

4.3

ERF 4846, 15 ELEVENTH AVENUE, KLEINMOND, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REZONING AND SUBDIVISION: MESSRS PLAN ACTIVE ON BEHALF OF MG HILTL

**4846 KM (3333/2019)
H van der Stoep
12 October 2020**

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

An application was received on 12 September 2019 from Messrs Plan Active Town and Regional Planners on behalf of MG Hiltl on Erf 4846, Kleinmond for the following:

- ❖ Subdivision in terms of Section 16(2)(d) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 in order to subdivide Erf 4846, Kleinmond into five (5) portions and a Remainder, measuring as follows:
 - Portion A – ±84m² in extent
 - Portion B – ±1016m² in extent
 - Portion C – ±1016m² in extent
 - Portion D – ±1016m² in extent
 - Portion E – ±312m² in extent
 - Remainder Erf 4846 – ±1016m² in extent
- ❖ Rezoning in terms of Section 16(2)(a) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 in order to subsequently rezone Portions A and E from Residential Zone 1 to Transport Zone 2.

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

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The erf is located north of the R44 (Main Road) Kleinmond, which was subdivided and rezoned in 2007 to be developed as a group housing complex, comprising of five (5) residential erven and a transport erf. The afore-mentioned erven were never registered and has thus lapsed. The application is located in an area where various group housing complexes have been developed. The Single Residential Zone 1 erven in the area has an erf size of 495m² in extent on average.

4. SUMMARY OF APPLICANT'S MOTIVATION

The proposed subdivision and rezoning are motivated as follows:

- Four (4) residential erven will be created and the Remainder, which will be Transport Zone 2. The latter will be transferred to the Local Authority.

- The proposed subdivision will follow the same configuration as the residential erven in the same residential block and would be of similar size.
- The number of erven created will be less than the previous approval for a residential complex.
- Two (2) of the portions will be rezoned from Residential 1 to Transport Zone 2. These portions will become part of the abutting public roads as road widenings.
- The subdivision and transport erven will have no negative impact on the surrounding property owners' rights.

Services:

Access will be obtained from both Eleventh- and Tenth Avenue with regard to the newly created portions. The remainder on which an existing dwelling and an outbuilding is located will retain its access from Eleventh Avenue.

Services will be provided to the newly created erven as stipulated by the Municipality. The erf is located in an established residential area, which is fully serviced.

Title Deed:

There are no restrictive conditions restricting the proposed subdivision.

Forward Planning:

- Spatial development Framework: (2006)

The erf is located in an area earmarked for residential development.

- Overstrand Growth Management Strategy: (2010)

The erf is located in Planning Unit 9 which consists of mature middle to high income group residential area with limited densification opportunity. The newly created erven and the remainder will still be compatible with the areas of the residential erven in the vicinity.

Other relevant legislation:

- Heritage value:

The erf is not located within a Heritage Overlay Zone

- Biophysical environment:

The proposed subdivision does not trigger any listed activities as per NEMA regulations.

- Planning Principles

Spatial Justice

The subdivision will create an opportunity for future landowners to obtain land.

Spatial Sustainability

The property is within the Urban Edge and will have no impact on agricultural land, environmentally sensitive areas or biodiversity rich areas.

Efficiency

The erf is easily accessible and will promote the optimisation of the use of space within a developed residential area.

Spatial Resilience

N/A

Good Administration:

The Municipality is consulted in the process and a public participation process will be followed.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	Yes	20 February 2020	27 March 2020
Registered notices	Yes	21 February 2020	27 March 2020
Ward councillor	Yes	21 February 2020	27 March 2020
Total comments	ONE (1)		
Total letters of support	NONE		
Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly (if no, elaborate below):			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			Yes

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

Name	Date received	Summary of comments
Building Control	6/03/2020	No objection.
Waste Management	28/02/2020	No objection.
Fire Department	24/02/2020	No objection.
Engineering Services	12/06/2020	Annexure F.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION, THE APPLICANT'S RESPONSE AND THE MUNICIPAL TOWN PLANNER'S RESPONSE THEREON

One (1) letter of objection were received from Mr A van Wyk (attached as Annexure D). The applicant was provided an opportunity to comment on the objection received, and their comments are attached as Annexure E.

❖ *Objection*

The essence of the objection is that the newly created erven will burden the gravel road, which is Tenth Avenue. The dust is unbearable and a request to tar the road was submitted in 2011. The response was that the road will be tarred in 2012 and nothing has been done up till now. The proposal is that Tenth Avenue be closed at Bot River Road to limit the heavy vehicle traffic.

Applicant's response

The proposed application will have less of an impact than the previous approval for a housing complex. The owner cannot be held responsible for current users and the condition of the road. The road and its problems should be addressed by the Municipality.

Town Planner's response

Concur with the applicant.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See Paragraph 7 above.

9. MUNICIPAL ASSESSMENT OF COMMENTS (Town Planner's comment on objections/and response thereon)

See Paragraph 7 above.

Internal and External Departments

The application was supported by all internal municipal departments.

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

10.1 Background

N/A

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

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

The objectives relating to:

Spatial Justice

N/A

Spatial Sustainability

The application is within the urban edge and will not impact on agricultural land or environmental areas. The application is in line with the promoting of compaction and mixed-use urban environments.

Efficiency

The landowner wants to use the property to its full potential and make optimal use of municipal services available to the erf that in return contribute economic well-being.

