

## 4.2

**ERF 905, 17 CENTRAL AVENUE, VERMONT, OVERSTRAND MUNICIPAL AREA:  
REMOVAL OF RESTRICTONS, CONSENT USE AND DEPARTURE: MESSRS  
ME PLANNERS ON BEHALF OF EN PRINSLOO**

905 HVM (3858)

H Olivier

24 August 2018

(028) 313 8900

Hermanus Administration

**1. EXECUTIVE SUMMARY**

An application has been received on 20 November 2017 from Messrs ME Planners on behalf of EN Prinsloo on Erf 905, Vermont for the following:

- ❖ Removal of restrictive title conditions in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the removal of the restrictive condition in Title Deed T026233/2010, Clause C. and E.(a) – (d):

*“C. ONDERHEWIG aan die voorwaardes genoem in die Notariële Akte gedateer 11 April 1930, geheg aan Transportakte Nr. T9286/1925 en waarna verwys word in die Endossement daarop gedateer 29 April 1930, wat soos volg lees:*

*“By Notarial Deed dated 11.4.1930, a restriction has been imposed upon the remainder of the land held hereunder that no liquor shall be sold thereon without the consent of the present or future proprietors of the property held under transfer 53 dd. 5 Jan. 1918 as will more fully appear on reference to the copy annexured thereto.”*

- E. ONDERHEWIG VERDER aan die volgende voorwaardes genome in gesegde Transportakte Nr. 10669/1957 ten gunste van die Transportgewermaatskappy SOUTH WESTERN DISTRICTS LAND AND FINANCE CORPORATION LIMITED en die se opvolgens in titel as eienaars van die restant van die grond gehou kragtens Transportakte Nr. 7023/1935, naamlik:*

*“(a) SAVE with the consent of the TRANSFEROR COMPANY in writing no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 3,15metres to the street line which forms a boundary of the said property, and no such building or structure shall be situate within 1,57 metre of the lateral boundary common to the adjoining lot, nor save with the consent aforesaid, may the (or any lot, if the property sold comprises more than one lot) be subdivided.*

*(b) NO building shall be erected on the said property unless plans (including one showing siting of proposed buildings) and specifications have been previously submitted and are approved by the TRANSFEROR COMPANY in writing in addition to the requirements of the Local Authority in control over the area of the Township.*

- (c) *NO canteen, hotel, restaurant, shop, factory, industry or any place of business whatsoever shall be opened or conducted on the said property except with the consent in writing of the TRANSFEROR COMPANY.*
- (d) *UNLESS the permission of the TRANSFEROR COMPANY in writing be obtained under condition (c) above the said property shall be used for residential purposes only and only one dwelling together with such outbuildings as are ordinarily required for domestic purposes shall be erected on any one lot and in particular, subject to any permission granted as aforesaid, no structure of the type commonly known as "flats" shall be erected on the said property.*
- ❖ Consent Use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Land Use Planning, 2015 in order to enable the owner to accommodate the existing greenhouse on the property.
  - ❖ Departure in terms of Section 16(2)(b) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 to depart from the Overstrand Zoning Scheme in order to relax the southern lateral building line from 2m to 0m to accommodate a carport and also the lateral building line with Erf 904 from 2m to 0m and 1,08m respectively to accommodate the existing braai and laundry and also to accommodate the usage change of the existing garage to a studio.

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

## 2. DECISION AUTHORITY

Municipal Planning Tribunal

## 3. BACKGROUND / SITE HISTORY

The erf measures 715m<sup>2</sup> in extent and is located in the Vermont residential area. The property is zoned Residential Zone I and is developed with a dwelling, carport, second dwelling and green house.

## 4. SUMMARY OF APPLICANT'S MOTIVATION

- The owner purchased the dwelling in 2010 and was also later granted the right to operate a guest house with one (1) lettable room in 2011.
- An outbuilding was converted into a second dwelling, a covered braai was constructed and a domestic room was converted into a private art studio.
- Condition C. in the Title Deed is to be removed due to the fact that a guest house is regarded as a business.
- Conditions E,(a) to (d) is to be removed due to the fact that building lines and allowable uses is controlled by the Zoning Scheme. The Overstrand Municipality is also the controlling authority and land use matters.
- The application also includes the following:
  - Consent use to legalize the existing green house, used to grow plants for the property's garden.

- Departure to allow existing covered braai, laundry, private art studio and carport constructed over building lines to be legalized. This will not impact on the character of the area, services or traffic flow, and is desirable.
- The application is in line with the planning principles as follows:
  - Spatial Justice – The application will not contribute to the perpetration of past apartheid spatial development imbalances.
  - Spatial Sustainability – The development is within the urban edge, have no impact on agricultural land, environmentally sensitive areas or biodiversity areas.
  - Spatial Resilience – The development will not lead to any economic and environmental shocks as it is existing.
  - Efficiency – The development is to cater for long distance travellers to whom all facilities will be available.
  - Good Administration – There were consultation with the Municipality and the Municipality also follows a public participation process.
- The development will add value to the area.
- There is a need for tourism facilities in the area.
- The application will contribute positively to the economy and character of the area.

#### 5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	Yes	22 May 2018	27 June 2018
Gazette	Yes	22 May 2018	27 June 2018
Notices	Yes	22 May 2018	27 June 2018
Ward Councillor	Yes	22 May 2018	27 June 2018
Total letters of support	<b>ONE (1)</b>		
Total letters of objection	<b>NONE</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 (if no, elaborate below):			<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
Fire Department	3/07/18	All structures on boundaries must provide for a 60 minute fire resistance in compliance with National Fire Protection Regulations SANS 10400 T : 2011	Supported
Engineering Services	13/06/18	See Annexure D.	Supported
Building Department	29/05/18	Supported	Supported
Local Heritage	27/09/17	No comment	Supported
Operational Services	29/05/18	See Annexure E.	Supported.

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

The Vermont Ratepayers and Environmental Association provided a letter of support.

## 8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

N/A

## 9. MUNICIPAL ASSESSMENT OF COMMENTS

N/A

## 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 with no impact on the environment or agricultural valuable land.

**Efficiency**

Would legalize existing land uses and buildings in an affordable way.

**Spatial Resilience**

Provide economic opportunity with the legalization of the second dwelling and guest house.

**Good administration**

The application followed the required planning procedures in terms of the Municipal By-laws and the public process has been followed.

**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**

In line with the SDF.

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

N/A

**10.6 Impact on Municipal engineering services**

The existing services are available and the application has been viewed positively by the Engineering Services Department.

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

N/A

**10.8 Existing and proposed zoning comparisons and considerations**

N/A

**11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS****The financial or other value of the rights**

There is no financial value to the rights, but it was inserted to help control development parameters on the site.

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

The South Western Districts Land and Finance Corporation Limited does not exist anymore and therefore the administrator which is now the Municipality, in this area is the holder of the rights. The rights only relate to enforcement of a building lines and land uses. The land uses have been incorporated into the municipal Zoning Scheme.

The person seeking the removal, the property owner, will benefit to enable him/her to develop closer to the property boundaries, legalize a second dwelling and keep operating a one (1) bedroom bed and breakfast.

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

If the restrictions remain no guest house, building line restriction or second dwelling can be allowed. The Zoning Scheme however provides for this, and is being applied in the surrounding area. If the restriction is removed it would allow for a guesthouse with a positive social impact providing for tourist accommodation.

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

The rights regarding building line control and land uses can still be controlled by the beneficiary (the Municipality) by the Zoning Scheme.

**12. THE DESIRABILITY OF THE PROPOSAL**

Erf 905, Vermont is situated in a single residential area.

The application is to remove certain title deed restrictions to enable the applicant to accommodate the existing second dwelling, guest house and some encroachments over building lines.

The application for Removal of Restrictions is to remove the following Title Deed restrictions:

- C. - Indicate that no liquor may be sold on the premises. This would stop the owner from selling liquor for on-site consumption to guests in the guest house.
- E.(a) - Relate to building line restrictions - must be removed to legalize some existing structures such as a carport, braai and laundry. Building lines are now controlled by way of the Zoning Scheme, which provides the necessary control over land use development.
- E.(b) - Indicate that the transfer company must approve all plans. The South Western District Land and Finance Corporation Limited does not exist anymore, and the Municipality consider all building plan approvals. The condition is not relevant anymore, as the South Western District Land and Finance Corporation Limited owns no more property or road portion in this extension of Vermont.
- E.(c) - Indicates no business type establishments are allowed on the property.

This could be considered a limit on the guest house right, and thus the application is to remove it.

E.(d) - Limit activities to residential and one dwelling.

This limits the rights that no second dwelling or guest house can be allowed, and therefore needs to be removed to allow the existing land uses.

The above-mentioned title deed restrictions would limit the property owner in such a manner that he/she would not be able to act on existing primary rights in terms of the Zoning Scheme, or be able to legalize existing structures over the title deed building lines. The removal of the conditions relating to land uses would not have a major impact as the limitation of land uses in the Residential Zone I zone primary uses limit land use activities sufficiently not to impact on the surrounding residential area.

Some conditions relate to the original company that established the township. The company does not exist anymore, and they also do not own any properties in this Vermont extension. The Overstrand Municipality is now the authority who can decide on these conditions, and therefore it is not required that conditions relating to the transferor company need to remain in the Title Deed.

The other title deed condition relating to building lines is also not relevant anymore as the Zoning Scheme of Overstrand Municipality has been approved to control building lines, and is stricter than the title deed building lines. However, the title deed restrictions make it impossible to deal with encroachments, hence the removal of such condition is supported.

The removal of the restrictions would ensure that the existing second dwelling is then automatically legalized, as it is a primary right on Residential Zone I even to have a second dwelling.

There is also an existing green house on the property. Although the green house is relatively small (14m<sup>2</sup>), and is used by the owner for private use, the owner applied to legalize the structure.

The property owner is also renting out one (1) bedroom in the main dwelling as a guest room. With the removal of the restriction any debate if this is allowed in terms of the Title Deed is removed, as it is allowed in terms of the primary uses under the Residential Zone I zoning.

The existing carport of 8m in length was built onto the one lateral boundary. It is approximately 2,4m in height next to the property boundary, and will have limited impact on the neighbour, who did not object to the application.

A covered braai area was also constructed onto the common lateral boundary with Erf 904. It is approximately 5m in length and 2,7m in height. It is an historic structure and is blocked to the neighbours' property with dense vegetation. It should have no real impact on the neighbour, who also did not object to the application.

There is also an historic laundry on the property 1,08m from the common boundary with Erf 904, and a garage that was changed to a studio (hobby room). These structures are historic with no additional impact on the neighbour.

Considering the above, the application will not have a negative impact on the character of the area or the neighbours as all uses and encroachments already exist. The application is therefore considered desirable.

### 13. RECOMMENDATION

1. that the application in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2015 (By-Law) on Erf 905, Vermont for the removal of restrictive clause C. and E.(a) to (d) in Title Deed T026233/2010, **be approved** in terms of the provisions of Section 61 of the By-Law;
2. that the application in terms of Section 16(2)(b) of the afore-mentioned By-Law on Erf 905, Vermont in order to relax the southern lateral building line from 2m to 0m to accommodate a carport and also the lateral building line with Erf 904 from 2m to 0m and 1,08m to accommodate the existing braai, laundry and hobby room (old garage) respectively, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the consent use application in terms of Section 16(2)(o) of the afore-mentioned By-Law to legalize an existing green house on the property, **be approved** in terms of the provisions of Section 61 of the By-Law;
4. that the approvals in points 1 to 3 above be approved subject to the following conditions:
  - (a) that the approval only relate to the buildings as indicated on Plan No 2017/10/58 dated 30 October 2017;
  - (b) that this approval does not relate to approval in terms of any other legislation;
  - (c) that building plans be submitted to the Building Department, and that all conditions set by the Building and Fire Departments at that stage, be complied with;
  - (d) that all structures on boundary lines must have a 60 minute fire resistance in compliance with the National Fire Protection Regulations SANS 10400T: 2011, to the satisfaction of the Fire Department;
  - (e) that all the conditions in the Services Report (attached as Annexure D), be complied with, and
  - (f) that a new site plan be submitted showing on-site parking in compliance with municipal requirements.
5. that the applicant be notified of its 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 removal of the restrictive conditions would not lead to a loss of finance or any other value to the Municipality or surrounding property owners.
- ❖ The land use to be legalized and building line encroachments is of such a scale that it would not impact on the character of the surrounding area or impact on surrounding property owners.
- ❖ No objections were received against the application.
- ❖ All municipal departments support the application.
- ❖ All land uses and building line encroachments being applied for is an existing situation, and the approval of the application would therefore not have a greater impact on the character of the area or the neighbours.
- ❖ The application is considered desirable.

**15. Annexures**

Annexure A:	Locality Plan
Annexure B:	Site Development Plan
Annexure C:	Motivation Report
Annexure D:	Services Report
Annexure E:	Comment: Operational Services
Annexure F:	Title Deed T026233/2010

**SIGNATURES****AUTHOR**

Name : **H OLIVIER**

SACPLAN Reg No: **B/8128/2004**

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

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

**REGISTERED PLANNER**

Name : **S VAN DER MERWE**

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

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

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



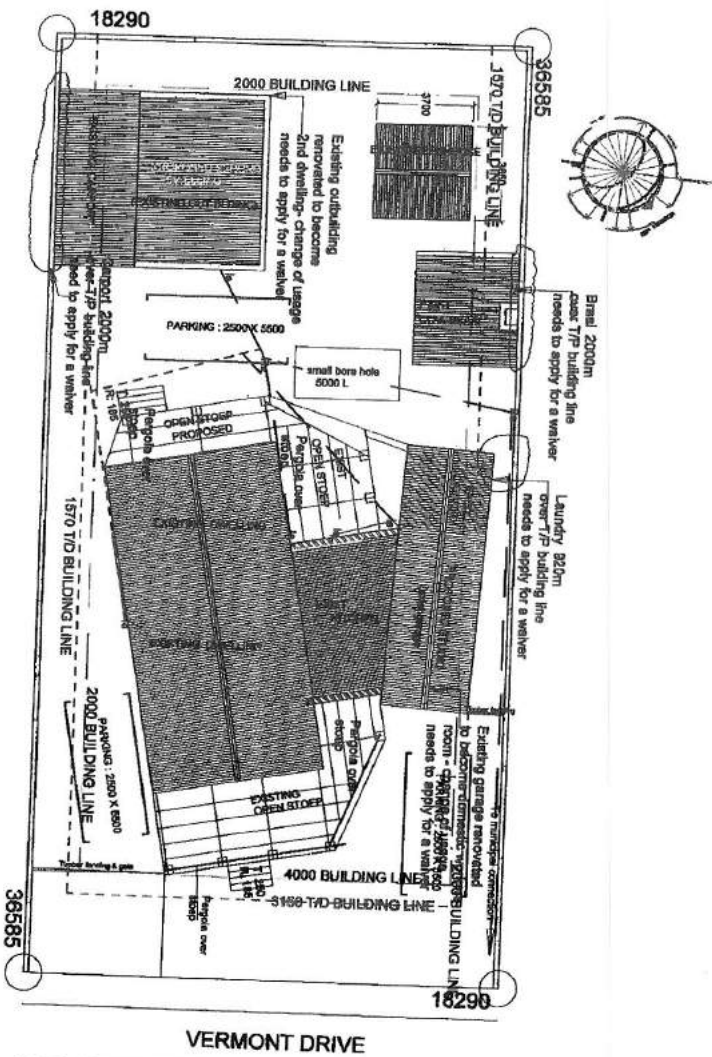
Locality Plan - E-P 905 Vermont

Date: 2018-05-17



ANNEXURE B

<b>CAP-LON DESIGNS</b> P.A.D. <small>2000 x 300 1000          1000 x 1000 1000          1000 x 1000 1000          1000 x 1000 1000</small>	<b>HOUSE VILJOEN</b> PLOT#0905 VERMONT	<b>PROPOSED</b> ADDITIONS	2017/10/58
		OCT 30	CA



TP 26/03/2018.

## MEMORANDUM

**APPLICATION FOR: A: REMOVAL OF TITLE DEED CONDITIONS, B: CONSENT USE AND  
C: DEPARTURES FOR THE RELAXATION OF SIDE BUILDING LINES FOR ERF 905,  
VERMONT: OVERSTRAND MUNICIPALITY: DIVISION CALEDON: WESTERN CAPE  
PROVINCE**

### INTRODUCTORY INFORMATION

#### 1. INTRODUCTION:

This introduction serves as a short summary of the application before the necessary proposals and motivations are presented.

- 1.1 Applicant: ME Planners Consulting Town and Regional Planner  
P.O.Box 552  
Hermanus  
7200
- 1.2 Power of Attorney: Power of Attorney has been rendered to ME Planners Town and Regional Planner to lodge this Application for a Removal of Restrictive Title Deed Conditions in terms of Sections 16(2) (f) and 35, Consent Use in terms of Sections 16(2) (o) and 21, and Departures in terms of Sections 16(2) (b) and 20(1) (a) of the Overstrand Municipal By-Law on Municipal Land Use Planning.
- 1.3 Property: Erf 905 Vermont, Hermanus, (hereafter referred to as "the site of application" or "the property").
- 1.4 Street address: 17 Vermont Avenue, Hermanus.
- 1.5 Locality: Erf 905 is situated on the western side of Vermont Avenue, adjacent to erven 890 and 891 on the southern side, erf 904 on the northern side and a municipal erf on the western side.

#### 2. OVERVIEW OF APPLICATION

- 2.1 **Application for the Removal of Restrictive Title Deed Conditions** (refer to Section C of the application form) in terms of Sections 16(2)(f) and 35 of the Overstrand Municipal By-Law on Municipal Land Use Planning (forth worth called 'the By-law').  
**(Removals set out in Section A of this report)**

- 2.2 **Application for Consent Use** in terms of Sections 16(2)(o) and 21 of the Overstrand Municipal By-Law on Municipal Land Use Planning.  
***(Consent Use set out in Section B of this report)***
- 2.3 **Application for Departures** in terms of Section 16(2) (b), read with Section 20(1) (a) of the By-Law.  
***(Departures set out in Section C of this report).***  
***(Also refer to the layout plans attached to the application.)***

### 3. GENERAL INFORMATION

- 3.1 **Title Deed and Property Description**  
In terms of its Title Deed No. T 026233/10, the property is described as:  
"Erf 905 Vermont in die Overstrand Munisipaliteit, Afdeling Caledon, Provinsie Wes-Kaap en is 715 (sewehonderd en vyftien) vierkant meter groot."
- The property is registered in the name of "Eureka Nehemia Prinsloo, Identiteitsnommer 521122 0081 085, Ongetroud haar erfgename, eksekuteurs, administrateurs of regverkygendes in volkome en vrye eiendom."  
*(The registered owner got married in the meantime, with the surname of 'Viljoen')*
- 3.2 **Bond/s**  
The property is encumbered by bond no. B 015031/10, in favour of Standard Bank. As soon as the Bondholder's consent is obtained, it will be forwarded to your office.
- 3.3 **Current Zoning Status**  
Erf 905, 17 Vermont Avenue, Vermont is zoned "Residential Zone 1: Single Residential (SR1)" in terms of the Overstrand Municipality Zoning Scheme, 2013.
- 3.4 **Existing Development on the Property**  
The property is currently developed with a single-storey, single residential dwelling, a large covered braai, a greenhouse and a second dwelling unit flanked by a carport between the unit and the side boundary.

### 4. BACKGROUND

- 4.1 The property was purchased by the applicant during 2010 with the intention of using it as an ordinary dwelling house, but because of the fact that the property is situated on a fairly busy main street in Vermont, coupled with the need for tourist accommodation, she saw the opportunity of developing a guest house on and in the existing facilities. She thus applied for and was granted the right to operate a guest house with one lettable room on the property in 2011.

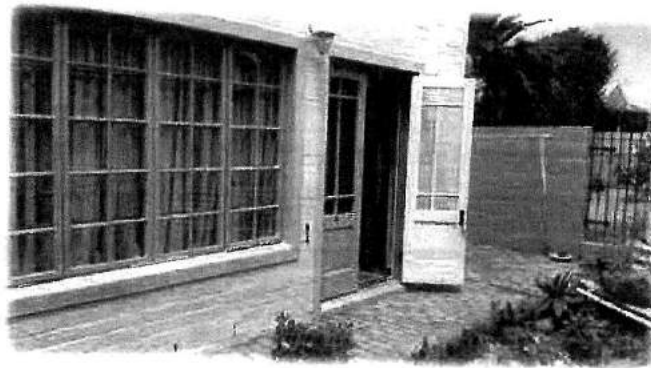
***(A copy of this approval, is attached as Annexure "A")***

**BELOW: PHOTO OF THE EXISTING GUEST HOUSE**



- 4.2 The foregoing has led to changes in the main dwelling and on the rest of the property which resulted in an outbuilding being converted into a second dwelling unit, the building of a large covered braai area and the conversion of the existing garage into a room for domestic workers, but presently used as an art studio for private use by the owner.

**BELOW: PHOTO OF THE SECOND DWELLING**



**5. MOTIVATION****Intro:**

*It is generally known that out-dated town planning legislation has recently been repealed and replaced with new legislation, and subsequently various decision making powers in this regard have also been delegated from Provincial Level to Local Authority levels in the Western Cape.*

*Restrictive title deed development parameters were registered against title deeds decades ago during the processing of township development applications. Since zoning schemes have been in place for years already in terms of which the development parameters of properties are regulated by local authorities, from a technical point of view, the motivation for the departure applications can also be read as the motivation for the removal of the relevant restrictive title deed conditions.*

**MOTIVATIONAL REPORT****SECTION A****APPLICATION FOR THE REMOVAL OF TITLE DEED CONDITIONS**

The removals being applied for are C and E(a), (b), (c) and (d) that read as follows:

**C** *ONDERHEWIG aan die voorwaardes genoem in die Notariële Akte gedateer 11 April 1930, geheg aan Transportakte Nr. T9286/1925 en waarna verwys word in die Endossement daarop gedateer 29 April 1930, wat soos volg lees:-*

*"By Notarial Deed dated 11.4.1930, a restriction has been imposed upon the remainder of the land held hereunder that no liquor shall be sold thereon without the consent of the present or future proprietors of the property held under transfer 53 dd. 5 Jan. 1918 as will more fully appear on reference to the copy annexed thereto."*

**Reason for removal:**

The reason for this removal is that the use of the building has been changed to "guest house", which is regarded as a business use in terms of the Overstrand Municipality Zoning Scheme, June 2013.

**E(a)** *SAVE with the consent of the TRANSFEROR COMPANY in writing no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 3.15 metres to the street line*

*which forms a boundary of the said property, and no such building or structure shall be situate within 1,57 metre of the lateral boundary common to the adjoining lot, nor save with the consent aforesaid, may the said (or any lot, if the property sold comprises more than one lot) be subdivided.*

**Reason for removal:**

The reason for the removal is that building lines are regulated by the Overstrand Municipality Zoning Scheme Regulations.

*E(b) No building shall be erected on the said property unless plans (including one showing siting of proposed buildings) and specifications have been previously submitted and are approved by the TRANSFEROR COMPANY in writing in addition to the requirements of the Local Authority in control over the area of the Township.*

**Reason for removal:**

The reason for this removal is that the Overstrand Municipality is the only controlling authority.

*E(c) NO canteen, hotel, restaurant, shop, factory, industry or any place of business whatsoever shall be opened or conducted on the said property except with the consent in writing of the TRANSFEROR COMPANY.*

**Reason for removal:**

The reason for this removal is that allowable uses are controlled by the Zoning Scheme.

*E (d) Unless the permission of the TRANSFEROR COMPANY in writing be obtained under condition (c) above the said property shall be used for residential purposes only and only one dwelling together with such outbuildings as are ordinarily required for domestic purposes shall be erected on any one lot and in particular, subject to any permission granted as aforesaid, no structure of the type commonly known as "flats" shall be erected on the said property.*

**Reason for removal:**

The reason for this removal is that allowable uses are controlled by the Zoning Scheme.

## SECTION B

APPLICATION FOR CONSENT USE FOR A GREEN HOUSE ON ERF 905,  
VERMONT

## B.1. ZONING OF THE ERF:

In terms of the Overstrand Municipality Zoning Scheme Regulations the erf is zoned Residential Zone 1: Single Residential (SR1) with the following use restrictions applicable to it:

- (a) **Primary uses:** day care centre, dwelling house, guest rooms, home occupation, second dwelling unit;
- (b) **Consent uses:** crèche, greenhouse, guest house, house shop, institution, place of instruction, place of worship, residential building, tourist accommodation.

## B.2. PROPOSED DEVELOPMENT:

## 2.1 Introduction

The following application is being submitted for the purpose of obtaining the necessary approval to place the applicant in a position to effect the proposed development.

2.2 An application is being submitted in terms of Sect. 16 (2) (o) together with Sect. 21 of the Overstrand Municipality By-Law on Municipal Land Use Planning, to obtain a consent use.

2.3 The development will consist mainly of the establishment of a greenhouse.

## 2.4 Definition of "Greenhouse"

## 2.4.1 Greenhouse:

According to Schedule B of the Overstrand Municipality Zoning Scheme Regulations of June 2013, a Greenhouse is a structure with the sides predominantly made of transparent material; such as glass, Perspex, shaded cloth or plastic, for the purpose of growing plants under controlled environmental conditions.

## 2.4.2 Purpose:

The greenhouse will be used for the growing of garden plants to be planted on the property and on the vacant municipal ground at the back of the erf.

**BELOW: THE EXISTING GREENHOUSE USED FOR GROWING PLANTS**



**2.5 Parking**

- a) All parking is already being provided on the property;
- b) Guesthouse: 1 parking bay for each bedroom;

**BELOW: THE EXISTING GARAGE CONVERTED INTO AN ART STUDIO**



The door leading to the room which will be used for an Art Gallery in future.

**B.3. ACCESS:**

The present access to the property is from Vermont Avenue and will provide safe access to and exit from the proposed development.

**BELOW: THE ENTRANCE FROM VERMONT AVENUE AS ACCESS POINT TO THE PREMISES**



**B.4. NEED AND DESIRABILITY**

When considering the application for consent use for Erf No. 905, Vermont, it is evident that the need and desirability should both fall within the broad parameters and principles set out and necessary for orderly planning. To this end the following facts are given as far as this statement is concerned:

**4.1 ORDERLY PLANNING:**

Orderly planning centers around the following four considerations that should be taken into account:

- The existing as well as the future character of the area;
- Traffic generation and access;
- The impact on services; as well as
- The standards and conditions that apply to such an application.

**Character of Area:**

The area, in which the site is located, is a fairly quiet residential area with mostly through traffic along Vermont Avenue to and from the R43 and the eastern part of Vermont. The

existing Guesthouse together with the green house will merely be an extension of and/or similar to the existing character of the area.

From the foregoing it is clear that the character of the area will not be disturbed should this application be approved.

The planting of flowers in the dilapidated park area at the back of the property, should be welcomed with thanks.

#### **Coastal Zone Policy for the Western Cape**

The aim of the Policy is to give guidance regarding the sustainable development and management of the Western Cape coastline with specific reference to the creation of environments for investment opportunities, which would lead to economic development and consequent sustainability of the economic growth of its coastal towns.

According to the Policy the area falls within its specific Spatial Planning Category, in that tourist related enterprises within coastal towns must be encouraged.

It is therefore a given that the proposed development is consistent with the principles of the Policy.

#### **Traffic:**

The low level of traffic generated by this planned kind of development will have no significant effect on the existing and surrounding street network and the traffic flow patterns around the site will not be affected at all.

Because of the foregoing, no traffic impact assessment or environmental impact assessment is necessary with this application.

#### **Services:**

The site is fully serviced as it is located in an existing township with the result that all municipal services are available, which is an indication that the proposed development will have no significant effect on the existing water and sewerage systems.

#### **Standards and Conditions:**

Land uses in the area and on the site of application are being regulated and controlled by the Overstrand Municipality Zoning Scheme of June 2013.

The said Town Planning Scheme together with the proposals in the Provincial Spatial Development Framework 2014 (PSDF), the Overstrand Spatial Development Framework (2006) SDF, 2006, and the Overstrand Municipality: Growth Management Strategy, 2010, makes provision for consent uses such as applied for in this application.

The aims and objectives of the foregoing frameworks and strategy can be summarised as follows:

#### **PSDF**

The purpose of the PSDF is to give expression to the national and provincial development agendas for land development and serves as a basis for coordinating, integrating and aligning national and provincial programs. It also aims to communicate the spatial development intentions of the government to the private sector.

The following aims underpin the PSDF, together with explanations of how the proposed development will be in line therewith.

***“Capitalise and preserve unique local built form and natural typologies, character and heritage.”***

The application will not disturb the local built form as it aims to only enhance the present use of the property with minor changes to the existing building and out-building.

***“Promote urban rather than suburban model: avoid further fragmentation of townships.”***

The proposed development will not lead to a fragmentation of the area.

***“Focus on creating connections to economic and social opportunity to promote spatial and socio-economic integration.”***

The proposed development is an excellent example of the promotion of spatial and socio-economic integration.

***“Cluster all social facilities and complementary activities.”***

As a business concern with a basic social background this proposed development will be an addition to the existing business activities of a guesthouse.

#### **SDF**

The objective of the SDF is to formulate strategic policy guidelines and proposals which are spatially based, through which the needs, changes and growth in the area can be managed to the benefit of the inhabitants and the environment of the Overstrand Municipality.

The following objectives are used to test whether the proposed development will be in line with the aims of the SDF.

***“To provide an environmentally and economically sustainable bulk service infrastructure and road transport network.”***

The proposed development is already connected to all services and no extra services will be required.

***"To ensure that ongoing pressure and its spatial implications are managed in a sustainable manner that protects the unique character of the existing cultural landscapes and the place-specific character and form of the existing settlement pattern."***

The proposal will not change anything in the existing cultural landscape and the character and form of the existing settlement pattern.

***"Restrict development within the carrying capacity limitation of the natural resources."***

The proposal will not change anything in the carrying capacity limitation of the natural resources.

***"To improve the aesthetic quality of the built environment."***

The proposed additions and changes to the buildings can only lead to the improvement of the aesthetical quality of the built environment.

#### **GROWTH MANAGEMENT STRATEGY**

The purpose of the GMS is to improve the Overstrand Municipality's overall environmental sustainability by enhancing the quality and efficiency of the built environment.

The following core objectives of the strategy will be used to test the suitability of the proposed development.

***"Ensure optimal land use planning and the efficient use of infrastructure, services, facilities and land."***

The proposal seeks to make optimal use of the erf and will result in more efficient use of the infrastructure.

***"Contribute to place making and the development of attractive and safe urban environments."***

The proposed development will definitely contribute to place making and a more attractive property.

***"Ensure that the scale and character (in terms of bulk, height and architectural styling) of the higher density areas are appropriate to the immediate context."***

The proposed development will basically allow the present buildings to stay the same as at present except for the development changes to the garage, utilized as an office at the moment

Because of the relatively large size of the property, namely 715m<sup>2</sup>, the owner observed the potential to apply for a greenhouse together with the guesthouse and related activities where space is one of the determining factors for the successful running of the business. In order to do this, an application for consent use for Erf No. 905, Vermont has to be made.

The proposed development will be done in compliance with the guidelines of the Overstrand Municipality Zoning Scheme of June 2013. Building plans will be submitted to the satisfaction of the Overstrand Local Municipality, as the controlling authority.

#### 4.2 NEED

##### 4.2.1 Introduction

According to a survey named *The Impact of Tourism on the Overstrand Economy* dated 22 February 2010 initiated by the Overstrand Directorate of Economic Development and Tourism the "Overstrand Municipality is a local municipality located within the Overberg District Municipality, in the Western Cape province of South Africa with its unique offerings of the ultimate experience in land-based whale watching and shark cage diving, pristine Blue Flag beaches, excellent wine industry and top-class restaurants and accommodation that make it an attractive tourist destination with a variety of activities.

As mentioned in the "INTRODUCTORY INFORMATION" at the beginning of this memorandum, paragraph 4.2, the approval of a Guest House has led to changes in the main dwelling and on the rest of the property which resulted in an outbuilding being converted into a second dwelling unit, the building of a large covered braai area and the conversion of the existing garage into a room for domestic workers, but presently an art studio for private use by the owner.

##### 4.2.2 The role of local tourism

Given the important role of tourism, information about the current contribution of tourism to the Overstrand economy and its potential is vital for strategic planning.

###### Contribution of hotels and restaurants

In the absence of other data, the contribution of hotels and restaurants could, however, be used as a proxy for tourism. Apart from the global trends in labour markets, such as capital deepening and a shift towards more skilled labour, the South African labour market has also been characterised by several distinct

phenomena that have additional influences on the labour intensity of the economy and on the composition of labour demand. Changes in labour legislation, such as the introduction of affirmative action legislation, and so-called "jobless growth", have had a substantial impact on the labour market.

In the light of the foregoing it is important that Overstrand take specific action to ensure sustainable tourism development. This requires Overstrand to actively pursue environmental-, social-, industrial- and economic responsibility, to i.e. achieve its goals for the future.

As a final, but very important, argument for the legalization of existing encroachments of the Zoning Scheme prescriptions is that as far as the presence of a guesthouse on this particular site is concerned, it can be mentioned as a fact that these kinds of facilities in the vicinity of mountains and the sea are of great importance to attract visitors from all over the country and even internationally. The development can therefore be seen as an opportunity to provide for a large need as far as visitors to the region is concerned.

#### 4.3 DESIRABILITY

The question of desirability centres mainly around the matter of orderly planning; particularly when a need for something exists.

This application is being made because of a need that has been identified as explained in paragraph 4.1 above.

What remains now is to argue the case of whether it is desirable to have this development legalised and allowed to take place in this particular area and on this particular site or not.

In the case of this application it can be stated categorically that very few better or more desirable developments can be envisaged for the area, as visitors to the sea and even the Western Cape, who are non-residents of the Overstrand, will be able to be accommodated near to everything that usually attracts people to spend their holidays in this beautiful environment, offered by the Overstrand and surrounds, whilst the proposed greenhouse could be an added attraction.

**SECTION C****APPLICATION FOR DEPARTURES FOR THE RELAXATION OF SIDE BUILDING LINES**

C.1. Application for Departures in terms of Section 16(2) (b), read with Section 20(1) (a) of the By-Law (departures as set out below).

*(Also refer to the layout plans attached to the application.)*

C.2. Departures being applied for are:

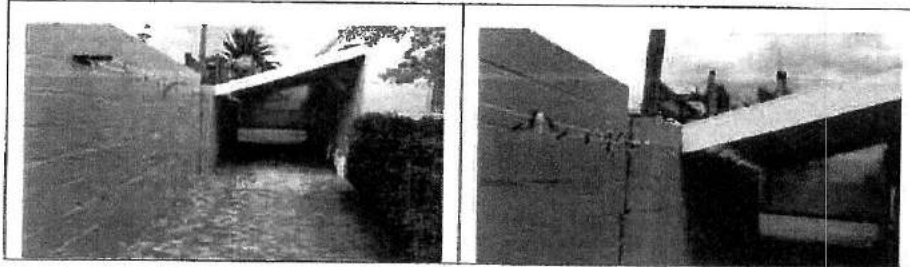
- i) The northern side of the existing garage (to become a studio) with the proposed laundry, encroaches the side building line by 0.92m (from 2.0m to 1.08m);
- ii) the northern side of the existing Braai encroaches the side building line by 2.0m (from 2.0m to 0m); and

**BELOW: THE EXISTING BRAAI AREA WITH ROOF**



- iii) the southern side of the proposed carport between the second dwelling unit and the boundary will encroach the side building line by 2.0m (from 2.0m to 0m);

all in the case of the zoning scheme restrictions, which necessitates an application for departures.

**BELOW: ENCROACHMENTS ON THE SOUTHERN SIDE****C.3. Need:**

The need in this instance centres mainly on the fact that the owner wishes to legalise the structures that were constructed beyond the building lines as prescribed.

**C.4. Desirability**

In the light of what has been mentioned as far as the need is concerned for this application, the desirability needs no further motivation, but the following is relevant and of interest:

- 4.1 The existing as well as the future character of the area will not be adversely affected should the application be approved.
- 4.2 The traffic flow pattern in the area will not be affected.
- 4.3 Services will not be affected adversely.
- 4.4 The prescribed standards and conditions for the existing zoning of the erf will not be adversely affected through the approval of the application.

**C.5. Final Facts**

The owner of the property states that she is aware of complaints by an adjacent landowner and consequently the Overstrand Municipality, about the negligible exceeding of the building lines described above and that she hopes that this application will be to the satisfaction of both these parties.

**C.6. Conclusion**

From the contents of this report it is apparent that the existing building line encroachments of the buildings on Erf 905, Vermont will have no negative impacts in general, and it is thus requested that the Municipality favour the application as set out in this motivation report.

## 6. IMPORTANT LEGAL ASPECTS CONCERNING THE APPLICATION

- 6.1 The application in question is submitted in terms of Chapter IV, Section 16.2(f) & 35, Section (2) & 21 and Section (2) (b) & 20(1) (a) of the Overstrand By-Law on Municipal Land Use Planning 2015 to legalise existing developments and for purposes of obtaining the necessary approval to place the applicant in a position to develop a greenhouse and construct a carport on the erf.
- 6.2 The application site is included within the jurisdiction area of the Overstrand Municipality Zoning Scheme of June 2013.

### 6.3 PLANNING PRINCIPLES

The application has also been analysed for consistency with the planning principles prescribed by the Spatial Planning and Land Use Management Act, 2013 (SPLUMA) and also the Western Cape Land Use Planning Act, 2014 (LUPA) and the following conclusions were made:

*(a) Spatial Justice which refers to the need for redressing the past apartheid spatial development imbalances and aim for equity in the provision of access opportunities, facilities, services and land.*

#### Possible results of the development

The proposed consent use, removal of title deed conditions and departures will not in any way contribute to the perpetuation of past apartheid spatial development imbalances as the development will open up the provision of all the above to all persons in the Republic.

*(b) Spatial Sustainability which refers to the fact that a spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and ultimately limits urban sprawl.*

#### Possible results of the development

The proposed development will take place within the urban edge and will therefore have no impact on agricultural land, environmentally sensitive areas and biodiversity rich areas. The application can thus be deemed to be spatially sustainable.

*(c) Efficiency which refers to the manner in which settlements themselves are designed to function in such a way that there will be a minimum need to travel long distances to access services, facilities and opportunities.*

**Possible results of the development**

The proposed development is not intended as a new settlement development and caters specifically for long-distance travelers for whom all facilities will be available on site.

*(d) Spatial Resilience which, in the context of land use planning, refers to spatial plans, policies and land use management systems which should enable communities to be able to resist, absorb and accommodate any economical and environmental shocks which might occur in a timely and efficient manner.*

**Possible results of the development**

The proposed development will not lead to any economical and/or environmental shocks as the business to be conducted will not differ basically from the existing use on the erf.

*(e) Good Administration which, in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure that a joint planning approach is pursued*

**Possible results of the development**

Consultative practices are being followed in this application as it is done in consultation with the Planning Department of the Municipality who will also advertise the application in such a manner as to enable the Government and the general public to participate in the eventual decision-making process.

**7. SUMMARY AND CONCLUSION**

- 7.1 The proposed development, apart from monetary reasons, is an attempt by the client to bring about a development that will add value to the area.
- 7.2 There is also a definite need for tourism facilities such as a guesthouse together with ancillary uses, in this area of the Overstrand. In this regard it can be stated that the demand and economic viability of any development determines the need for it. Local economic conditions, the presence of the sea and mountains and other attractions plus the unprecedented growth in the tourism market make the proposed development viable and favorable on the site of application.
- 7.3 Finally, the application adheres to the criteria of the Overstrand Municipality Zoning Scheme of June 2013. The proposed developments will contribute positively to the economy and character of the area in which it is situated as well as the Overstrand as a whole.

APRIL 2018

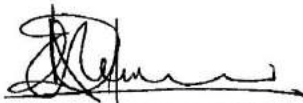
## ANNEXURE D

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR REMOVAL OF RESTRICTIONS, DEPARTURE & CONSENT  
USE: ERF 905, VERMONT (3858)**

Stormwater (SW) : In order  
Electricity : Escom  
Water : In order  
Sewer : In order  
Roads and traffic : In order

**Conditions**

1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that should additional services connections be required, the owner will be responsible for the payment of bulk services levies;
3. that, should any upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Area Manager: Hermanus for written approval;
4. that stormwater be allowed to discharge through Erf 905, Vermont, unobstructed;
5. that no on-street parking be allowed.



**DENNIS HENDRIKS  
SENIOR MANAGER:  
ENGINEERING SERVICES**

13 | 6 | 2018  
DATE

*Munisipaliteit – U-Masipala – Municipality*  
**OVERSTRAND**

**INTERNAL MEMORANDUM**

<b>Aandag / For Attention:</b>	Town Planning department: H van der Stoep	<b>Van / From:</b>	Department: Operational Services
<b>Afskrif / Copy:</b>		<b>Datum / Date:</b>	29 May 2018

Ref: 905, VERMONT

**RE: APPLICATION FOR PROPOSED REMOVAL OF RESTRICTIONS, DEPARTURE AND  
 CONSENT USE – ERF 905, VERMONT, HERMANUS**

The request for comment from the Department: Operational Services (Hermanus) dated 22 May 2018 with regard to the abovementioned proposal refers.

The proposal entails the following:

- Consent use in order to enable the owner to legalize the existing greenhouse
- Application for the removal of the title deed restrictions.
- Application for departure of the building lines

**1. ANALYSIS**

**1.1. Water**

- 1.1.1. The existing water connection to Erf 905 shall be used to service Erf 905.
- 1.1.2. The proposed removal of restrictive conditions, departure and consent use will not have a significant impact on the existing municipal water supply network. The Directorate: Infrastructure and Planning must however give comment with regard to network capacity and the relevant Bulk Services Levies.

**1.2. Sewer**

- 1.2.1. The existing sewer connection to Erf 905 shall be used to service Erf 905.
- 1.2.2. The developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 10400 – P: 2010: Drainage*.
- 1.2.3. The proposed removal of restrictive conditions, departure and proposed consent use will not have a significant impact on the existing municipal sewer system. The Directorate:

## ANNEXURE E 2/4

Infrastructure and Planning must however give comment with regard to network capacity and the relevant Bulk Services Levies.

- 1.2.4. Any commercial food preparation facilities (e.g. restaurant / guest house etc.) must be provided with a grease trap, which must comply with the standards and specification of the Department: Operational Services.

**1.3. Streets**

- 1.3.1. Access can be obtained via Vermont Avenue.
- 1.3.2. Any additional and / or extended vehicle entrances will be for the owner's account.
- 1.3.3. Should any upgrading and / or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development must be made to the office of the Area Manager: Hermanus for written approval.

**1.4. Storm water**

- 1.4.1. The "Common Law" shall apply with regards to storm water discharge.

**1.5. Parking**

- 1.5.1. "On-site parking" must be provided. The parking areas are to be provided at a ratio as described by the Town Planning Scheme, with permanent surfaces and layout to the satisfaction of the Department: Operational Services.

**1.6. