes.**

### Applicant's response

"All water used for water bottling was extracted from a borehole on the farm. The mountain water in the stream is discoloured and contains excessive amounts of tannin which makes it unsuitable for bottling. The water bottling plant is temporarily not operational due to market demand.

Misty Mountains at all times followed the correct procedures in obtaining approval for its agricultural activities (vineyards and wine cellar) on the farm. It should be noted that the owners of Misty Mountains only irrigate their vineyards when there is water available for irrigation. A standard 60mm pipe is installed in the stream to abstract water for irrigation purposes. One (1) of the adjacent neighbours constructed illegal structures in the stream to divert water and nothing is being said about this illegal structures and diversion. There is an existing holding dam on the farm from which irrigation of the vineyards is done.

Mr John Roberts from the Department of Water Affairs visited the farm during the previous land use application (wine cellar and bottling plan) since the same objections were received for the previous application and the water issues were dealt with accordingly.

From the above it is therefore unclear how the proposed additional land uses will impact on the existing water rights of the surrounding farms. The comments pertaining to the existing approved land uses should be dismissed and only the impact of the proposed additional land uses on the water supply has to be considered. The subject property has registered water and a copy of the water registration certificate was attached to the application. Water for the proposed

distillery and beer brewery will be extracted from the existing borehole. The lawful water use is currently receiving attention (see paragraph 4 below).

We attach the comments from Department of Water Affairs and Forestry dated 21 December 2005 and the letter of the Department of Environmental Affairs & Development Planning (DEA&DP) dated 6 December 2006 applicable to the previous land use application (wine cellar and bottling plant). The proposed distillery and brewery application is to allow for the diversification of the existing land uses within existing structures and it is submitted that the impact will only be marginally higher than with the existing approved land uses.”

#### **Town Planner’s response**

The applicant has obtained positive comment from Breede-Gouritz Catchment Management Agency (BG-CMA) regarding the usage of the water source; subject to conditions - one of which will be incorporated into the recommendation should the application be approved.

- 2. The additional development will lead to effluent contamination on the water sources and in turn threaten the pristine fynbos and animal life on the surrounding farms.**

#### **Applicant’s response**

“Once again the approved land uses, the effluent generated and the treatment thereof was already addressed with the previous land use application.

As mentioned in our application the distillery will produce no effluent water for further treatment.

The proposed craft beer brewery will produce limited amounts of effluent and this small amount will connect to the existing effluent treatment system. The effluent will be treated along with the wine cellar’s effluent in line with the previous approval. The letter from DEA&DP dated 6 December 2006 approved the proposed effluent treatment system. Consequently the effluent is disposed in an acceptable manner to ensure that the ground and groundwater remains uncontaminated.

The existing waste water treatment system will suffice for the treatment of the brewery’s (minimal) additional effluent and no further upgrades are required.”

#### **Town Planner’s response**

The property owner has developed a system to treat the effluent before it is reintroduced. Any major impact on the natural environment would have been detected by (BG-CMA) and Overstrand Environmental Section. From the comments received from the respective departments it is evident that the proposal will not have a major impact on the natural environment.

- 3. The proposed development will lead to increased traffic volumes that could lead to a high accident zone at the access point to the farm.**

#### **Applicant’s response**

“The District Roads Engineer (DRE) gave his consent for the proposed additional land uses. Refer to a copy of the DRE’s consent dated 21 July 2017. No additional studies or reports were requested by the DRE. Paragraph 4 of the DRE’s consent letter is receiving attention. Our client was referred to Mr Stewart Bain at the DRE’s Paarl Offices to assist him in ensuring that the access is altered and that its geometry is consistent with the road standard.

It is anticipated that the addition of the all spirits distillery and craft beer brewery will have a minimal impact on the traffic generated to the farm since visitors who already intended visiting the farm for wine tastings, will now have the option of beer and spirit tasting as well. In addition the traffic will also be spread during the course of the day. The scale of the proposed development is comparatively small and the floor area to be used for the distillery and beer brewery purposes is an already approved floor area for wine cellar purposes and the impact of the wine cellar was already considered with the initial application. It is submitted that the use of the floor area for wine cellar purposes versus distillery and brewery purposes will have the same impact on the traffic generated to the subject property.”

#### **Town Planner’s response**

The comment provided by the applicant is agreed with as the Department of Transport and public Works is road authority of the R43. Further, tourists who are already visiting other facilities in the general area will seek to make use of the facilities; therefore the traffic generated will be minimal.

#### **4. BG-CMA commented on the application and requested additional information pertaining to the existing lawful water use of the subject property.**

#### **Applicant’s response**

“The lawful water use comment is receiving attention and the response to BG-CMA’s letter dated 26 July 2017 will follow. Our client has scheduled a meeting with Mr Patrick van Coller for Wednesday, 6 September 2017. We herewith request that an additional period of sixty (60) days be granted to allow our client to address the lawful water use on the subject property.”

#### **Town Planner’s response**

Revised comment from BG-CMA was received on 11 April 2018 and it is indicated that the agency has no objection subject to conditions which will be incorporated into the decision should the application be approved.

### **8. SUMMARY OF APPLICANT’S REPLY TO COMMENTS**

See comment above.

### **9. MUNICIPAL ASSESSMENT OF COMMENTS**

Various internal and external departments have provided positive comment on the proposed application and the relevant conditions will be incorporated into the decision, should the application be approved.

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

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

The proposed application is considered consistent in the following manner from a town planning perspective:

#### **Spatial Justice**

The proposed land uses will create additional employment opportunities for local residents residing in Hermanus and Stanford. Further, the diversification will be to the benefit of the local economy. Five to six (5 – 6) new jobs will be created with the farm employing eight (8) permanent workers and seasonal workers.

#### **Spatial sustainability**

The application is considered spatially sustainable as the existing structures will be more optimally utilised without affecting natural vegetation. The existing structures are compatible with the character of the area and do not impact negatively on the existing agricultural activities.

Compliance with the planning policies, compliance with land use approval and environmental approval allows the uses on the property not to have an adverse impact on the spatial sustainability of the area. The existing structures will be maintained and therefore the impact on sensitive environment will be non-existent.

#### **Efficiency**

The subject property is situated next to the R43 and therefore easily accessible. The proposed additional uses will be a diversification of the land uses on the working farm, which will lead to the farm being efficiently utilised.

#### **Spatial resilience**

The application will ensure that the existing and proposed land resources are utilised in line with the Overstrand Municipality's forward planning documents.

#### **Good administration**

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

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

Same as above.

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

The proposed land uses are in line with the land use parameters in terms of the Zoning Scheme and in line with the zoning obtained in 2007. The proposed

application is further in line with the principles of the Overstrand Municipality Wide Spatial Development Framework, 2006 (OMSDF) and the Overstrand Municipality Integrated Development Framework, 2014 (IDF) which promote tourism.

#### **10.4 (In)consistency with guidelines prepared by the Provincial Minister**

Not applicable.

#### **10.5 Impact on Municipal engineering services**

Services are to be rendered as stated in the Services Report. No additional services will be required.

#### **10.6 Outcomes of investigations/applications i.t.o other legislation**

The proposed application does not trigger any listed activity in terms of the National Environmental Management Act (NEMA).

#### **10.7 Existing and proposed zoning comparisons and considerations**

A portion of the subject property was previously rezoned from Agricultural Zone 1 to Agricultural Zone 2 to accommodate a wine cellar and bottling plant. The rezoning was approved in 2007 in terms of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) (LUPO). It should be noted that the Overstrand Municipality adopted an Integrated Zoning Scheme in 2014 and the Integrated Zoning Scheme only allows for Agricultural Zone 1 with consent uses which incorporates a wine cellar and bottling plant. Considering the aforementioned the current land uses are in line with the land uses as depicted in the Zoning Scheme. Further, by amending the approval condition scope is allowed for the diversification of the land uses.

#### **10.8 The desirability of the proposal**

Portion 2 of the farm Langkloof River 725 is a working farm which contributes towards the economy of the Greater Hermanus Area and with the implementation of the approvals provided in 2007, the farm also contributes towards tourism.

The applicant seeks to diversify the existing uses on the property in order to allow the property owner to distil spirit liquors and brew craft beers. The aforementioned uses will be located within the footprint of the existing cellar building. No additional footprints will be developed.

As discussed by the applicant in the motivation the additional uses will have minimal impact on the services required for the production of the spirits and craft beers. Further, the existing access will be utilized, no objection is offered from the Department of Transport and Public Works, subject to the condition that the road access be redesigned.

Both BG-CMA and Overstrand Municipality Environmental Services support the application. Further, the Overstrand Municipality Environmental Services

indicated that the proposal does not trigger any listed activities in terms of the National Environmental Management Act (NEMA).

The objections received from the adjacent property owners are noted and have been sufficiently addressed. Most of the issues are and can be mitigated with the proper management of the farm. The property owner of Portion 2 of the farm Langkloof River 725 has indicated that mitigation measures will be taken to ensure that the relevant issues are addressed.

Subject to the above being stated the proposal submitted by the applicant can be considered desirable due to the following reasons:

- Local and provincial departments have provided supporting comments for the development.
- The diversification of the development will be able to utilise existing services (water & sewerage) on the farm which is supported by BG-CMA.
- The proposal is compliant with the spatial policies contained in the SDF and IDF.
- The proposal is constant with the spatial principles as set out in SPLUMA and LUPA.
- The Title Deed does not hold any restrictive conditions preventing the proposed development.
- The subject property is optimally located close to Stanford, Hermanus and other tourist facilities in the surrounding area.
- The uses depicted in the design proposal are that of a rural/agricultural character, which contributes towards the character of the area. Further, the proposed uses will be accommodated in existing structures.
- The subject property is consisting with the natural beauty which attracts tourist to the area.

#### 10.9 ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

No restrictive title deed conditions require to be removed.

#### 11. RECOMMENDATION

1. that, in terms of Section 16(2)(h) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-law), the application to amend conditions 1. and 2. in the planning approval of 22 March 2007, **be approved** in terms of the provisions of Section 61 of the By-law;
2. that, in terms of Section 16(2)(l) of the By-law, the application to accommodate an all spirits distillery and a craft beer brewery within a portion of 340m<sup>2</sup> within the existing wine cellar building on the farm, **be approved** in terms of the provisions of Section 61 of the By-law;
3. that, the approvals provided in paragraphs 1. and 2. are subject to the following conditions:
  - (a) that the approvals are for the development as indicated on drawing no 725-2sdp.drw, that was submitted with the application;

- (b) *that the amendment of conditions 1. and 2. of the planning approval dated 22 March 2007 is proposed to read as follows:*

*“1. that, in terms of Section 16 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)(LUPO) the application for the rezoning of Portion 2 of the Farm 725, Division Caledon, Overstrand Municipal Area from Agriculture Zone 1 to Agriculture Zone 2 in order to operate a wine cellar, a bottling plant, **and all spirits and a craft beer brewery** on the property concerned, **be approved**, and*

*2. that, in terms of the Section 4.7 of the relevant Scheme Regulations application for special consent for a tourist facility and additional dwelling units in order to operate a wine, **spirits and beer tasting facility**, a restaurant and sales office (for wine, **all spirits and beer**) within the cellar and to erect two additional dwelling units on the property concerned as indicated on plans no. **farm 725-2sdp.drw dated May 2017 and farm 725-2floor.drw, be approved**, subject to the following conditions:*

- (c) that all the conditions imposed by Department of Transport and Public Works, Breede-Gouritz Catchment Management Area, Overberg Health, Eskom, Telkom and the Engineering Services Report (attached as Annexures F - K), be complied with;
- (d) that building plans be submitted to the Building Department for approval;
- (e) that the additional and existing uses comply 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;
- (f) that applicable rates and service tariffs, as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
- (g) that the approvals do not absolve the applicant from compliance with any other relevant legislation, and
- (h) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
4. that the applicant and the objectors be notified of their respective appeal rights in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above conditional approvals.

## 12. REASONS FOR RECOMMENDATION POINT 1 AND 3

- ❖ The proposed uses will have a minimal impact on the surrounding area.
- ❖ The diversification of uses on the property will positively contribute to tourism in the area, job creation and economic growth.
- ❖ The objections received have been sufficiently addressed.
- ❖ The application has followed due procedure.
- ❖ None of the internal departments have any objection.

- ❖ Local and provincial departments have provided supporting comments for the proposed application.
- ❖ The proposal is compliant with the spatial policies contained in the SDF.
- ❖ The proposal is constant with the spatial principles as set out in SPLUMA and LUPA.

### 13. Annexures

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plan
Annexure D:	Objections received
Annexure E:	Applicant's comment on the objections
Annexure F:	Department of Transport and Public Works
Annexure G:	Breede-Gouritz Catchment Management Area
Annexure H:	Overberg Health
Annexure I:	Eskom
Annexure J:	Telkom
Annexure K:	Services Report

### SIGNATURES

#### AUTHOR:

Name: **PETRUS ROUX**

SACPLAN Reg No: **A/2246/2015**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

#### REGISTERED PLANNER

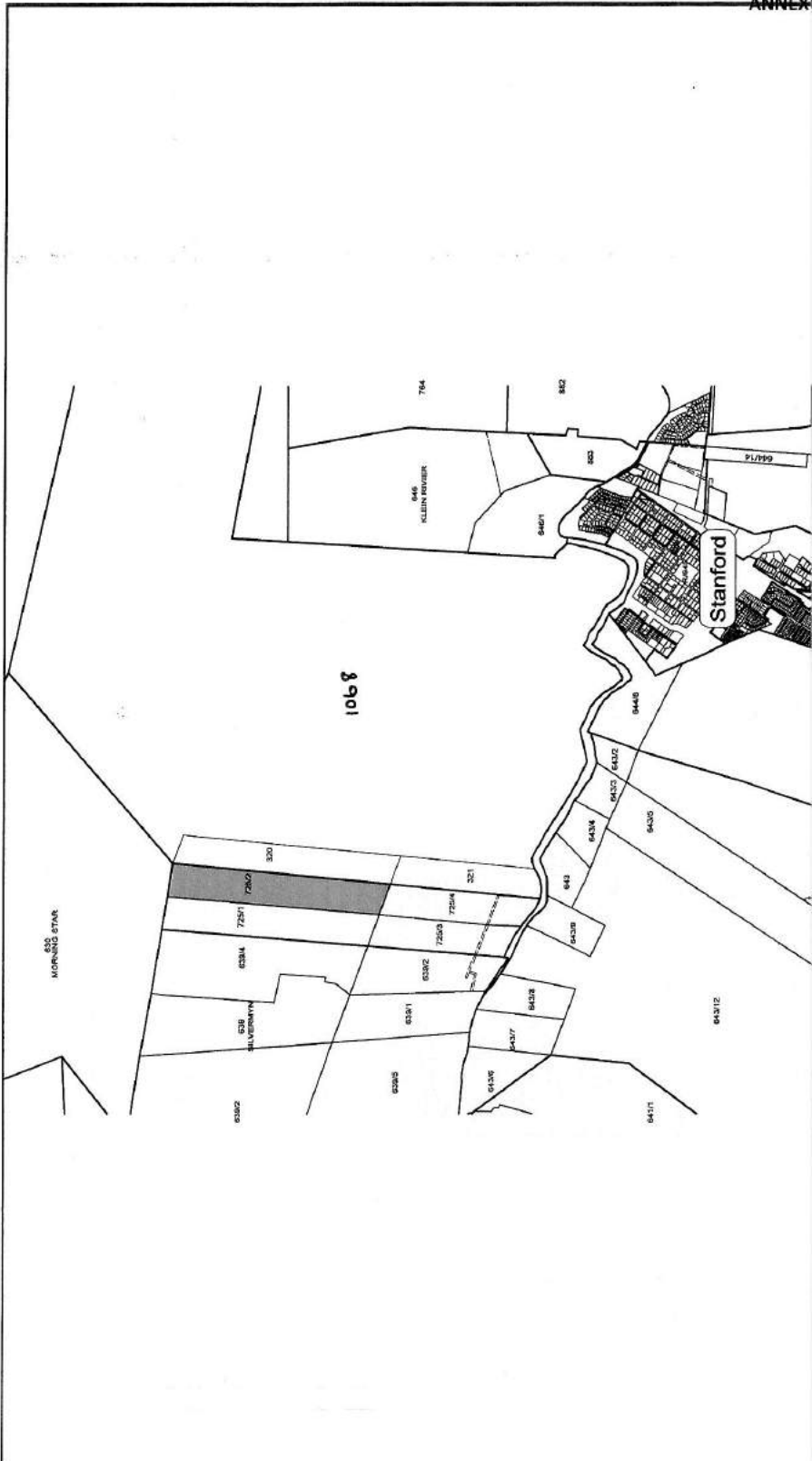
Name : **S VAN DER MERWE**

SACPLAN Reg No: **A/1850/2014**

Signature : \_\_\_\_\_

Date: \_\_\_\_\_

ANNEXURE A 1/1



<b>PLA<sup>n</sup> Active</b> Stads- en Streeksbeplanners Town & Regional Planners	All distances approximate and subject to survey. COPY RIGHT RESERVED	Property Description: <b>PORION 2 OF FARM          NO. 725</b>	Plan Description: <b>LOCALITY MAP</b>	Scale: NTS Drawing Nr: fam.725-2l.drw Date: MAY 2017
		ANNEXURE A 1/1		

**PROPOSED AMENDMENT OF THE SITE  
DEVELOPMENT PLAN & CONDITIONS OF APPROVAL**

**PORTION 2 OF FARM NO. 725  
(MISTY MOUNTAIN FARM)**

**DIVISION CALEDON**

**OVERSTRAND MUNICIPALITY**

**MOTIVATION REPORT**

**1. BACKGROUND**

The company Plan Active Town & Regional Planners has been appointed by Mr Andre van Vuuren, on behalf of Misty Mountain Estates (Pty) Ltd, the owners of Portion 2 of Farm No. 725, to submit an application for the amendment of the conditions of approval and the amendment of the site development plan of the subject property. An application for the rezoning and consent use of Portion 2 of the farm no. 725 was approved on 28 February 2007 by Council (letter dated 22 March 2007 attached). The approval allows the subject property to be used as a wine cellar and bottling plant, a wine tasting facility & sales office within the cellar, a restaurant within an existing building and for two additional dwelling units.

The owners intend to add an all spirits distillery and craft beer brewery on the subject property. The aforementioned will be accommodated within the eastern wing of the existing cellar building.

To allow the proposed new land uses to be accommodated on Portion 2 of farm No. 725, application is made for the amendment of the previous conditions of approval as well as the site development plan to include a distillery and beer brewery within the existing wine cellar building.

## **2. APPLICATION DETAILS**

Application is made for the following:

- The amendment of the site development plan in terms of Chapter 4, Section 16(2)(l) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, to accommodate an all spirits distillery and a craft beer brewery within the existing wine cellar building on Portion 2 of farm No. 725;
- The amendment of conditions of an existing approval in terms of Chapter 4, Section 16(2)(h) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, to accommodate an all spirits distillery and a craft beer brewery on Portion 2 of farm No. 725.

## **3. GENERAL APPLICATION INFORMATION**

### **3.1 PROPERTY DESCRIPTION**

Portion 2 of the Farm no. 725 is 46,4691ha in extent and is situated  $\pm$ 4km northwest of Stanford on route to Hermanus. The farm is owned by Misty Mountain Estates (Pty) Ltd and is held by title deed no. T45190/2005. The boundaries of the subject farm consist of the Kleinriviers Mountain to the north, the R43 to the south and Farms No.320 and 725/1 on the eastern and western side respectively. Refer to the Locality Plan.

The property is situated within an area of natural beauty and is primarily used for agricultural ( $\pm$ 22ha vineyards) and agri-tourism related purposes.

### **3.2 ZONING**

Portion 2 of farm no. 725 is zoned Agriculture Zone I with a portion of 5868m<sup>2</sup> zoned for Agricultural Zone II (wine cellar and bottling plan) purposes. The subject property also has consent for a tourist facility and two additional dwelling units to allow them to operate a wine tasting facility and a sales office within the cellar and a restaurant in a separate building as shown on the approved site development plan. Refer to a copy of the previous letters of

approval dated 22 March 2007 and 29 December 2008 respectively.

Surrounding properties are zoned for agriculture and agri-tourism purposes.

### **3.3 LAND USE**

The farm is used for agriculture and agri-tourism purposes and the following land uses are present on the subject property:

- ±22ha vineyards;
- Wine cellar and bottling plant;
- Wine tasting facility and sales office within the existing wine cellar building
- Restaurant building;
- Two additional dwellings;
- Main dwelling;
- Three dams for effluent treatment;
- Olive trees.

The Misty Mountains Farm is home to award winning wines, world class water and a beautiful tasting room. The Misty Mountains Estate currently produces Sauvignon Blanc Shiraz, Sémillon and Mourvèdre.

### **3.4 PROPOSED DEVELOPMENT**

The following are proposed:

- The amendment of the approved site development plan in terms of Chapter 4, Section 16(2)(l) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, to accommodate an all spirits distillery and a craft beer brewery within a portion of 340m<sup>2</sup> within the existing wine cellar building on Portion 2 of farm No. 725;
- The amendment of conditions of an existing approval in terms of Chapter 4, Section 16(2)(h) of the Overstrand Municipality's By-law on Municipal Land Use Planning,

2016, to accommodate an all spirits distillery and a craft beer brewery of 340m<sup>2</sup> in extent within the existing wine cellar building on Portion 2 of farm No. 725.

The owners have successfully constructed and operated the approved land use rights over the past years. To add to the farm's income the owners intend to diversify the land uses on the subject property by adding an all spirits distillery and a craft beer brewery on the subject property. The aforementioned land uses' floor space will be ±340m<sup>2</sup> and will be accommodated within the eastern wing of the existing cellar building.

Application is therefore made for the amendment of the approved site development plan and conditions of approval to include an all spirits distillery and a craft beer brewery.

It is proposed to amend conditions 1. and 2. of Council's decision as described in the letter of approval dated 22 March 2007 to read as follows:

*"1. That in terms of Section 16 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) application for rezoning of Portion 2 of the farm no. 725, Overstrand Municipal Area from Agriculture Zone I to Agriculture Zone II in order to operate a wine cellar, a bottling plant, **an all spirits distillery and a craft beer brewery** on the property concerned, be approved, and*

*2. that in terms of Section 4.7 of the relevant Scheme Regulations application for Special Consent for a tourist facility and additional dwelling units in order to operate a wine, **spirits and beer tasting facility**, a restaurant and sales office (for wine, **all spirits and beer**) within the cellar and to erect two additional dwelling units on the property concerned as indicated on Plans no. **farm725-2sdp.drw dated May 2017 and farm725-2floor.drw**, be approved, subject to the following conditions:"*

The proposed all spirits distillery and craft beer brewery will be accommodated within the existing cellar building positioned within the ±5868m<sup>2</sup> zoned Agriculture Zone II area. It is proposed to accommodate the distillery and craft beer brewery within a ±340m<sup>2</sup> space within the eastern wing of the existing wine cellar building. Refer to the site development plan and floor layout plan attached. No new structures or footprint zonings are required to accommodate the proposed all spirits distillery and craft beer brewery.

The distillery will produce all types of spirits which includes but are not limited to gin, whiskey, brandy, cognac, grappa, etc.. The still can take up to 100 litres of fluid and produce 50 litres of spirits from the aforementioned 100 litres per distillery process. It is

anticipated that the owners will also include a copper pot still in future of 50 litres in size. This still will then produce 10 litres of spirits per distillery process. The product (spirits) are sold from the premises, at offset areas in and surrounding Cape Town and Johannesburg and will potentially also be exported to the Asian market.

The solid waste from the distillery will be used for compost processing and then later as compost for the vineyards and gardens. The distillery will produce no effluent water for further treatment.

The proposed beer brewery will produce craft beer. The basic ingredients of the beer are water and a fermentable starch source such as malted barley. The beer is fermented with a brewer's yeast and flavoured with hops. Steps in the proposed brewing process will include malting, milling, mashing, lautering, boiling, fermenting, conditioning, filtering, and packaging.

The craft beer will only be sold from the premises and will not be distributed to local or international markets. The solid waste product of the beer is referred to as spent grain. This product is the leftover malt and adjuncts after the mash has extracted most of the sugars, proteins, and nutrients and can constitute as much as 85 percent of a brewery's total by-product. Craft breweries such as the proposed brewery have devised innovative ways to prevent the spent grain from going to waste. The proposed craft brewery on Portion 2 of farm no. 725 will use their spent grain as compost and for animal feed for cattle and pigs. Excessive amounts of spent grain will be sold to pig farmers in the immediate area.

The proposed craft beer brewery will produce limited amounts of effluent and this small amount will connect to the existing effluent treatment system (three dams). The brewery's effluent will therefore be treated with the wine cellar's effluent in line with the previous approval (more detail to follow in the services section of the application).

It is proposed to allow spirits and beer tastings in the existing tasting room as well. Consequently it is proposed to amend the condition of approval to include the beer and spirits tastings as well. The aforementioned tastings will be undertaken in the same manner and at the same operating times as for the existing wine cellar.

The proposed additional land uses do not propose activities that will lead to uncalled for smoke, smells, noise or dust and will therefore not have a negative impact on the adjacent property owners or the ambiance of the area.

The proposed amendment of the site development plan and conditions of approval do not have a negative impact on the surrounding farms as the subject property's zoning will remain unchanged. The subject property's land use rights as per the previous approval of 22 March 2007 has vested, this application merely proposes the diversification of land uses within the existing approved wine cellar building. The footprint of the existing wine cellar building will remain unchanged.

The proposed revised site development plan for consideration is the most compact and unobtrusive option for diversifying the land uses on the subject property and consequently respects the rural vernacular. It is therefore submitted that the proposed land use application does not impact on the existing agricultural and agri-tourism land uses on site or in the immediate vicinity.

For details pertaining to the services on the subject property please refer to Section 3.7.1 of this report.

Section 3.9 motivates the application further in terms of the applicable local and regional spatial planning policies.

The proposed amendment to the approved site development plan and amendment of the conditions of approval are not in contrast to the existing land uses tendencies in the surrounding environment. Consequently the application can be evaluated for your favourable consideration.

### **3.5 CHARACTER OF THE ENVIRONMENT**

The amendment of the site development plan and conditions of approval will have a limited to low impact visually and with regards to the sense of place. The proposed all spirits distillery and craft beer brewery will be accommodated within the eastern wing of the existing

wine cellar building. No new structures or an extended Agricultural Zone II area is proposed. The immediate area surrounding Portion 2 of farm no. 725 is mainly made up of agricultural and agri-tourism land uses.

The proposed application implies the inclusion of a distillery and a craft beer brewery within existing structures with only the amount of the required parking bays that will be slightly more than with the original application. The proposed parking bays will be added at the back (north) of the approved building on an already tarred surface (i.e. not visible from the R43 travelling between Hermanus and Stanford). A few parking bays (also tarred surface) east of the wine cellar building already exist and are also indicated on the site development plan. As such the proposed diversification of the land uses on Portion 2 of farm no. 725 will not be out of character with the immediate surrounds and will have a limited to no impact on the aesthetics of the area.

### **3.6 THE POTENTIAL OF THE PROPERTY (DESIRABILITY OF THE PROPOSED UTILIZATION)**

All approvals (Environmental and Land Use approvals) for the existing land uses at the Misty Mountains Farm were already obtained. The desirability of the existing wine cellar and bottling plant, tourist facilities and additional dwellings were therefore already considered and the municipality and the Department of Environmental Affairs & Development Planning are satisfied that the existing land uses are not in conflict with the relevant environmental and land use legislation and spatial planning policies. The desirability of the approved land use was therefore already considered with reference to impact on biophysical, heritage, visual, services, traffic and noise impacts and favourably evaluated and approved.

Due to the location of the property and since the proposed land uses will be accommodated within an existing structure (within the Agriculture Zone II footprint zoning) it has the potential to diversify the existing land uses for agricultural industry (all spirits distillery and a craft beer brewery) and tourist facility (all spirits and craft beer tasting and sales) purposes. The existing infrastructure (building, tarred driveways and parking areas, services, etc.) can easily accommodate the proposed diversification of land use. The Hermanus to Stanford route is characterized by agri-tourism uses and due to its location the subject property has the potential to diversify the tourism attractions in the area without having a detrimental impact on the conservation worthy, agricultural activities or visual elements of the site and the area.

The owners took the aforementioned into consideration and decided to contribute towards the diversification of the tourist attractions by offering these unique three in one tastings (wine, spirits and beer) in the existing wine cellar building. In addition minimal changes to the existing structures and low impacts on the existing services infrastructure allows for the consideration of the diversification of income for the subject property.

### **3.7 IMPACT ON EXTERNAL ENGINEERING SERVICES**

#### **3.7.1 PROVISION OF SERVICES**

All services on the subject property already exist. The proposed amendment of the site development plan and conditions of approval will have no impact on the scale and usage of the existing available services since no additional loading of the existing civil infrastructure is anticipated.

##### Electricity

Eskom is the electricity provider to the subject property.

##### Sewage

The distillery will produce no effluent water for further treatment.

The proposed craft beer brewery will produce limited amounts of effluent and this small amount will connect to the existing effluent treatment system. The effluent will be treated along with the wine cellar's effluent in line with the previous approval. The letter from the Department of Environmental Affairs & Development Planning dated 6 December 2006 approved the proposed effluent treatment system. Consequently the effluent is disposed in an acceptable manner to ensure the ground and groundwater remains uncontaminated.

The existing waste water treatment system will suffice for the treatment of the brewery's (minimal) additional effluent and no further upgrades are required.

##### Available water

The subject property has registered water – please refer to copy of the Water Registration Certificate attached. Water for the proposed distillery and beer brewery will be extracted

from the existing borehole.

#### Solid waste

The solid waste from the distillery will be used for compost processing and then later as compost for the vineyards and gardens.

The solid waste product of the beer is referred to as *spent grain*. This product is the leftover malt and adjuncts after the mash has extracted most of the sugars, proteins, and nutrients and can constitute as much as 85 percent of a brewery's total by-product. Craft breweries such as the proposed brewery have devised innovative ways to prevent the spent grain from going to waste. The proposed craft brewery on Portion 2 of farm no. 725 will use their spent grain as compost and for animal feed for cattle and pigs. Excessive amounts of spent grain will be sold to pig farmers in the immediate area.

### **3.7.2 TRAFFIC IMPACT, PARKING AND ACCESS**

Since we are not applying for a subdivision of Portion 2 of farm no. 725, no additional access points or access roads will be created and the existing access points and roads will remain. The main existing access to the farm from the R43 will be used to all the proposed land uses. The District Roads Engineer (DRE) approved the existing access point for the existing land uses on Portion 2 of farm No. 725 – refer to DRE's letter dated 23 January 2006. The proposed amendment of the SDP and conditions of approval application was circulated to the DRE and their comments / approval will follow.

It is anticipated that the addition of the all spirits distillery and craft beer brewery will have a minimal impact on the traffic generated to the farm since visitors who already intended visiting the farm for wine tastings, will now have the option of beer and spirit tasting as well. In addition the traffic will also be spread during the course of the day. The scale of the proposed development is comparatively small and the floor area to be used for the distillery and beer brewery purposes is an already approved floor area for wine cellar purposes and the impact of the wine cellar was already considered with the initial application. It is submitted that the use of the floor area for wine cellar purposes versus distillery and brewery purposes will have the same impact on the traffic generated to the subject property. The proposed additional land uses can attract slightly higher volumes of traffic to the subject

## ANNEXURE B 10/16

10

property, but not to the extent that a traffic impact statement is required. We are of the opinion that the existing access point should therefore suffice for the purposes of this application.

The proposed amendment of the Site Development Plan and conditions of approval application complies with the parking requirement policy for developments in the Overstrand. The parking requirements for the land uses accommodated within the wine cellar building are as follows:

Land use	Gross Leasable Area	Parking required	Parking provided
Wine cellar	±600m <sup>2</sup>	2 bays per 100m <sup>2</sup> GLA = 6 bays	12
Distillery & brewery	±340m <sup>2</sup>	2 bays per 100m <sup>2</sup> GLA = 1 bay	7
Tourist facilities within wine cellar building	±250m <sup>2</sup>	6 bays per 100m <sup>2</sup> GLA = 10 bays	15
<b>TOTAL</b>		<b>34</b>	<b>35</b>

Refer to the site development plan indicating the proposed parking layout. Therefore ample parking can be provided for on site. All parking bays are 2,5m x 5m in extent with at least 7m manoeuvre space behind each parking bay. The parking bays will be situated east of the existing wine cellar building and behind (north) of the wine cellar in an already tarred parking area. The existing loading area is also indicated on the site development plan. The existing parking area does not infringe onto the existing vegetation or agricultural activities of the subject property.

### 3.8 TITLE DEED

The title deed T45190/2005 has no restrictions that need to be removed in order for this application to be approved. Condition D on page 3 of the title deed stipulates that the District Roads Engineer has to give his consent for the proposed diversification of land use. The application was circulated to the DRE and their comments / approval will follow.

10

Since the content of the title deed is straight forward (no conditions mentioned pertaining to land use management), a conveyancer's certificate is not deemed a requirement for this land use application.

All existing servitudes being referred to in title deed T45190/2005 will remain unchanged.

There is no bond registered against the subject property.

### **3.9 FUTURE PLANNING**

#### **3.9.1 PROVINCIAL SPATIAL DEVELOPMENT FRAMEWORK (2013)**

##### **DEVELOPMENT OUTSIDE THE URBAN EDGE**

The PSDF (2013) stipulates that compatible and sustainable rural activities of an appropriate scale and form can be accommodated outside the urban edge (except in bona fide wilderness areas). The following criteria apply in assessing consistency with this policy:

- Does not alienate unique or high value agricultural land, or compromise existing farming activities.
- Does not compromise the current or future possible use of mineral resources.
- Is consistent with the cultural and scenic landscapes within which it is situated.
- Does not involve extensions to the municipality's reticulation networks (i.e. served by off-grid technologies)
- Does not impose real costs or risks to the municipality delivering on their mandate.
- Does not infringe on the authenticity of rural landscapes.

The proposed amendment of the site development plan and conditions of approval comply with the criteria specified by the PSDF (2013):

- Existing structures and roads will be used to accommodate the proposed all spirits distillery and craft beer brewery (keeping the impact on the environment to a minimum).
- There is no impact on the agricultural productive landscape.
- The proposed development does not compromise any possible future use of mineral resources (if any).
- All services can be provided for on site.

- The proposed distillery and beer brewery are small-scale land use additions to the existing land use rights to keep the impact on the rural landscape to a minimum.

From the above it is evident that the proposed development is consistent with the PSDF's (2013) criteria to reach the Province's objectives to strengthen and diversify the rural economy.

### **3.9.2 RURAL LAND USE PLANNING & DEVELOPMENT GUIDELINES**

The abovementioned policy specifies that rural tourism and recreation facilities and activities should not compromise farm production and should be placed to reinforce the farmstead precinct. Existing structures or disturbed footprints should preferably be used, and adequate provision made for access and parking. Buildings should respond to the farm's built vernacular.

The proposed amendment of the site development plan and conditions of approval to accommodate the proposed distillery and craft beer brewery adhere to all the abovementioned criteria and objectives:

- The proposed all spirits distillery and craft beer brewery will not compromise the existing or future farming production;
- The proposed distillery and beer brewery will be accommodated within an existing structure. Furthermore adequate provision is made for access and parking on site.

From the above it is evident that the proposed development adheres and complies with the Rural Land Use Management Guidelines.

### **3.9.3 OVERSTRAND SPATIAL DEVELOPMENT FRAMEWORK (2006)**

The *Overstrand Spatial Development Framework (2006)* indicates that Portion 2 of farm no. 725 is situated outside the urban edge in the rural areas of the Overstrand region. The aforementioned policy earmarks the subject property for Conservation 2, Conservation-Agriculture Buffer and Core-Agriculture purposes.

Portion 2 of farm no. 725 is used for agricultural, agricultural industry and agri-tourism purposes: rezoned area of ±5868m<sup>2</sup> for Agriculture Zone II purposes (wine cellar and bottling plant), consent use for tourist facilities (wine tasting facility, sales office, restaurant) and two

additional dwelling units. It is not proposed to rezone the subject property or a portion thereof to accommodate the proposed all spirits distillery and craft beer brewery. The main land use and zoning will remain for agricultural purposes. The proposed amendment of the conditions of approval and site development plan to accommodate the proposed all spirits distillery and craft beer brewery do not impact on any conservation worthy portion/s of land on the subject property since the proposed additional land uses will be accommodated within an existing structure.

Consequently the proposed amendment of the site development plan and conditions of approval of Portion 2 of farm no. 725 is compatible with the spatial planning policies for the Overstrand area.

### **3.10 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION**

#### **3.10.1 HERITAGE VALUE**

The application does not involve changing the character of a site larger than 5000m<sup>2</sup> since the subject property's character will remain unchanged:

- The approved land uses and structure for agricultural industry and tourist facilities already exist on the subject property;
- The proposed all spirits distillery and craft beer brewery will be accommodated within the existing wine cellar positioned within the approved Agriculture Zone II zoned area.

Consequently the proposed amendment of the approved site development plan and conditions of approval application does not trigger Section 38 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

#### **3.10.2 ENVIRONMENTAL IMPACT**

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

The previous change of land use and the three holding dams for the treatment of the effluent were already approved by the Department of Environmental Affairs & Development Planning (refer to their letter dated 6 December 2006). The amendment of the site development plan and conditions of approval application proposes land uses that will be accommodated within the existing wine cellar positioned within the approved Agriculture Zone II zoned area. In addition the limited amount of effluent produced by the proposed beer brewery will connect to the existing waste water system. The existing waste water treatment system will suffice for the treatment of the brewery's additional effluent and no further upgrades are anticipated.

### 3.11 PLANNING PRINCIPLES

Spatial justice: The tourist facilities and agricultural industry will create new employment opportunities for local residents residing in the townships of Hermanus and Stanford. It is anticipated that the proposed all spirits distillery and craft beer brewery will create 5-6 new employment opportunities. The existing farm has 8 permanent staff with seasonal workers also being employed when required. Although the proposed amendment of the site development plan and conditions of approval does not constitute access to land for previously disadvantaged persons, the proposed diversification of the land uses will also benefit previously disadvantaged persons through job creation opportunities and in turn benefit the local economy.

Spatial sustainability: the proposed all spirits distillery will be accommodated in an existing and approved wine cellar structure and will consequently have no negative impact on the conservation worthy areas on the farm. The existing structure (wine cellar) is situated in an area rezoned for Agriculture Zone II purposes. All the existing approved land uses as well as the diversification of land uses application will have no impact on the agricultural activities.

It is submitted that the impact on the biophysical environment will be kept to a minimum. Furthermore the extent of the subject property, the location of the subject property, the economic and social value the development will add to the area, compliance with the spatial planning policies for the area, compliance with previous land use and environmental approval conditions, etc. allows for the consideration and approval of the proposed

amendment of the site development plan and conditions of approval without having an adverse impact on the spatial sustainability of the area. The proposed additional land use rights are to an improved farm within an approved and established agricultural industry and tourist facility area and therefore will not impact on a sensitive environment.

Efficiency: The subject property is easily accessible and conveniently located close to Stanford and Hermanus which makes travelling to the farm to make use of the proposed distillery and beer brewery easy and accessible to everybody. The subject property is a working farm. It proves to be efficient to diversify the land uses associated with the agricultural industry (all spirits distillery and craft beer brewery) and tourist facility (spirits and beer tasting and sales) to diversify the sources of income of the subject property. Simultaneously the proposal creates an unique tourist experience on the farm without negatively impacting on existing agricultural activities, existing land use approvals or the surrounding environment.

It proves to be efficient to accommodate the additional land uses (distillery and beer brewery) within the existing structures and within the Agriculture Zone II portion of land to ensure that the impact on the environment is kept to a minimum.

Spatial resilience: Not applicable to this application.

Good administration: Our firm is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process. The land use application will follow due process as stipulated in the relevant municipality's bylaw and related provincial and national land use planning legislation.

#### **4. RECOMMENDATION**

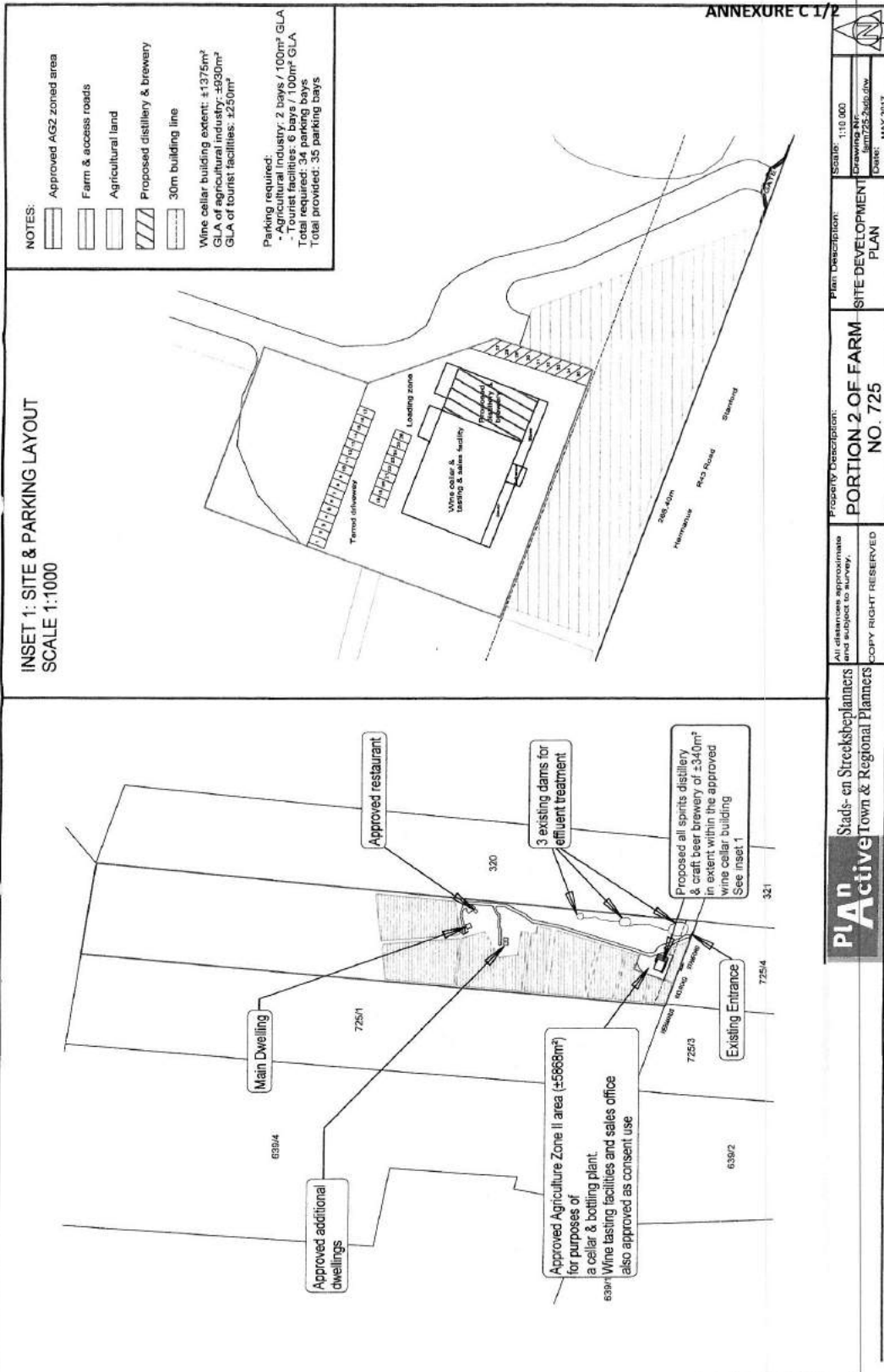
When this application is evaluated it is important to take note of the following:

- The owners sought a portion of land that will fit their ideal location to produce, taste and sell their wines. The owners also want to diversify the land uses on the subject

property to allow them to continue to make a sustainable living from not only wine production and sales, but also all spirits and craft beer production and sales;

- The proposed additional land uses will be accommodated within the existing wine cellar building and within the Agriculture Zone II area;
- The proposed application for the amendment of the site development plan and the conditions of approval will not have a negative impact on the current character and land values of the surrounding farms;
- The proposed amendment of the site development plan and conditions of approval will not have a negative impact on the existing and future agricultural activities;
- No additional access points or roads are proposed;
- The existing services will suffice for the diversification of land use;
- The proposed amendment of the site development plan and conditions of approval application complies with the spatial planning policies of the area;
- There are no environmental aspects that will negatively impact the application and the application will not have a negative impact on any environmental factors.

The application can be supported for your favourable evaluation. The opinion is held that this application will have no negative impacts in the area and that it will contribute towards the Overstrand rural area's tourist (specifically the agri-tourism) significance and value.





file

ANNEXURE D 1/4

**Petrus Roux - Proposed Developments on Misty Mountains Estates (Pty) Ltd, Stanford.**

**From:** "Guido Costa" <costa@mweb.co.za>  
**To:** "Patrick van Coller" <pcoller@bocma.co.za>, "Patrick van Coller" <pc...  
**Date:** 2017/07/05 12:15 PM  
**Subject:** Proposed Developments on Misty Mountains Estates (Pty) Ltd, Stanford.  
**Cc:** "Michael Clark" <mikeclark@hermanus.co.za>, "Alex Pasco" <Alexander...  
**Attachments:** Image0001.pdf; Image0002.pdf; Image0003.pdf

Dear Mr van Coller;

We have just received the attached Notice from Overberg Municipality. Included are scans of the first 3 pages, as we did not receive an electronic copy of the relevant document.

It refers to proposed additional developments on the farm Misty Mountains Estates (Pty) Ltd. (as described), which is situated on the mountain side of our farm, being Erf 321 Stanford.

As an IAAP, we would like to record our comments as follows:

We are entirely dependent on surface runoff and underground seepage from the mountain for our water supply. Any abstraction above the road affects the natural above-ground and underground flow down towards our property, and eventually into the Klein River.

Misty Mountains have over the years converted relatively large tracts of land into permanently-irrigated vineyards, with substantial water requirement during the summer months. Additionally they have erected a Wine Cellar and a Water Bottling Plant on said property.

We have been owners of Erf 321 since 1975, and have over the years noticed a gradual depletion of our water supply from the mountain as these developments took place. In fact, we totally ran out of water during a very dry period a few years ago (whilst the owners of Misty Mountains did not seem to be affected in any way, judging by their continued irrigation of vineyards and bottling and selling of water).

The attached Notice refers to application to develop additional water consumers, namely a Spirit Distillery and a Craft Brewery.

Ignoring for the moment the major potential of effluent contamination of our present water source from these proposed additions, we are very concerned by the fact that said proposed additions will put further strain on our historical water supply.

Consequently, we kindly request your advice in guiding us to the correct Department or Agency for assistance in order that a proper investigation be done into the water situation of the properties concerned, as well as the potential of effluent contamination of ground water (current and future), and in devising ways in which we can be assured that our historical source of (uncontaminated) water is preserved and equitably shared into the future.

We are in the process of converting our property into a Private Nature Reserve (Open Space Zone 1: Nature Reserve), and have already spent a substantial amount on rehabilitation, removal of aliens, various in-depth ecological and conservation studies, and are contractually obliged to protect our natural water supply in respect of quantity and quality.

TP 5 JUL 2017

file:///C:/Users/petrusroux/AppData/Local/Temp/XPgrprwise/595CD84EHermanusMu... 2017/07/05

**ANNEXURE D 2/4**

We look forward to your urgent assistance in this matter.

Regards,

Guido Costa

For ASTRODOME INVESTMENTS (Pty) Ltd

Erf 321

Stanford.

082 568 2204

ANNEXURE D 3/4

Calds 1059030

**Alida Conradie - WATER CONCERNS OBJECTION - MISTY MOUNTAINS ESTATES (PTY) LTD DEVELOPMENTS PROPOSAL**

**From:** "Megan Fitzgerald" <megjon@mweb.co.za>  
**To:** <aconradie@overstrand.gov.za>  
**Date:** 2017/07/31 08:40 PM  
**Subject:** WATER CONCERNS OBJECTION - MISTY MOUNTAINS ESTATES (PTY) LTD DEVELOPMENTS PROPOSAL



**FITZMORE INVESTMENTS (PTY) LTD**  
**P.O. BOX 169**  
**RONDEBOSCH**  
**7701**

Dear Sir / Madam

We refer to the letter dated 26 June 2017, received from S Müller, regarding the proposed amendment of conditions of approval and site development plans for Misty Mountains Estates (Pty) Ltd.

We have owned farm 725/4 since 2003, which is directly opposite and below the road (R43) from "Misty Mountains".

As an IAAP, we would like to place on record the following concerns and objections:

We are extremely concerned about the proposed amendments of the conditions of approval and site development plan for the Misty Mountains Estates (Pty) Ltd and the effect these changes will bring about to the surface and ground water to the surrounding farms.

There is a stream which flows through a culvert under the road (R43) from Misty Mountains and onto the farms opposite. In the past, this stream has provided a decent, regular amount of pristine, clear water that flowed through our farms and fynbos and aided by ground water seepage, eventually fed into the Kleinrivier. In prior years we even had wash away erosion/flood damage as an indication of the volume of water that used to flow.

Currently and even preceding this drought period, our surface water is dwindling and under pressure and this stream is a mere fraction of what it used to be. We are very concerned by the fact that these proposed additions will put further strain on our water supply.

Our property currently only has one source of drinking water and that comes from a borehole near the top of our farm. This borehole is fed via an underground aquifer from the mountain side and should Misty Mountains take out more water above us, this could lead to our borehole drying up, especially in times of minimal rain. In past dry years we have sometimes struggled to have sufficient water for domestic use. Should the borehole dry up, it will become necessary to truck water in at great extra cost. We are very concerned that this new development will have a negative impact on the available borehole water in the same way we have seen the stream volumes dwindling over the past years.

We are also concerned about the major potential of effluent contamination of the water sources from these proposed additions and the fact that it could quite easily flow across the road and threaten the pristine fynbos and animal life on our farm.

The Kleinrivier is battling with increased salinity which is severely affecting the fauna and flora in this conservancy area and any and all developments that reduce the amount of clean, fresh water reaching the river are a major concern and threat to the habitat.

We raise these concerns as they affect the current and future water requirements of the farm and are a threat to the natural habitat.

**ANNEXURE D 4/4**

In addition to the increased water usage, we are also very concerned about the increased traffic volumes that will be using the Misty Mountains entrance as this is directly opposite our farm entrance and these entrances lead on to the very busy R43 road. This could lead to a high accident zone as there is a blind rise on the Stanford side of the R43.

We trust that our concerns will be taken into account.

Please acknowledge receipt of this email to [megjon@mweb.co.za](mailto:megjon@mweb.co.za)

Yours sincerely

JP FITZGERALD

DIRECTOR

FITZMORE INVESTMENTS (PTY) LTD

ANNEXURE E 1/15

**Plan Active** Town & Regional Planners  
Stads- en Streeksbeplanners



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

Our reference: PA17046/ML  
Your reference: Ptn 2 of farm 725, RCAL (3696)

6 SEPTEMBER 2017

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

FOR ATTENTION: MR PETRUS ROUX

Sir

**PROPOSED AMENDMENT OF THE SITE DEVELOPMENT PLAN AND CONDITIONS OF APPROVAL: PORTION 2 OF FARM NO. 725 (MISTY MOUNTAIN FARM)**

- MISTY MOUNTAIN ESTATES (PTY) LTD
- R43 ROAD

Reference is made to our application dated 30 May 2017 and your letter dated 8 August 2017 with objections attached thereto. Objections were received from two neighbours, Guido Costa and J.P. Fitzgerald on behalf of Fitzmore Investments (Pty) Ltd. Comments were also received from the Breede-Gouritz Catchment Management Agency (BGCMA). Here follows the summary of the objections and our response thereto:

1. *The additional development will lead to the further depletion of the water supply from the mountain (stream) and put further strain on the historical water supply of the surrounding property owners. The owners want assurance that their water supply will be preserved and protected. Misty Mountains already takes out more water above the surrounding property owners to irrigate their vineyards and for use at their wine cellar and bottling plant - leaving the neighbours with no borehole water for domestic use purposes.*

All water used for water bottling was extracted from a borehole on the farm. The mountain water in the stream is discoloured and contains excessive amounts of tannin which makes it unsuitable for bottling. The water bottling plant is temporarily not operational due to market demand.

Misty Mountains at all times followed the correct procedures in obtaining approval for its agricultural activities (vineyards and wine cellar) on the farm. It should be noted that the owners of Misty Mountains only irrigate their vineyards when there is water available for irrigation. A standard 60mm pipe is installed in the stream to abstract water for irrigation purposes. One of the adjacent neighbours constructed illegal structures in the stream to divert water and nothing is being said

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

John Mc Lachlan: Ndip (Town Planning) Tech Witwatersrand; MSAPI  
Pauline Spronk: B (Soc Sc) US, BA Hon (UNISA)  
Meriké Lemm: B. Art et Scien Cum Laude (Town Planning) UNW; SACTRP

TR A Theart  
C P Roux

FILE NO:	Ptn 2 / 725
SCAN NO:	02 STP
COLLABORATOR NO:	1073199

## ANNEXURE E 2/15

about this illegal structures and diversion. There is an existing holding dam on the farm from which irrigation of the vineyards is done.

Mr John Roberts from the Department of Water Affairs visited the farm during the previous land use application (wine cellar and bottling plan) since the same objections were received for the previous application and the water issues were dealt with accordingly.

From the above it is therefore unclear how the proposed additional land uses will impact on the existing water rights of the surrounding farms. The comments pertaining to the existing approved land uses should be dismissed and only the impact of the proposed additional land uses on the water supply has to be considered. The subject property has registered water and a copy of the water registration certificate was attached to the application. Water for the proposed distillery and beer brewery will be extracted from the existing borehole. The lawful water use is currently receiving attention (see paragraph 4 below).

We attach the Department of Water Affairs and Forestry's comments dated 21 December 2005 and the Department of Environmental Affairs & Development Planning's letter dated 6 December 2006 applicable to the previous land use application (wine cellar and bottling plant). The proposed distillery and brewery application is to allow for the diversification of the existing land uses within existing structures and it is submitted that the impact will only be marginally higher than with the existing approved land uses.

**2. The additional development will lead to effluent contamination on the water sources and in turn threaten the pristine fynbos and animal life on the surrounding farms.**

Once again the approved land uses, the effluent generated and the treatment thereof was already addressed with the previous land use application.

As mentioned in our application the distillery will produce no effluent water for further treatment.

The proposed craft beer brewery will produce limited amounts of effluent and this small amount will connect to the existing effluent treatment system. The effluent will be treated along with the wine cellar's effluent in line with the previous approval. The letter from the Department of Environmental Affairs & Development Planning dated 6 December 2006 approved the proposed effluent treatment system. Consequently the effluent is disposed in an acceptable manner to ensure that the ground and groundwater remains uncontaminated.

The existing waste water treatment system will suffice for the treatment of the brewery's (minimal) additional effluent and no further upgrades are required.

**3. The proposed development will lead to increased traffic volumes that could lead to a high accident zone at the access point to the farm.**

The District Roads Engineer (DRE) gave his consent for the proposed additional land uses. Refer to a copy of the DRE's consent dated 21 July 2017. No additional studies or reports were requested by the DRE. Paragraph 4 of the DRE's consent letter is receiving attention. Our client was referred to Mr Stewart Bain at the DRE's Paarl Offices to assist him in ensuring that the access is altered and that its geometry is consistent with the road standard.

It is anticipated that the addition of the all spirits distillery and craft beer brewery will have a minimal impact on the traffic generated to the farm since visitors who already intended visiting the farm for wine tastings, will now have the option of beer and spirit tasting as well. In addition the traffic will also be spread during the course of the day. The scale of the proposed development is

## ANNEXURE E 3/15

comparatively small and the floor area to be used for the distillery and beer brewery purposes is an already approved floor area for wine cellar purposes and the impact of the wine cellar was already considered with the initial application. It is submitted that the use of the floor area for wine cellar purposes versus distillery and brewery purposes will have the same impact on the traffic generated to the subject property.

**4. Breede-Gouritz Catchment Management Agency commented on the application and requested additional information pertaining to the existing lawful water use of the subject property.**

The lawful water use comment is receiving attention and the response to BGCMA's letter dated 26 July 2017 will follow. Our client has scheduled a meeting with Mr Patrick van Coller for Wednesday 6 September 2017. We herewith request that an additional period of 60 days be granted to allow our client to address the lawful water use on the subject property.

We trust that you find the above in order.

Yours faithfully



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

TP1-32/2005  
TP

## water & forestry

Department:  
Water Affairs and Forestry  
REPUBLIC OF SOUTH AFRICA

Private Bag / Privaatsak X16, Sanlamhof, 7532 17 Strand Street / Strandweg 17, Bellville, 7530  
Tel: (021) 950 7100 Fax: (021) 950 7224

Enquiries/Navrae: J Rossouw Tel: (021) 950 7139  
Reference/Verwysing: 16/2/7/G400/A/8

e-mail: JRossouw@dwaf.gov.za  
Date/Datum: 21 December 2005

The Municipal Manager  
Overstrand Municipality  
P.O. Box 20  
HERMANUS  
7200

Attention: Ms MG van Vuuren

Dear Madam

### PORTION 2 OF THE FARM NO. 725, OVERSTRAND MUNICIPAL AREA: PROPOSED RESONING AND CONSENT USE

The documentation received from Overstrand Municipality, reference TP1-32/2005, 2 of 725, dated 28 November 2005, refers.

This Department has studied the application as well as further information provided to this Department and can comment on the application as follows.

1. The applicant must apply for an authorisation from this Department in terms of the National Water Act, 1998 (Act 36 of 1998) before any wastewater from the winery can be disposed of. Any disposal of winery wastewater before an application has been received would be deemed illegal and will be in contravention of section 151 of the National Water Act, 1998.
2. The applicant must register the abstraction of water from a water resource for bottling purposes as well as for irrigation purposes with this Department in terms of Government Notices No. 1352 of 12 November 1999 and No. 515 of 26 May 2000. No water may be abstracted before such water uses has been registered.
3. The proposed wastewater treatment dams must be sealed to prevent any possible seepage and subsequent pollution of any surface or groundwater resources. These ponds must be included as part of the application for authorisation as indicated under point 1 above.
4. Any on-site sewage disposal facility must be situated such that it is above the 100 year floodline, or alternatively, more than 100 meters from the edge of a water resource or a borehole that is utilised for drinking water or stock watering, which ever is further.

ANNEXURE E 5/15

5. The water to be used for domestic use at the proposed restaurant and additional dwellings must be analysed and the results compared with the SABS 241-2001 drinking water guideline to ensure that the water will be suitable for this purpose.
6. All solid waste must be removed from the property on a regular basis and taken to an approved waste disposal site in accordance with the requirements of Section 20 of the Environmental Conservation Act, 1989 (Act 73 of 1989).

If there are any further questions in this regard, please do not hesitate to contact this office.

Yours faithfully



REGIONAL DIRECTOR: WESTERN CAPE

## ANNEXURE E 6/15



**ROAD NETWORK MANAGEMENT**  
 Email: Grace.Swanepoel@westerncape.gov.za  
 Tel: +27 21 483 4669  
 Rm 335, 9 Dorp Street, Cape Town, 8001  
 PO Box 2403, Cape Town, 8000

**REFERENCE: 16/9/6/1-21/132 (Job 15119)**  
**ENQUIRIES: Ms GD Swanepoel**  
**DATE: 21 July 2017**

The Municipal Manager  
 Overstrand Municipality  
 PO Box 20  
**HERMANUS**  
 7200

Attention: Mr P Roux

Dear Sir

**PORTION 2 OF THE FARM MISTY MOUNTAIN 725, STANFORD: TRUNK ROAD 28: PROPOSED AMENDMENT OF THE SITE DEVELOPMENT PLAN AND CONDITIONS OF APPROVAL**

1. The letter dated 30 May 2017 received from Plan Active regarding the above referenced application refers.
2. The subject property is located approximately 4 km north-west of Stanford. It takes access off the Trunk Road at ±km18.70. It is noted that the access does not comply with the geometric standards of a Main Farm Access.
3. This application is to amend the site development plan and associated conditions in order to accommodate a spirits distillery and brewery on the property.
4. This Branch offers no objection to the application in terms of the Land Use Planning Act No 3 of 2014, subject to the modification of the access so that it complies with the attached standard for that of a Main Farm Access.

Yours faithfully

**ML WATTERS**  
 For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT

**ANNEXURE E 7/15****ENDORSEMENTS**

1. Overstrand Municipality  
Attention: Mr Petrus Roux (e-mail: [proux@overstrand.gov.za](mailto:proux@overstrand.gov.za))
2. Applicant: Plan Active  
Attention: M Lerm (e-mail: [merike.planactive@gmail.com](mailto:merike.planactive@gmail.com))
3. Mr ML Watters (e-mail)
4. Mr F Fakier (e-mail)
5. Planning Section

ANNEXURE EB/15  
*Annexure P 1/8*

Verwysing  
 Reference  
 Isalelithiso E12/2/1-AC1-Farm 725/2, Caledon

Navrae  
 Enquiries  
 Imbuzo NAMHLA DONDI

Datum  
 Date  
 Umhla Of Issue

06/12/06

Departement van Omgewingsake en Ontwikkelingsbeplanning  
 Department of Environmental Affairs and Development Planning  
 ISebe leMcimbi yeNdalo esiNgqongileyo noCwangciso loPhuhliso



The Manager  
 Plan Active  
 P O Box 296  
 HERMANUS  
 7200

Attention: Mr John McLachlan

Tel: 028 313 0077  
 Fax: 028 312 1351

Dear Sir

**APPLICATION: THE PROPOSED CHANGE OF LAND USE FROM AGRICULTURE TO ESTABLISH A WINE CELLAR, BOTTLING PLANT, TWO ADDITIONAL DWELLING UNITS AND TOURIST FACILITIES ON PORTION 2 OF FARM NO. 725, CALEDON**

With reference to your application, find below the Record of Decision in respect of this application.

#### RECORD OF DECISION

##### A. DESCRIPTION OF ACTIVITY:

The proposed activity entails the establishment of a wine cellar, bottling plant, wine tasting facility, restaurant, two additional dwellings and a sales office on Portion 2 of Farm No. 725, Caledon. Existing buildings will be utilised in order to accommodate the restaurant and two cottages will be converted to additional dwelling units. The cellar and bottling plant will be situated on the southern boundary of the proposed site and in close proximity to the R43 main road. The cellar will be used for wine making, the bottling of wine and bottling of spring water. The restaurant will be situated on the higher portion of the farm, further north to the proposed additional dwellings.

Three holding dams will be constructed in order to accommodate the effluent released from the wine cellar. The effluent will be treated and polished by circulating the water through a reed bed and aeration system. At the lower holding dam, the treated water will be drawn off the surface of the dam and used to irrigate the vineyards.

The proposed site is approximately 46.464ha in extent and the proposed development in relation to the site is ~5868m<sup>2</sup> in extent. An amount of 60m<sup>3</sup> per month will be extracted from the borehole on site for use in the bottling plant. Access to the site will be gained from the existing R43.

*Department of Environmental Affairs & Development Planning  
Directorate: Integrated Environmental Management (Region B)*

This is an activity identified in Schedule 1 of Government Notice No. R1182 of 5 September 1997, as amended, being:

**Item 2 (c)** The change of land use from agricultural or zoned undetermined use or an equivalent zoning to any other land use;

hereinafter referred to as "the activity".

**B. LOCATION:**

The proposed activity will take place on Portion 2 of Farm No. 725 situated approximately 4km northwest of Stanford on route to Hermanus.

The co-ordinates are:      34° 24' 55" South  
   19° 25' 36" East;

hereinafter referred to as "the property/site".

**C. APPLICANT:**

Plan Active  
% Mr John McLachlan  
PO Box 296  
HERMANUS  
7200  
Tel.: 028 313 0077  
Fax: 028 312 1351

**D. CONSULTANT:**

No independent environmental consultant was appointed.

**E. SITE VISIT(S):**

No site visits were conducted.

**F. DECISION:**

In terms of Section 28A and by virtue of powers delegated by the Minister in terms of Sections 28 & 33 of the Environment Conservation Act, 1989 (Act No. 73 of 1989), the Applicant is hereby exempted by the relevant authority (as defined in GN No R1183 of 5 September 1997, as amended), from:

- (a) Providing a description of all alternatives identified in terms of Regulation 6(1)(d) GN No. R1183, dated 5 September 1997, as amended.
- (b) Appointing an independent consultant in terms of Regulation 3(1) of GN No R1183 dated 5 September 1997, as amended, and

## ANNEXURE E 10/15

*Department of Environmental Affairs & Development Planning  
Directorate: Integrated Environmental Management (Region B)*

In terms of Sections 22 and by virtue of powers delegated by the Minister in terms of Sections 28 & 33 of the Environment Conservation Act, 1989 (Act No. 73 of 1989), the relevant authority (as defined in GN No R1183 of 5 September 1997, as amended) hereby grants **authorisation with the conditions** contained in this Record of Decision, for the execution of the activity described above.

This Authorisation has been granted in terms of section 22 of the Environment Conservation Act, 1989 (Act No. 73 of 1989) solely for the purposes of undertaking the activity referred to above, and does not exempt the holder thereof from compliance with any other relevant legislation.

**G. CONDITIONS OF AUTHORISATION:**

1. The activity, including site preparation, may not commence before the statutory thirty (30) day appeal period expires. In the case of an appeal being submitted to the competent authority, the effect of this Record of Decision will be suspended until such time as the appeal is decided.
2. One week's notice, in writing, must be given to the Directorate Integrated Environmental Management (Region B), (hereinafter referred to as "this Directorate"), before commencement of construction activities.
  - 2.1 Such notice shall make clear reference to the site location details and reference number given above
  - 2.2 The said notice must also include proof of compliance with the following conditions described herein:  
Conditions: 1 & 11.
3. An integrated waste management approach must be used that is based on waste minimisation and must incorporate reduction, recycling, re-use and disposal where appropriate. Any solid waste shall be disposed of at a landfill licensed in terms of section 20 of the Environment Conservation Act, 1989 (Act No. 73 of 1989).
4. No surface or groundwater may be polluted due to any activity on the property/site. The relevant requirements of the National Water Act, 1998 (Act No. 36 of 1998) must be complied with at all times.
5. An application must be lodged with the Department of Water Affairs and Forestry (DWAF) in terms of the National Water Act, 1998) before any disposal of wastewater from the winery can occur.
6. Abstraction of water from a water resource for bottling purposes as well as for irrigation purposes must be registered with the DWAF. No water may be abstracted before such water uses has been registered.
7. The proposed wastewater treatment dams must be lined and sealed to prevent any possible seepage and subsequent pollution of any surface or groundwater resources.
8. Any on-site sewage disposal facility must be situated such that it is above the 100 year flood line, or alternatively, more than 100 metres from the edge

## ANNEXURE E 11/15

*Department of Environmental Affairs & Development Planning  
Directorate: Integrated Environmental Management (Region B)*

- of a water resource or a borehole that is utilised for drinking water or stock watering.
9. The water to be used for domestic purposes at the restaurant and additional dwellings must be analysed and the results compared with the SANS 241-2001 drinking water guideline to ensure that the water will be suitable for this purpose. This must be carried out prior to being utilised for domestic purposes.
  10. This Department's standard construction phase Environmental Management Plan ("EMP") must be implemented. Attached hereto as Annexure A, the EMP must be included in all contract documentation for the construction phase of the development.
  11. The applicant must, **within five calendar days** of the date of issue of this Record of Decision:
    - Inform the relevant local authority as well as all interested and affected parties, ("I & AP's") registered during the Scoping and Impact Assessment processes in writing of the outcome of this application and, if requested, provide copies of this Record of Decision within a reasonable time before expiry of the thirty day appeal period,
    - Include in such information the provisions of Regulation 11 of Government Notice No R 1183 of 5 September 1997, as amended, which reads as follows:
      1. An appeal to the Minister or provincial authority under section 35(3) of the Act must be done in writing within 30 days from the date on which the record of decision was issued to the applicant in terms of regulation 10(1);
      2. An appeal must set out all the facts as well as the grounds of appeal, and must be accompanied by all relevant documents or copies of them, which are certified as true by a commissioner of oaths.
    - Include the date on which the record of decision was issued to the applicant in terms of regulation 10(1) and the date by which appeals must reach the Minister.
    - Inform all I & AP's that a signed and certified Appeal Questionnaire, obtainable from the Minister's office at tel. (021) 483 3915, email [jedevill@pgwc.gov.za](mailto:jedevill@pgwc.gov.za) or URL <http://www.capegateway.gov.za/eadb> must accompany the appeal;
    - If the applicant should appeal against this Record of Decision, he must inform all interested and affected persons that such an appeal is being lodged with the Minister and if requested, the applicant/appellant must provide those persons with reasonable access to a full copy of the appeal within a reasonable time before expiry of the thirty day appeal period.

## ANNEXURE E 12/15

38

*Department of Environmental Affairs & Development Planning  
Directorate: Integrated Environmental Management (Region B)*

12. The applicant shall be responsible for ensuring compliance with the conditions contained in the Record of Decision by any person acting on his behalf, including but not limited to, an agent, servant, employee or any person rendering a service to the applicant in respect of the activity, including but not limited to contractors and consultants.
13. The owner and/or developer must notify this Directorate and any other relevant authority, in writing, within 24 hours thereof if any condition of this authorisation is not adhered to.
14. Departmental officials shall be given access to the property referred to in B above for the purpose of assessing and/or monitoring compliance with the conditions contained in this Record of Decision, at all reasonable times.

H. **RECOMMENDATIONS:**  
None.

I. **KEY FACTORS AFFECTING THE DECISION:**

Sufficient information was submitted by the applicant for the relevant authority to deem the Scoping Checklist and additional information to fulfil the requirements of a scoping report as prescribed by Regulation 6 of GN No. R1183 of 5 September 1997, (as amended), in order to consider the application

**Applicant's motivation for exemption**

The applicant has applied for and is exempted from appointing an independent environmental consultant in terms of Regulation 3(1) of GN No. R1183, dated 5 September 1997, as amended as well as providing a description of all alternatives identified in terms of Regulation 6(1)(d) GN No. R1183, dated 5 September 1997, as amended. The proposed wine cellar, tourist facility and additional dwelling units will be accommodated through the existing structures that will be renovated. The proposed development will not have significant negative impact on the surrounding environment.

**Biophysical**

The proposed site is used for agricultural purposes (grape vines) and will continue being used for such activities (winery and growing of vines). It is located within an area of scenic beauty, between the Kleinrivier Mountain to the north and the R43 to the south with neighbouring farms on the east and western sides. There is no endangered flora or fauna of conservation worthiness on the site; thus no significant biophysical impacts are anticipated as a result of the proposed development.

**Socio-economic**

The site is situated near the Kleinrivier Mountains where it affords beautiful views and ambience. It is located near the tourist towns Hermanus, Stanford and

## ANNEXURE E 13/15

6/8

*Department of Environmental Affairs & Development Planning  
Directorate: Integrated Environmental Management (Region B)*

Gansbaai. The proposed development will enhance the tourist potential of the area. The restaurant will afford tourists the opportunity to enjoy the panoramic sites/views surrounding the site. Employment opportunities will be created as result of the proposed development.

#### **Planning**

The proposed development is in line with the Provincial Spatial Development Framework of the Province. The proposed bottling plant and wine cellar will be accommodated in an Agricultural II zone which makes provision for tourist facilities such as the proposed wine tasting and restaurant. The proposed dwelling units are consent uses on Agricultural I zoned land in terms of the Section 8 Scheme Regulations.

#### **Public Participation**

The public participation process included the following:

- An advertisement that was placed in the *Hermanus Times* in December 2005, in terms of the Land Use Planning Ordinance (Ordinance 15 of 1985)
- Comments were received from various government departments namely: Department of Transport and Public Works on 23 January 2006; Department of Water Affairs and Forestry on 21 December 2005; Department of Agriculture on 10 January 2006; and Overstrand Municipality on 14 June 2005 and 9 January 2006.
- Notices were sent to Interested and Affected Parties (I&APs) by registered mail.
- Details of the proposed activity were made available for comment at the Directorate: Economical Development and Town Planning Unit at Overstrand Municipality.

The Department of Water Affairs and Forestry had no objections to the proposed development; however conditions were stipulated and have been incorporated in this Record of Decision. The other government departments requested that relevant legislation be adhered to and did not oppose the proposed development. An objection was received on 20 December 2005 from an Interested and Affected Party (I&AP). The objection related to services (water, servitude and waste water from the cellar). The applicant informed the I&AP that all relevant authorisation from the DWAF has been requested and approved. The applicant further assured the I&AP that a holding dam will be built in order to capture water to be used for irrigation purposes only, thereby limiting water concerns. This Department is satisfied that all the issues and concerns were adequately addressed.

1  
8

*Department of Environmental Affairs & Development Planning  
Directorate: Integrated Environmental Management (Region B)*

**J. DURATION AND DATE OF EXPIRY:**

This authorisation shall lapse if the activity does not commence within **two (2) years** of the date of issue of this authorisation.

**K. APPEAL:**

In terms of Section 35 of the Environment Conservation Act, 1989 (Act No. 73 of 1989), formal, motivated appeals **must be directed within thirty (30) days** of the date of the issuing of this Record of Decision, to:

Provincial Minister for Environment, Planning and Economic Development  
Private Bag X9186  
CAPE TOWN  
8000  
Fax: (021) 483-6081

Appeals must comply with the provisions of regulation 11 of Government Notice No. R. 1183 of 5 September 1997, as amended.

**If the appellant is not the applicant, the latter must be informed of the appeal within the appeal period referred to above and must provide the applicant with reasonable access to a full copy of the appeal, if requested**

A signed and certified Appeal Questionnaire, obtainable from the Minister's office at tel. (021) 483 3915, email [jedevill@pawc.gov.za](mailto:jedevill@pawc.gov.za) or URL <http://www.capegateway.gov.za/eadp> must accompany the appeal

In terms of section 28A(4) of the aforesaid Act, the Minister or competent authority may in writing withdraw the exemption concerned or at his discretion determine new conditions, if any condition stipulated in the exemption granted is not being complied with. Furthermore section 28A(5) states that the Minister or a competent authority, as the case may be, may from time to time review any exemption granted or condition determined, and if he deems it necessary, withdraw such exemption or delete or amend such condition.

If any condition imposed in terms of this authorisation is not being complied with, the authorisation may be withdrawn after 30 days written notice to the applicant in terms of Section 22(4). Failure to comply with any of these conditions is also an offence and may be dealt with in terms of Sections 29, 30 and 31 of the Environment Conservation Act, 1989 (Act No. 73 of 1989) as well as any other appropriate legal mechanisms.

*Department of Environmental Affairs & Development Planning  
Directorate: Integrated Environmental Management (Region B)*

Provincial Government, Local Authority or committees appointed in terms of the conditions of the application or any other public authority or organisation shall not be held responsible for any damages or losses suffered by the developer or his successor in title in any instance where construction or operation subsequent to construction be temporarily or permanently stopped for reasons of non-compliance by the developer with the conditions of authorisation as set out in this document or any other subsequent document emanating from these conditions of authorisation.

Your interest in the future of our environment is greatly appreciated.

Yours faithfully



ANTHONY BARNES  
DIRECTOR: INTEGRATED ENVIRONMENTAL MANAGEMENT (REGION B)

DATE OF DECISION: 6/12/2006

Copies to (1) Mr HF Hendriks (Department of Transport and Public Works)  
(2) JC Venter (Department of Agriculture)  
(3) J Roberts (Department of Water Affairs and Forestry)  
(4) L le Roux (Overstrand Municipality)

Fax (021) 855 5338  
Fax (021) 808 5092  
Fax (021) 946 3666  
Fax (028) 313 8070

## ANNEXURE F 1/2



## ROAD NETWORK MANAGEMENT

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

REFERENCE: 16/9/6/1-21/132 (Job 15119)  
ENQUIRIES: Ms GD Swanepoel  
DATE: 21 July 2017

TPA Theard  
(C P Roux)

The Municipal Manager  
Overstrand Municipality  
PO Box 20  
**HERMANUS**  
7200

FILE NO:	Ptn 2 / 725
	STF
SCAN NO:	03
COLLABORATOR NO:	1059579

Attention: Mr P Roux

Dear Sir

**PORTION 2 OF THE FARM MISTY MOUNTAIN 725, STANFORD: TRUNK ROAD 28: PROPOSED AMENDMENT OF THE SITE DEVELOPMENT PLAN AND CONDITIONS OF APPROVAL**

1. The letter dated 30 May 2017 received from Plan Active regarding the above referenced application refers.
2. The subject property is located approximately 4 km north-west of Stanford. It takes access off the Trunk Road at  $\pm$ km18.70. It is noted that the access does not comply with the geometric standards of a Main Farm Access.
3. This application is to amend the site development plan and associated conditions in order to accommodate a spirits distillery and brewery on the property.
4. This Branch offers no objection to the application in terms of the Land Use Planning Act No 3 of 2014, subject to the modification of the access so that it complies with the attached standard for that of a Main Farm Access.

Yours faithfully

  
**ML WATTERS**  
For CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT



ANNEXURE G 1/4

**BREEDE-GOURITZ**

Catchment Management Agency  
Opvanggebied Bestuursagentskap  
I-Arhente yoLawulo lomMandla nokungqongileyo  
51 Baring Street Worcester 6850, Private Bag X3055 Worcester 6850

Enquiries: Patrick van Collier  
Date: 26 July 2017

Tel: 023-346 8018

Fax: 023-347 2012

E-mail: pcollier@bgcma.co.za

Reference No: 4/10/1/G40L/Ptn 2 Langkloof River 725, Caledon

The Municipal Manager  
Overstrand Municipality  
P.O. Box 20  
**HERMANUS**  
7200

Attention: Mr. P. Roux

Dear Sir

FILE NO:	
SCAN NO:	
COLLABORATOR NO:	1057048

**COMMENTS ON THE PROPOSED AMENDMENT OF CONDITIONS AND SITE DEVELOPMENT PLAN FOR PORTION 2 OF THE FARM LANGKLOOF RIVER 725 (obo MISTY MOUNTAIN ESTATES PTY LTD), MAGISTERIAL DISTRICT, CALEDON.**

With reference to the Report received 26 July 2017, the following:

This office cannot support this application before the following have been addressed:

- The ELU (Existing Lawful Use) of water for the property in terms of the National water Act, 1998 (Act 36 of 1998) was not finalized. The Registration of Water Use is not ELU.

The **Definition of existing lawful water use in terms of the National Water Act, 1998 (Act 36 of 1998) Section 32.** (1) stipulates the following: "An existing lawful water use means a water use -

- (a) which has taken place at any time during a period of two years immediately before the date of commencement of this Act". Therefore the window period is 1 October 1996 – 3 September 1998.

- Proof is required of the authorization granted for the effluent treatment system on site.
- Indicate how the Public Participation was conducted and how the statement in paragraph 2, page 6 of the Report can be substantiated: "The proposed amendment of the site development plan and conditions of approval do not have a negative impact on the surrounding farms as the subject properties zoning will remain unchanged."

**ANNEXURE G 2/4**

This office trust the above-mentioned is acceptable and if you do have any further queries, please do not hesitate to make contact with this office.

Yours Faithfully



PHAKAMANI BUTHELEZI  
CHIEF EXECUTIVE OFFICER

ll

# BREED-GOURITZ

Catchment Management Agency  
Opvanggebied Bestuursagentskap  
I-Arhente yoLawulo lomMandla nokungqongileyo  
51 Baring Street Worcester 6850. Private Bag X3055 Worcester 6850

Enquiries: Patrick van Collier Tel. 023 346 8018 Fax 023 347 2012 E-mail: pcollier@bgcma.co.za  
Date 11 April 2018 Reference No. 4/10/1/G40L/Ptn 2 Langkloof River 725, Caledon

Lornay Environmental Consulting  
P.O. Box 1990  
**HERMANUS**  
7200

Attention: Michelle Naylor

Dear Madam

**COMMENTS ON THE PROPOSED AMENDMENT OF CONDITIONS AND SITE DEVELOPMENT PLAN FOR PORTION 2 OF THE FARM LANGKLOOF RIVER 725 (obo MISTY MOUNTAIN ESTATES PTY LTD), MAGISTERIAL DISTRICT, CALEDON.**

With reference to the Report received 19 January 2018, the following:

The Breede-Gouritz Catchment Management Agency (BGCMA), in principle is comfortable with the information provided and has no objection to the proposed activity, subject to the following conditions:

- All relevant sections and regulations of the National Water Act, 1998 (Act 36 of 1998) regarding water use must be adhered to.
- No storm water runoff from any premises containing waste, or water containing waste emanating from industrial activities and premises may be discharged into a water resource. Polluted storm water must be contained.
- The waste generated by the facility needs to be managed in terms of the National Environmental Management Waste Act, 2014 (Act 26 of 2014) on the property and the final disposal of the waste at a licensed solid waste disposal site.
- Solid waste may only be disposed of onto an authorised solid waste facility in terms of above-mentioned legislation.
- The minimizing of waste must be promoted and alternative methods for waste management must be investigated.
- No permanent structures may be constructed/erected within the 1:100 year flood line of any watercourse (seasonal or permanent river, stream, etc.) or alternatively, more than 100 metres from the edge of a water resource, whichever is further.

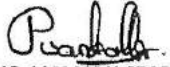
**Water for domestic use**

- The water provided for domestic use must comply with the SANS 241: 2015 Guidelines for Drinking Water as amended from time to time. Regular monitoring must be done to ensure compliance. If the quality of the water is of such a nature that it is a threat to human health, then the Breede-Gouritz CMA and the Provincial Department of Health must be informed of the procedures to rectify the problem.

**The disposal of sewage needs to adhere to the following:**

- The disposal of sewage must at all times comply with the requirements of Sections 22 and 40 of the National Water Act 1998, (Act 36 of 1998).
- This office trust the above-mentioned is acceptable and if you do have any further queries, please do not hesitate to make contact with this office.

Yours Faithfully



**MR JAN VAN STADEN**  
CHIEF EXECUTIVE OFFICER (Acting)

AL

# OVERBERG

DISTRIKSMUNISIPALITEIT  
DISTRICT MUNICIPALITY  
UMASIPALA WESITHILI



*MELD ASB/PLEASE QUOTE*

*Ons Verw./Our Ref.: 18/3/9/6/2/2*

*Navrae/Enquiries: C Adams*

*Bylyn/Ext.: 028-3131243*

Privaatsak: X22  
Private Bag:  
BREDASDORP  
7280  
Tel: (028) 4251157  
Fax: (028) 4251014  
Hermanus Office  
15 Flower Street  
Hermanus  
7200

18 August 2017

Town Planning Department  
Overstrand Municipality  
PO Box 20  
HERMANUS  
7200

**PROPOSED AMENDMENT OF SITE DEVELOPMENT PLAN AND CONDITIONS OF APPROVAL;**

**MISTY MOUNTAINS ESTATE LTD, PORTION 2 OF FARM <sup>135</sup> 222, MISTY MOUNTAIN, A DIVISION OF CALEDON**

**Applicant to comply and adhere to all Municipal Health Services Requirements set out below:**

**WASTE MANAGMENT**

All Waste must be dispose of at the local authority waste disposal site.

**WATER**

Water pollution must be prevented at all times.

All waste water must be dispose of in a manner approved by the local authority.

Drinking water must comply with SANS 241.

**CLEANING SCHEDULE**

Copy of Cleaning Schedule for Industry to be submitted.

**PEST CONTROL**

A Pest control program to be submitted.

**Alle korrespondensie moet aan die Munisipale Bestuurder gerig word.  
All correspondence must be addressed to the Municipal Manager.**

**ANNEXURE H 2/2****AIR QUALITY**

Provide a copy of a Registration Certificate for Fuel consumption plant (Boiler) to be obtained from the local authority.

Smoking policy (Tobacco Control Act.) must be submitted.

**CERTIFICATE OF ACCEPTABILITY**

Apply for a Certificate of Acceptability from the Overberg District municipality to operate the Distillery and Brewery Sales.

Apply for a Certificate of Acceptability from the Overberg District municipality to operate a Restaurant.

Your co-operation will be appreciated

Yours truly,



MUNICIPAL MANAGER

CA/nc



ANNEXURE 1/4  
(Plan)

Overstrand Municipality  
PO Box 20  
Hermanus  
7200

Date: 4 July 2017

Enquiries:  
Owen Peters  
Tel: +27 21 980 3817  
Fax: +27 86 566 7877

Dear Sir/Madam

RE: PORTION 2 OF FARM 725, MISTY MOUNTAIN  
OUR REF: 02116/17  
YOUR REF: Ptn 2 of Farm 725, RCAL (3696)

I hereby inform you that this department has no objection against the proposed land use application, subject to the following conditions:

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

Voltage	Building restriction either side of centre line
11kV	9m

- b) That existing Eskom power lines and infrastructure are acknowledged as established infrastructure on the properties and any rerouting or relocation would be for the cost of the applicant/developer.
- c) That Eskom rights or servitudes, including agreements with any of the landowners, obtained for the operation and maintenance of these existing power lines and infrastructure be acknowledged and honoured throughout its lifecycle which include, but are not limited to:
- Having 24 hour access to its infrastructure according to the rights mentioned in (a) above,
  - To perform maintenance (structural as well as servitude – vegetation management) on its infrastructure according to its maintenance programmes and schedules,
  - To upgrade or refurbish its existing power lines, structures and infrastructure as determined by Eskom,
  - To perform any other activity not listed above to ensure the safe operation and maintenance of the Eskom power lines or infrastructure.
- d) No dumping shall be allowed within Eskom Services.

Distribution Division - Western Region [Land Development]  
Western Region  
Eskom Road Brackenfell 7560 PO Box 222 Brackenfell 7561 SA  
Tel +27 86 003 7566 www.eskom.co.za

Eskom Holdings SOC Limited Reg No 2002/015527/30

FILE NO:	Ptn 2/725
	Misty Mountain
SCAN NO:	15
COLLABORATOR NO:	1067364

## ANNEXURE I 2/4

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

**As important OPTIC FIBRE cables are affected, please contact our representative Frederik Swart at telephone number 028 514 1199 / 081 363 7815 / [FrederikS@openseve.co.za](mailto:FrederikS@openseve.co.za) at least 48 hours prior of commencement on construction work.**

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

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

All Open Serve rights remain reserved.

Yours faithfully

  
\_\_\_\_\_  
Selwyn Bowers  
Operations Manager  
Wayleave Management: Western Region

## ESKOM (WESTERN REGION)

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

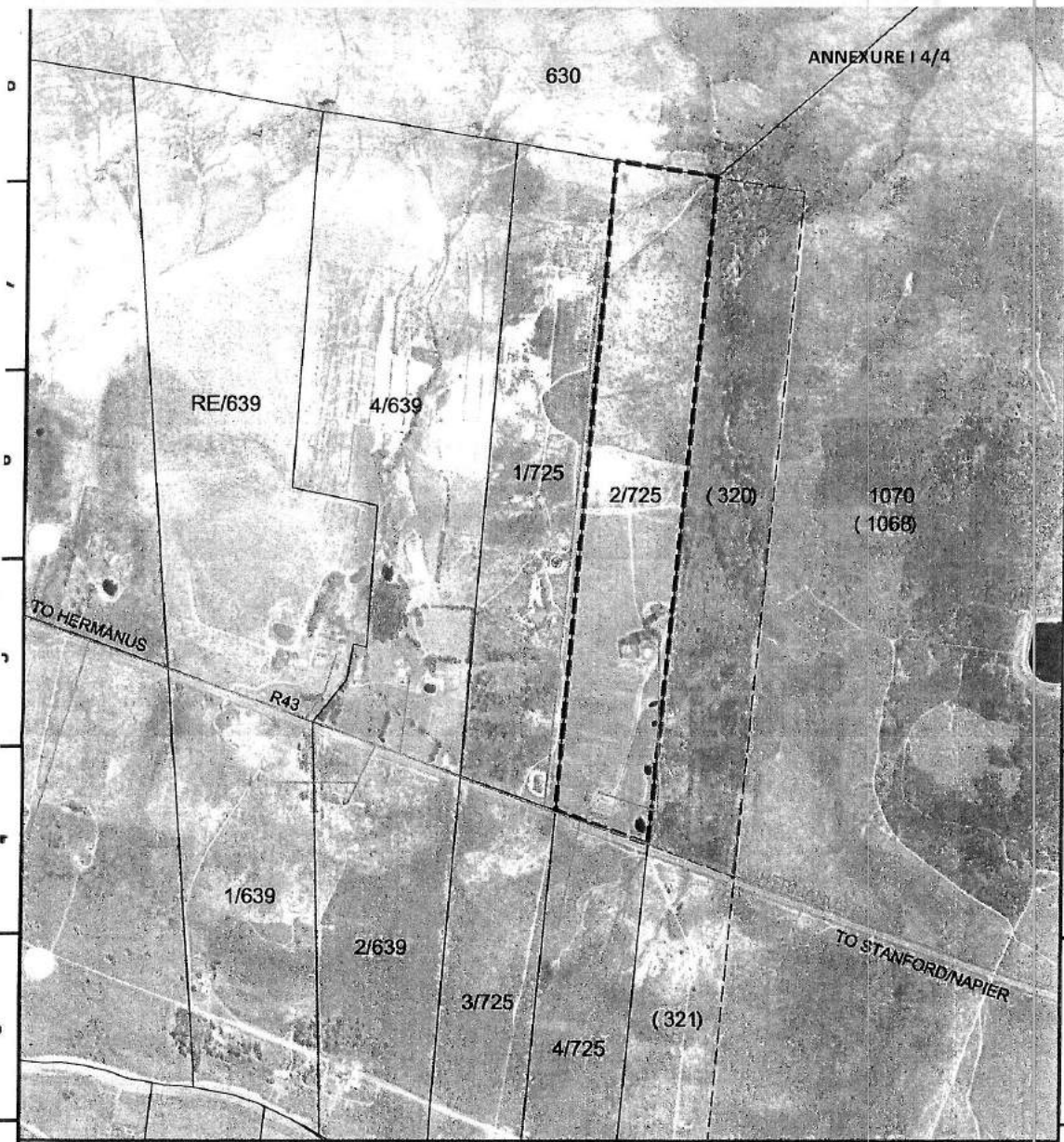
#### D16 (7) Excavations

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

### **THE ELECTRICITY ACT (Act No 41 of 1987)**

#### Section 27 (3) : Offences and Penalties

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



LEGEND

- CADASTRAL BOUNDARY
- ESKOM MV 11KV OVERHEAD LINE
- - - - AREA OF INTEREST



ALL CABLE POSITIONS ARE APPROXIMATE AND SHOULD BE VERIFIED ON SITE  
**LAND DEVELOPMENT SECTION**  
 TEL 021-980 3129 FAX 021-980 3053

SCALE 1 : 10 000  
**THIS DRAWING IS THE PROPERTY OF ESKOM**

REV	REVISION DESCRIPTION	BY	CHKD	AUTH	DATE

**Eskom**  
Distribution

CALEDON CNC  
 CALEDON, MISTY MOUNTAINS ESTATES  
 PORTION 2 OF THE FARM No. 725  
 PROPOSED AMENDMENT OF CONDITIONS OF APPROVAL AND  
 SITE DEVELOPMENT PLAN  
 OVERSTRAND MUNICIPALITY  
 WAYLEAVE REQUEST

02116/17

SET	SHEET	REVISION
		00

DRAWN: S. ALBERTS  
 DATE: 2017/07/03

ANNEXURE J 1/3



TP-A Theat  
(Phoux)



Division of Telkom SA SOC Ltd

10 Jan Smuts Drive  
Pinelands  
7404

Candice Spammer

Tel: 021 414 5582

Fax: 086 480 0617

Email: spamme1@telkom.co.za

FILE NO:	Ph2/725
	Misty Mountain - SIF
SCAN NO:	
COLLABORATOR NO:	1077498

Our Ref.:

WWIP\_WSFD2939\_17

Your Ref.:

3696

18 September 2017

Attention: S Muller

Overstrand Municipality  
HERMANUS

**WAYLEAVE: PROPOSED AMENDMENT OF CONDITIONS OF APPROVAL AND SITE DEVELOPMENT PLAN:  
PORTION 2 OF FARM 725, MISTY MOUNTAINS ESTATE**

With reference to your application dated July 2017.

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

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

Approval is granted, subject to the following conditions.

As per sketch attached, Open Serve infrastructure will be affected, consequently the conditions below and on the attached legend will apply.

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

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

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



This wayleave, Reference Number **WWIP WSFD2939 17** is valid for 12 months from date here of and is subject to the following conditions:

1. No mechanical plant or vibrator type compactors may be used within three metres of any Open Serve plant ( I.E. any Telecommunication equipment above or below ground level.)
2. The position of our plant affected by the proposal is indicated as approximate and **Frederik Swart** at telephone number **081 363 7815** must be contacted at least 48 hours prior to commencement of the work, upon which the actual location of Open Serve Plant will be indicated on site.
3. A written request must be submitted to Open Serve for consideration should the applicant require our plant to be relocated. The cost of such a relocation will be recoverable from the applicant.
4. It is the responsibility of the applicant to verify the existence of the indicated plant and to notify Open Serve immediately, should the applicant locate any Open Serve plant indicated on the provided plans.
5. Should the applicant expose any Open Serve plant, the safeguard thereof will be the applicant's full responsibility
6. Failing to comply with the above conditions or any special conditions addendum hereto will be regarded as gross negligence and the applicant will be held responsible for the damage or loss as a result thereof.

Date: 19 September 2017

By: C Spammer

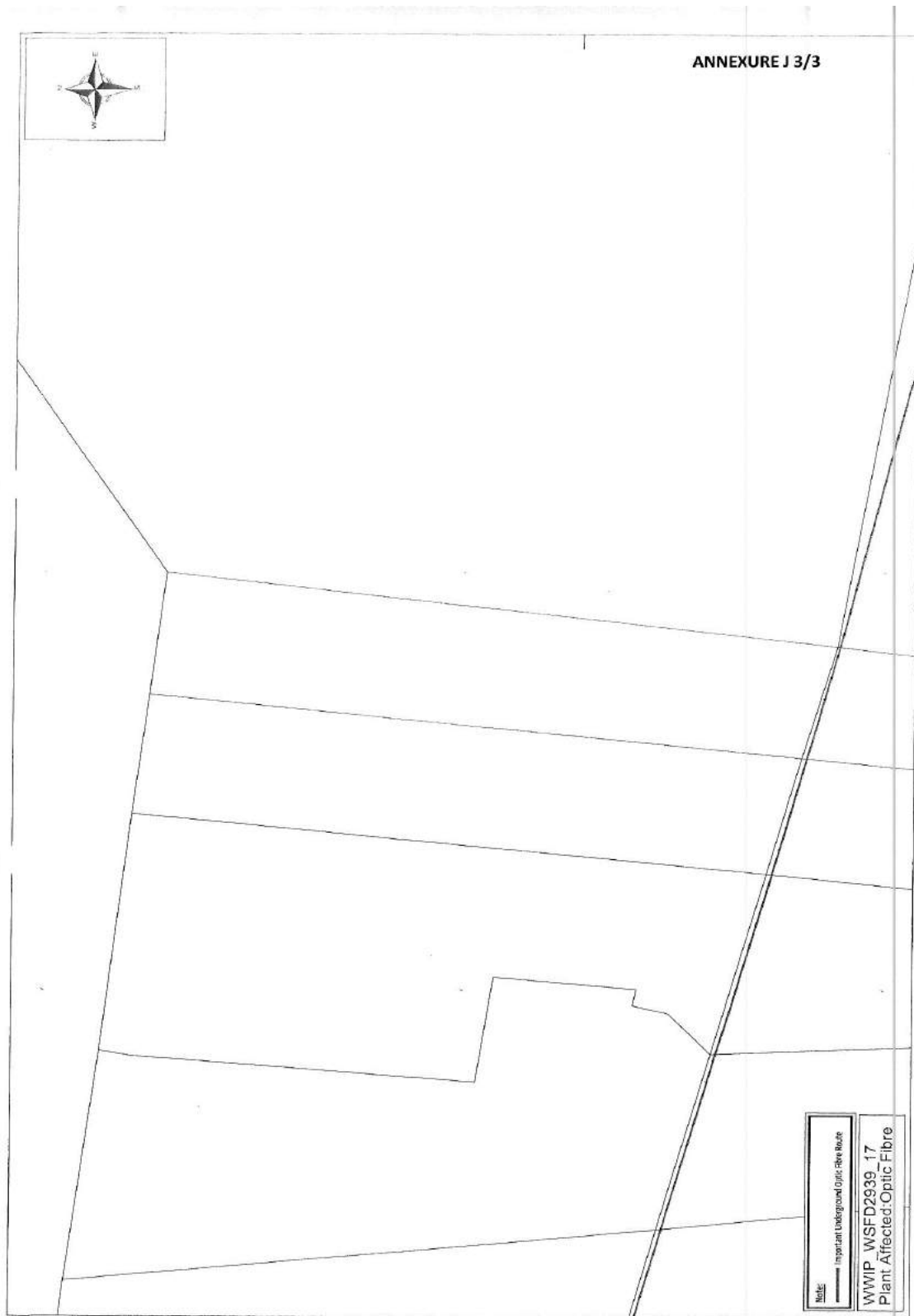
For Regional General Manager  
Western Cape ( N2W3T1B)

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

The pipeline indicated contains **OPTIC FIBRE** cables.

F Swart - telephone 028 514 1199 must be contacted at least 48 hours before commencement of work.





**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR AMENDMENT OF THE SITE DEVELOPMENT PLAN &  
CONDITIONS OF APPROVAL: PORTION 2 OF FARM ~~222~~, MISTY  
MOUNTAIN, DIVISION OF CALEDON (3696)** **725**

Electricity	:	Eskom area
Stormwater	:	No services available
Water	:	No services available
Sewer	:	No services available
Roads and traffic	:	No services available

**Conditions:**

1. that the developer arrange with ESCOM for the provision of electricity and that he complies with all conditions as may be set by ESCOM;
2. that no water and sewer services from Overstrand Municipality is available and the developer will be responsible to obtain the necessary approval, licence and permits from the applicable authorities (Water and Sanitation, Health, Bocma etc.) for the use of any other water resources and the extraction thereof;
3. that the developer is responsible to provide potable water to the development that complies with SANS0241 standards and that relevant proof be submitted to the Senior Manager: Engineering Services, Overstrand Municipality;
4. that waste water disposal be done in a safe and healthy manner and that plans thereof be submitted to the Municipality and DWA for approval;
5. that, as no municipal refuse removal services are rendered in the area, the owner is responsible for removal of all refuse generated on the property, and disposal thereof at a registered municipal waste transfer station or –waste disposal facility;
6. that the developer complies to all the conditions set by Department Of Water Affairs & Bocma.



**DENNIS HENDRIKS  
SENIOR MANAGER:  
ENGINEERING SERVICES**

18/12/2017  
DATE