Spatial Resilience

The application is in line with local policies which promote optimal use of an erf to limit urban sprawl.

Good Administration

Administrative procedure was followed as prescribed by the Municipality.

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

Same as Point 10.2 above.

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

The IDP and Overstrand Municipality promote the establishment of tourist accommodation in the Overstrand area.

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

N/A

10.6 Impact on Municipal Engineering Services

Existing services will be used.

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

N/A

10.8 Existing and proposed zoning comparisons and considerations

The Overstrand Municipality Zoning Scheme Regulations is applicable to this area. The application is consistent with the primary rights and development trends in the area.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE DESIRABILITY OF THE PROPOSAL

In terms of desirability the following aspects need to be considered namely:

Economic Impact:

The proposed subdivision will provide an opportunity to create employment during construction phase or permanent for prospective households. The subdivision also assists the generation of additional income in terms of service contributions for the Municipality.

The engineering services is available and in existence to and on the property. Fully occupied dwellings will contribute to income generation to the Municipality.

The safety, health and well-being of the surrounding residents will not be affected by the proposed subdivision.

The proposal will have no impact on the biophysical environment or heritage value of the area.

The proposed subdivision will have less than an impact than the previous approval in 2007. The afore-mentioned will thus generate less vehicles on Tenth- and Eleventh Avenues. The problems relating to speeding and heavy vehicles in Tenth Avenue cannot be made the responsibility of the applicant. This is an issue that needs to be addressed by the Municipality.

13. RECOMMENDATION

1. that the application in terms of Section 16(2)(d) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (By-Law) in order to subdivide Erf 4846, Kleinmond into five (5) portions and a Remainder, measuring as follows:

- Portion A – ±84m² in extent
- Portion B – ±1016m² in extent
- Portion C – ±1016m² in extent
- Portion D – ±1016m² in extent
- Portion E – ±312m² in extent
- Remainder Erf 4846 – ±1016m² in extent

be approved in terms of the provisions of Section 61,

2. that the application in terms of Section 16(2)(a) of the By-Law in order to subsequently rezone Portions A and E from Residential Zone 1 to Transport Zone 2, **be approved** in terms of the provisions of Section 61,
3. that the approvals in Points 1. and 2. be subject to the following conditions:
 - (a) that subdivision be in line with Drawing No. 4846.drw dated September 2019 submitted with this application;
 - (b) that the proposed subdivided Portions A and E be rezoned from Residential 1 to Transport Zone 2 as per Drawing No. 4846.drw dated September 2019;

- (c) that the proposed subdivided and rezoned Portions A and E [as per Condition (b) above] be transferred by the property owner to the local authority with the registration of the first erf;
 - (d) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
 - (e) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with, and
 - (f) that all the conditions in the Services Report (attached as Annexure F), be complied with.
2. that the applicant and objector be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decision.

14. REASONS FOR RECOMMENDATION

- ❖ The application is in line with forward planning documents.
- ❖ The creation of four (4) residential erven is in line with the surrounding erf extents and will not be to the detriment of the character of the area.
- ❖ The objection regarding dust and speeding is not the responsibility of the applicant and thus cannot be held responsible.

15. ANNEXURES

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

SIGNATURE

REGISTERED PLANNER

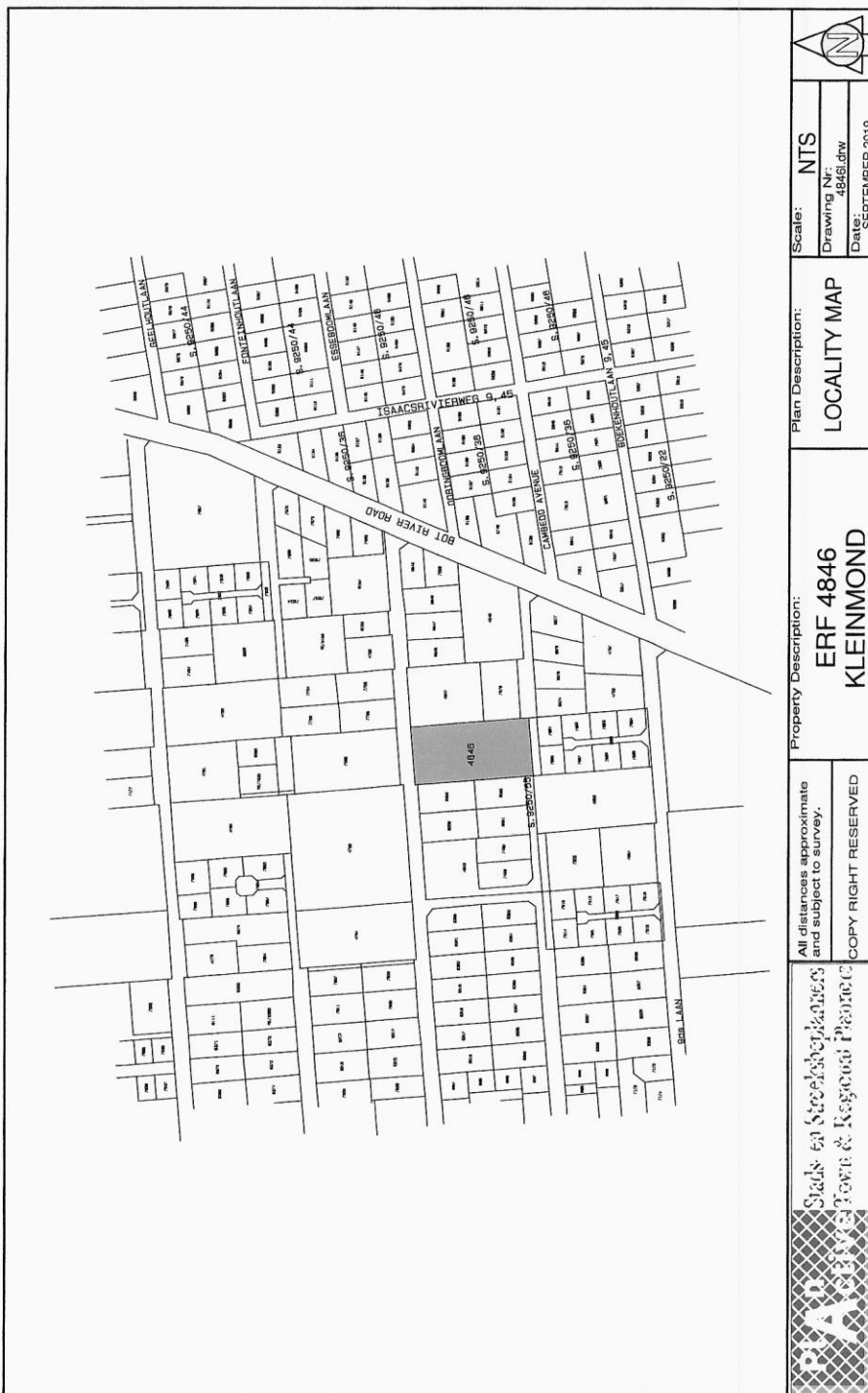
Name: **H VAN DER STOEP**

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

Signature: _____

Date: _____

ANNEXURE A



Scale: NTS
 Drawing Nr: 4846L.drw
 Date: SEPTEMBER 2019

Plan Description:
 LOCALITY MAP

Property Description:
 ERF 4846
 KLEINMOND

All distances approximate
 and subject to survey.
 COPY RIGHT RESERVED

PLANNING
 Sluis en Streekplanning
 Town & Regional Planning

**PROPOSED SUBDIVISION AND
REZONING**

ERF 4846

KLEINMOND

DIVISION: CALEDON

OVERSTRAND MUNICIPALITY

MOTIVATION REPORT

1. **BACKGROUND**

The owner of Erf 4846 Kleinmond, Mr. M.G. Hiltl, has instructed the company Plan Active to apply for the subdivision of Erf 4846 Kleinmond, and a rezoning of two portions from Residential Zone 1 to Transport Zone 2 to accommodate road widenings.

Erf 4846 Kleinmond is 4461m² in extent and is held by Title Deed Number T124806/2004.

An application for the subdivision of Erf 4846 Kleinmond was submitted in 2007 and approved in terms of Section 25 of Ordinance 15 of 1985 on Land Use Planning. It was proposed to create 5 residential portions and a Remainder. The subdivision however was not registered within the 5-year period and subsequently lapsed. The owner now intends to re-subdivide the subject property but to create 3 additional residential portions, a remainder and two portions to be rezoned from Residential Zone 1 to Transport Zone 2 (these two portions will form part of the public road as a road widening abutting the subject property).

Motivation report

2. APPLICATION DETAILS

Application is made in terms of:

- Chapter 4, Section 16(2)(d) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the subdivision of Erf 4846 Kleinmond.
- Chapter 4, Section 16(2)(a) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the rezoning of two portions of Erf 4846 Kleinmond from Residential Zone 1 to Transport Zone 2.

3. DESIRABILITY**3.1 PROPERTY DESCRIPTION**

Erf 4846 Kleinmond is located between 10th Avenue and 11th Avenue, at 15, 11th Avenue, Kleinmond and is 4461m² in extent. Please refer to the enclosed locality plan.

3.2 ZONING

Erf 4846 Kleinmond is zoned Residential Zone 1 and is utilized as such. The surrounding properties are zoned for single residential purposes, public roads and public open space.

3.3 LAND USE

Erf 4846 Kleinmond is used for residential purposes. A dwelling and an outbuilding are situated on the subject property. Access to Erf 4846 Kleinmond is obtained from 11th Avenue.

Land uses that surround Erf 4846 Kleinmond are single dwellings, public roads and public open spaces. It is therefore evident that Erf 4846 Kleinmond is situated within a predominantly single residential area.

Motivation report

3.4 PROPOSAL

The following are proposed:

- Chapter 4, Section 16(2)(d) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the subdivision of Erf 4846 Kleinmond.
- Chapter 4, Section 16(2)(a) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for the rezoning of two portions of Erf 4846 Kleinmond from General Residential Zone 1 to Transport Zone 2.

Erf 4846 Kleinmond is 4461m² in extent. The intention of the owner of the subject property is to subdivide Erf 4846 into 6 portions. These 6 portions will be made up of 4 residential portions and two portions that will form part of the public road as road widenings.

3.4.1. Proposed Subdivision

The detail of the subdivision can be described as follows:

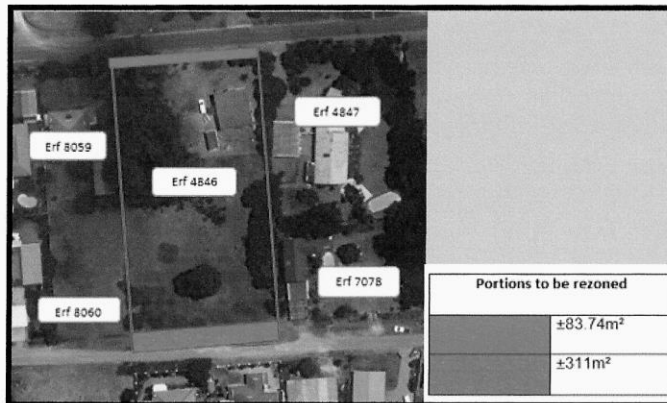
Subdivision of Erf 4846 Kleinmond			
Proposed Portions	Size	Land use	Proposed zoning
Remainder Erf 4846	±1016m ²	Dwelling and single garage	Residential Zone 1
Portion A	±84 m ²	Vacant	Transport Zone 2
Portion B	±1016m ²	Vacant	Residential Zone 1
Portion C	±1016m ²	Vacant	Residential Zone 1
Portion D	±1016m ²	Vacant	Residential Zone 1
Portion E	±312m ²	Vacant	Transport Zone 2

Motivation report

The proposed subdivision of Erf 4846 Kleinmond follows the same configuration as the residential erven in the same residential block and would also be of a similar size. The proposed subdivision will not have a negative impact on the character of this particular area of Kleinmond. With a previous subdivision application, it was proposed to create 5 residential portions and the remainder that was approved. The impact are significantly lower with the proposed application as only 3 residential portions and the remainder are proposed.

The proposed subdivision will also have a positive impact on the economy of the area. By allowing the subdivision, three additional residential properties will be created from which the municipality can attain bulk services levies as well as monthly rates and taxes. Future possible plans to develop the newly created portions will create temporary employment during the construction phase thereof.

3.4.2. Proposed Rezoning



The proposed subdivision will create a Remainder and 5 portions. The two portions as indicated in the picture above will be rezoned from Residential Zone 1 to Transport Zone 2. These two portions will become part of the abutting public roads as road widenings. As seen in the abstract below, a public road falls under a primary use under the Transport Zone 2 zoning.

11.2 TRANSPORT ZONE 2: ROAD AND PARKING (TR2)**Use of the property**

11.2.1 The following use restrictions apply to property in this zone:

- (a) **Primary uses** are: private parking, private road, public road, public parking;

The rezoning of these two portions will not have any impact on the surrounding property owners' rights. The rezoning will also not have any impact on the character of this area of Kleinmond.

3.5 ACCESS

Vehicular and pedestrian access to Remainder Erf 4846 Kleinmond and the existing dwelling and outbuilding are gained from 15th Avenue, Kleinmond. The access to the Remainder Erf 4846 Kleinmond will be retained.

Portion B, a portion of Erf 4846 Kleinmond will be accessed via 11th Avenue, Kleinmond. Portion D and Portion C, two portions of Erf 4846 Kleinmond, will be accessed via 10th Avenue.

The exact positions of the access points to Portion B, C and D, portions of Erf 4846 Kleinmond will be confirmed with a building plan submission, when the new owners intend to build.

3.6 SERVICES

Erf 4846 Kleinmond is situated in an already developed residential area, municipal services already exist to which the newly created erven, could connect to. All required services will be installed according to the specifications of the Overstrand Municipality.

Motivation report

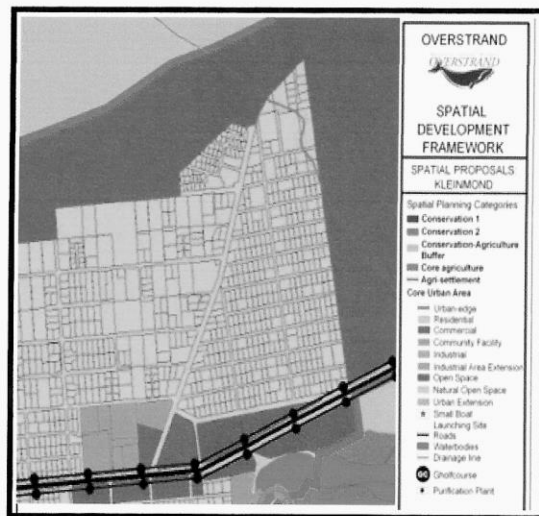
3.7 TITLE DEED

There are no restrictive Title Deed conditions in Title Deed No. T124806/2004 that need to be addressed in order to accommodate the proposed subdivision and rezoning.

There is no bond registered against Erf 4846 Kleinmond.

3.8 FORWARD PLANNING**Overstrand Municipal Wide Spatial Development Framework (2006).**

In terms of the Overstrand Wide Spatial Development Framework the subject property is earmarked for residential purposes. The residential zoning of the subject erf will be retained after the subdivision and rezoning of portions of the erf. The new proposed erven (portion B, C and D) will also retain a Residential Zone 1 zoning. Portion A and Portion E will be rezoned from Single Residential Zone 1 to Transport Zone 2 as it will form part of the public road.



Overstrand Growth Management Strategy (2010)

With reference to the Overstrand Growth Management Strategy the subject erf falls within Planning Unit 9 that consists of a mature middle to high income group residential area with limited densification opportunity. The planning unit is the largest planning unit in Kleinmond and is located in the northern central section of Kleinmond.

Densification proposed for this planning unit consists of a variety of Incremental proposals and site development at densities between 17 and 46 dwelling units per hectare. Only 20% of this area is assumed to be suitable for densification.

Each subdivision application should be dealt with on its own merit. Erf 4846 Kleinmond is one of the largest erven in this residential block and 4 times the size of an average residential erf in the area. The newly created erven and the remainder will still be compatible with the areas of the residential erven in the vicinity and can therefore be supported. The subject property was also approved for subdivision in 2007 and surveyed in 2008 (General Plan No 3555/2008) and will be withdrawn.

3.9 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION**3.9.1 HERITAGE VALUE**

Erf 4846 Kleinmond is not situated within the Heritage Overlay Zone as determined by the Overstrand Municipality Growth Management Strategy (2010). The property is not earmarked for heritage conservation purposes in terms of the Overstrand Heritage Survey Report (2009).

Motivation report

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

In light of the above mentioned it is evident that the proposed subdivision, and rezoning will not have a negative impact on the heritage value of the subject property or the greater area of Kleinmond

3.9.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT

The proposed subdivision and rezoning do not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

3.10 PLANNING PRINCIPLES

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

Spatial Justice: The proposed subdivision is in line with the current erf sizes in the vicinity within the Kleinmond area. The proposed subdivision will create an opportunity for future landowners to obtain land.

Spatial sustainability: The proposed subdivision of Erf 4846 Kleinmond and the rezoning of two portions from Residential Zone 1 to Transport Zone 2 are in line with the current character of the established residential area. The proposed application will have no impact on the conservation worthy areas of Kleinmond. Spatially the land use and erf sizes of the created portions and remainder will be in line with the residential character of the Kleinmond area.

Motivation report

Efficiency: The proposed application for the subdivision and rezoning will promote the optimisation of the use of space within a developed residential area. The subject property is also situated close to the CBD of the Kleinmond area

Spatial Resilience in the context of land use planning refers to the need to promote the development of sustainable livelihoods for the poor (i.e. communities that are most likely to suffer the impacts of economic and environmental shocks). Spatial resilience also refers to the requirement for flexibility in spatial plans, policies and land use management systems to ensure sustainable livelihoods in communities most likely to suffer the impacts of economic and environmental shocks. The spatial plans, policies and land use management systems should enable the communities to be able to resist, absorb and accommodate these shocks and to recover from these shocks in a timely and efficient manner, which includes the preservation and restoration of essential basic infrastructure and functions, but also adaptation in order to ensure increased resilience in terms of future shocks (United Nations Office for Disaster Risk Reduction, 2009). In our opinion the principle of Spatial Resilience is not applicable to this application.

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

4. **RECOMMENDATION**

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

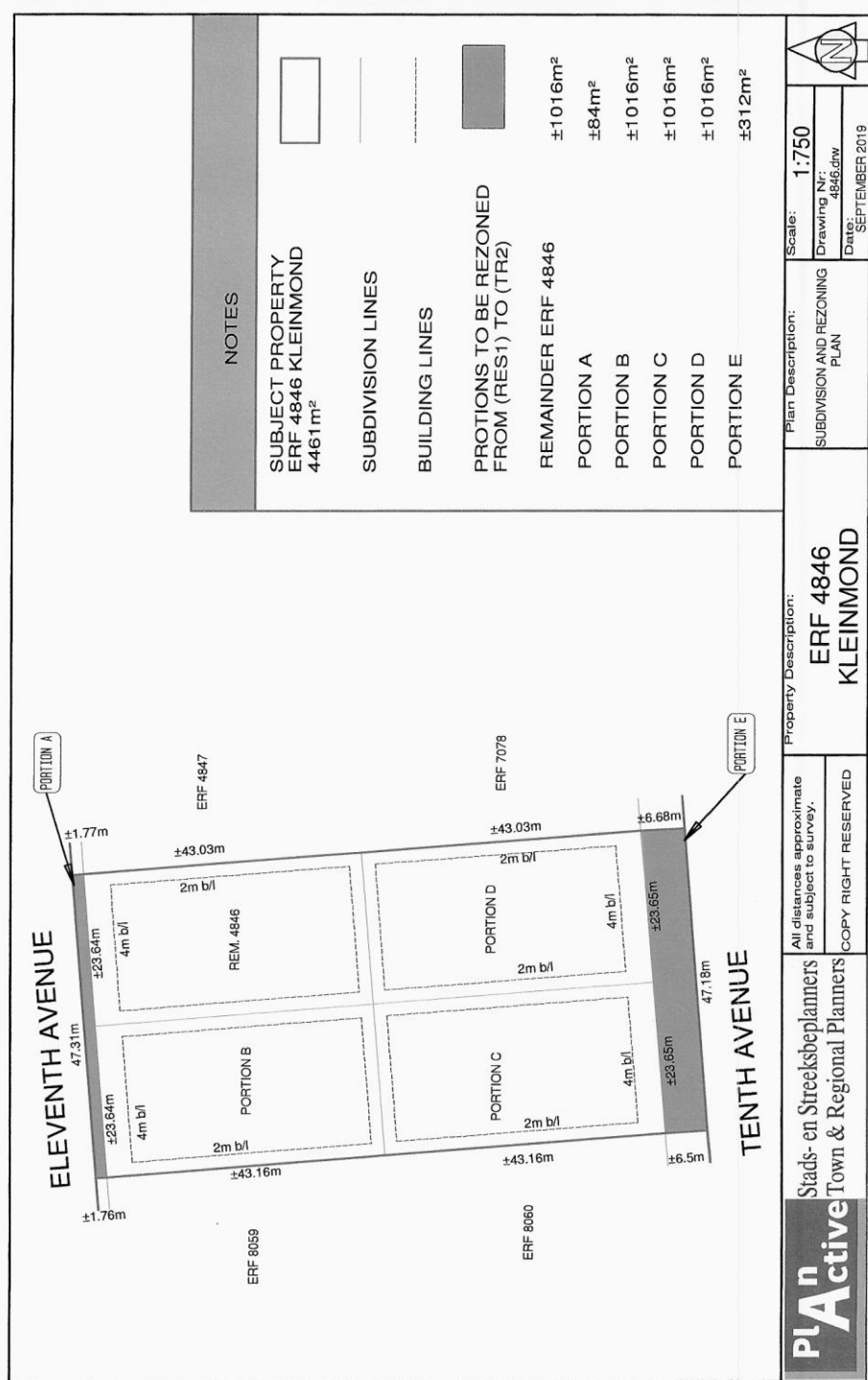
- The proposed subdivision of Erf 4846 Kleinmond, and the rezoning of the 2 street portions as described above fall within the existing land use tendencies in the area;

Motivation report

- The proposal is compatible with the existing erf sizes in the area;
- The proposed subdivision, and the rezoning of the erf will not have a negative impact on the current character and land values of the surrounding erven.
- The proposed subdivision and rezoning will have no impact on the existing dwelling and outbuilding as these structures will still comply with the land use restrictions applicable to erven with a Residential Zone 1 zoning.
- A subdivision for the subject property was already approved in 2007 (5 residential portion and a Remainder) and the proposed subdivision has a lower impact as only three residential portions and a remainder are proposed.
- The proposed application is in line with Spatial Planning Land Use Management Act, 2013 (SPLUMA) and the Land Use Planning Act, 2014 (LUPA).

With regards to the above mentioned it would be appreciated if the Overstrand Municipality would consider the application favourably for the subdivision and rezoning of Erf 4846 Kleinmond in order to create 3 additional residential erven and 2 portions to be rezoned from Residential Zone 1 to Transport Zone 2 to be used road widenings.

ANNEXURE C



NOTES

SUBJECT PROPERTY ERF 4846 KLEINMOND 4461 m²

SUBDIVISION LINES

BUILDING LINES

PORTIONS TO BE REZONED FROM (RES1) TO (TR2)

REMAINDER ERF 4846

PORTION A ±1016m²

PORTION B ±84m²

PORTION C ±1016m²

PORTION D ±1016m²

PORTION E ±312m²

<p>PLAn Stads- en Streeksbeplanners Town & Regional Planners</p>	<p>Property Description: ERF 4846 KLEINMOND</p>	<p>Plan Description: SUBDIVISION AND REZONING PLAN</p>	<p>Scale: 1:750</p>
	<p>All distances approximate and subject to survey. COPY RIGHT RESERVED</p>	<p>Drawing Nr: 4846.dwg</p>	<p>Date: SEPTEMBER 2019</p>

ANNEXURE D 1/2

TP. N. Incead
(11. ud Stoop)

Leër Verwysing 4846 KKM

Polka 4

Aansoek ID 3333/2019

9de Laan

KLEINMOND 7195

11 Maart 2020

Loretta

Departement Stadsbeplanning

Patersonstraat 16

HERMANUS

Geagte Loretta

FILE NO:	Er 4846
	Kleinmond
SCAN NO:	14
COLLABORATOR NO:	1397199

Voorgestelde Onderverdeling van Erf 4846 – Kleinmond

Ons, die ondergetekendes, maak ernstig beswaar teen voorgestelde onderverdeling van Erf 4846, Kleinmond, omdat nog meer erwe geskep word om huise op te bou en geen poging aangewend word om die gedeelte van 10de Laan tussen Botrivierweg en 3de Straat te teer nie. Die grondstraat benadeel ons eiendom wat gedurig deur stof geteister word.

Die sterk noordweste en suidooste winde waai dikwels in Kleinmond en ons huise is gedurig binne en buite vol stof, wat baie onderhoud en ongerief veroorsaak. Die pad dra die afgelope tyd baie druk verkeer, wat swaar voertuie en jaagduiwels insluit en verder bydra tot die stof teistering. Dit help ook nie om die pad te skraap nie want dit vererger net die stofprobleem.

Ons het al verskeie versoeke aan die Munisipaliteit gerig om die pad te teer maar ongelukkig word niks daaraan gedoen nie. Die laaste skriftelike terugvoering wat ons gekry het, was 'n brief op 14 Maart 2011 waarin bevestig is dat die teer van die straat op die lys geplaas sal word om gedurende 2012 finansiële jaar oorweeg te word. Sedertdien het niks egter gebeur nie en is ook geen verdere terugvoering ontvang nie.

/2.....

TP 19 MAR 2020

Indien u nie ons beswaar en probleme in ag kan neem nie, wil ons dan egter voorstel om die verkeer in die straatgedeelte te beperk deur 10de Laan weer 'n doodloopstraat te maak, tussen Botrivierweg en 3de Straat, sodat toegang en uitgang slegs in Botrivierweg sal geskied.

U verdere aandag word waardeer.

Die uwe


J A VAN WYK (Erf 7681)

Erf 4846 - E. de Villiers

E. de Villiers

ERT 7078

H.P. BEUKES

(N.M. Pieter BEUKES TRUST)

myms.

Erf 6274 J.J. Delforst



ANNEXURE E 1/3



JP. N. Aheed
(11. Jd Stoep)



6 Magnolia St / Str
PO Box / Posbus 296
HERMANUS
7200
Tel: (028) 313 1673
Fax / Faks: (028) 312
1351
Email:

TOWN & REGIONAL PLANNERS
STADS-EN STREEKSBEPLANNERS

planactive@hermanus.co.za

Website: www.planactive.co.za

Our reference: PA19063

Your reference: 4846KKM

4 June 2020

The Municipal Manager
Overstrand Municipality
PO BOX 20
Hermanus
7200

FILE NO:	4846
	Kleinmond
SCAN NO:	02
COLLABORATOR NO:	1414435

FOR ATTENTION: MRS H. VAN DER STOEP

Sir

ERF 4846 KLEINMOND: PROPOSED SUBDIVISION AND REZONING

MR. M.I. HILT

Reference is made to our application dated 12 September 2019 as well as your email dated 15 May 2020.

The objection received from Mr. J.A. van Wyk & others (surrounding property owners also signed the objection letter received) , refers and can be summarized as follows:

It is clear that the main issue with reference to the objection received, is the dirt road (as indicated in the picture below). The objector indicates that the proposed subdivision (creation of additional properties) will have an impact on the existing dirt road and that the dust that is generated from the use of the dirt road will have a negative impact on the surrounding properties. The objector states that the result of the North Western and South Eastern winds create an amount of dust that settles

- 4 JUN 2020

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

John Mc Lachlan: Ndip (Town Planning) Tech Witwatersrand; MSAPI Nr.10908; SACPLAN Tch.Pln B/8250/2014 Pauline
 Spronk: B (Soc Sc) US, BA Hon (UNISA)

Meriké Lerm: B. Art et Scien Cum Laude (Town Planning) UNW; SACPLAN Pr.Pln A/158/2009

on the surrounding properties in 10th Avenue Kleinmond. It is also mentioned that the road carries heavy vehicles and speedsters which also contributes to the amount of dust in the area.



It is also mentioned by the objector that residential owners in 10th Avenue have requested the local municipality to tar the mentioned road but have been unsuccessful this far. The objector requests that if their concerns are not heard with regards to the proposed application, that the local municipality would at least consider creating a dead end in 10th Avenue (between 3rd Street and Botrivier Road)

Our comments on the objection are as follow:

As discussed in our motivational report which accompanied our application, "An application for the subdivision of Erf 4846 Kleinmond to create 5 residential erven and a remainder was submitted in 2007 and approved in terms of Section 25 of Ordinance 15 of 1985 on Land Use Planning. The subdivision however was not registered within the 5-year period and subsequently lapsed. The owner now intends to re-subdivide the subject property but to create only 3 additional residential portions, a remainder and two portions to be rezoned from Residential Zone 1 to Transport Zone 2 These two portions will form part of the public road as a road widening abutting the subject property.

The new proposed subdivision of Erf 4846 Kleinmond proposes fewer residential erven as previously approved, which means that the impact of the proposed subdivision is less on the surrounding properties and the existing services in the area. The existing owner Erf 4846 Kleinmond, Mr. M.G. Hilt, cannot be held accountable for current road users that use the existing roads infrastructure irresponsibly. The proposed subdivision and rezoning falls within the existing land use tendencies for the area of Kleinmond.

The proposal will create one additional portion in 10th Avenue which will have little impact on the existing traffic for the aforementioned road. The current traffic problems (heavy vehicles and speedsters) already exists in 10th Avenue and 1 additional portion will have an insignificant impact on the mentioned road. The owner of Erf 4846 Kleinmond, Mr. M.G. Hilt cannot be held accountable for the dust created as a result of the dirt road conditions.

The objector mentions that they have requested the Overstrand Municipality to tar the road (10th Avenue) and have not been successful. It is also mentioned that the surrounding property owners would require that 10th Avenue should be deemed as a dead end to traffic to curb the problems created by the traffic in the mentioned road. We understand the frustration by the surrounding property owners and share the sentiment, but we feel that our client cannot be penalised to create additional erven and utilise the undeveloped space of Erf 4846 Kleinmond more sustainable by creating more residential opportunities in the area. The issue of the dirt road should be discussed with the local municipality directly, as we believe that the public participation process for the proposed application should not be the platform to do so. It should also be noted that with the approval of the proposed subdivision, bulk services levies will be payable of which funds can be utilised for the tarring or upkeep of the portions of road referred to by the objector.

We trust that you will find our comments on the objections received in order and that the application will be dealt with favourably.

Yours faithfully



Darren Adams

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR SUBDIVISION: ERF 4846, KLEINMOND**

Water : In Order
Sewer : In Order
Roads to traffic : In Order
Stormwater : In Order
Electricity : In Order

Conditions:

1. that a development contribution be paid by the developer to supplement municipal services and amenities in accordance with the relevant legislation and as determined by the Council. Payment to be made simultaneously but prior to transfer and rates clearance certificate being issued of any erf or prior to such erf being put to the approved use or such use being extended, as the case may be.

The contribution according to the current policy (2019/2020) is as follows:

Water	R 22 925.00	x 3	=	R 68 775.00
Sewerage	R 15 457.00	x 3	=	R 46 371.00
Roads	R 6 931.00	x 3	=	R 20 793.00
Solid Waste	R 1 386.00	x 3	=	<u>R 4 158.00</u>
TOTAL (incl. VAT)			=	<u>R140 097.00</u>

2. that the developer at his cost constructs the internal municipal civil and electrical services for the development as well as any link or bulk municipal services that need to be proved;
 - 2.1 the Director: Infrastructure and Planning may require the developer to construct internal, link, and/or bulk municipal services to a higher capacity than warranted by the development for purposes of allowing other existing or future developments to also utilise such services, provided;
 - 2.2 the rates and prices of such work be established in terms of a system which is fair, equitable, transparent and cost effective;
 - 2.3 if link municipal services have already been provided, the developer to contribute towards the cost thereof, the Director: Infrastructure and Planning to determine the amount of such contribution in terms of a system which is fair and equitable;

3. that servitudes for municipal services be registered in favour of the Council at the developer's cost in respect of all main services to be taken over by the Council and all existing municipal services concerned crossing private property;
4. that the developer indemnifies and keep the Council indemnified against all actions, proceedings, claims and demands, costs, damages and expenses arising out of the establishment of the township, the provision of services to the township or the use of servitude areas or municipal property:
 - 4.1 for a period which shall commence on the date that the installation of the services to the township are commenced with and shall expire after completion of the maintenance period;
 - 4.2 the developer to submit an acceptable public liability insurance policy to the Council and to pay the premium in advance for the period as set out above before any work concerned may commence;
 - 4.3 the insurance to be to an amount which shall not be less than that required by the SAACE;
 - 4.4 such indemnification against loss, claims or damages, to include claims pertaining to consequential damages by third parties and whether as a result of the damage to or interruption of or interference with the Council's services or apparatus or otherwise;
5. that a plan of all existing services be submitted to the Director: Infrastructure and Planning, by the developer and that any of the services that need to be relocated, be done by the developer at his cost to the satisfaction of the Director: Infrastructure and Planning:
 - 5.1 way-leaves must be obtained from the Operational Manager;
 - 5.2 such way-leaves to be obtained prior to any excavation on public property or property where existing services are located;
6. that the developer may enter into an agreement with the Council to install or upgrade bulk and/or link municipal services and amenities at an agreed cost, subject to the following:
 - 6.1 such costs to be established in accordance with a system which is fair, equitable, transparent, competitive and cost effective;

- 6.2 such costs shall be set-off against (part or full) development contributions payable in respect of engineering services;
- 6.3 to the extent that such costs exceed the development contributions payable, the Council will refund the developer the difference with interest calculated at the prime rate, when funds are available;
7. that plans of all the internal municipal civil and electrical (high and low voltage supply) services and such link services as required by the Director: Infrastructure and Planning, prepared by an ECSA registered professional engineer/technologist, be submitted to the Director: Infrastructure and Planning for his prior approval;
8. the "Guidelines for the Provision of Engineering Services in Residential Townships" (Blue Book), SABS 1200 specifications and the Design and Construction Standards for civil and electrical services of the Council to be used as the standard design and construction criteria with which such plans must comply;
9. the Director: Infrastructure and Planning to be notified in writing of all deviations from the Standard Design and Construction Criteria when plans are submitted for his approval and such deviations to be separately approved in writing by the Director: Infrastructure and Planning;
10. the successful completion of such works to be supervised and certified by an independent professional civil engineer/technologist i.e. a professional civil engineer/technologist who has no direct financial interest in the development, other than payment as standard professional fees for the work concerned; and
11. such independent professional civil engineer/technologist to furnish the Director: Infrastructure and Planning with satisfactory proof of his professional indemnity insurance to an amount which shall not be less than that required by the SAACE and which insurance shall be valid for the relevant contract and maintenance period;
12. that a stormwater management plan, which may include attenuation facilities to ensure that the pre-development run-off is not exceeded, be submitted to the Director: Infrastructure and Planning for approval and that the approved management plan be implemented by the developer at his cost to the satisfaction of the Director: Infrastructure and Planning;

13. that all municipal civil and electrical services installed or constructed by the developer, be maintained after completion thereof for a maintenance period, as described in the General Condition of Contract for works of Civil Engineering Construction – 2004, of 12 months, and
14. that a Certificate of Completion together with as-built services plans be provided by the independent professional engineer/technologist to the Overstrand Municipality. As-built plans to be on quality paper, together with a DXF file thereof;
15. that the developer furnish the Council with a bank guarantee equal to 2.5% of the value of the provided municipal civil and electrical services as certified by the independent professional engineer/technologist. The guarantee shall be to the satisfaction of the Director: Infrastructure and Planning and valid for the 12 months maintenance period which commences from date of the Certificate of Completion;
16. that the electricity reticulation and supply be provided according to the master plan by the developer;
17. that the developer appoint a consulting electrical engineer to determine the electricity demand for the development and pay a fee to Overstrand Municipality to determine the capacity in the existing electricity network;
18. that a stormwater management plan, which may include attenuation facilities to ensure that the pre-development run-off is not exceeded and that erosion and pollution is minimised, be submitted to the Director: Infrastructure and Planning for approval and that the approved management plan be implemented by the developer at his cost to the satisfaction of the Director: Infrastructure and Planning;
19. that the water and sewerage connections for portions B,C and D be provided by the developer and connected to the reticulation system in 10th Avenue (Individual & Separate).
20. that a service agreement may be required by the Director: Infrastructure and Planning prior to the approval of any service plans;

- 21. that damage to the existing roads, used as routes for access to the development, for the provision of services, be repaired by the developer;

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

12/06/2020
DATE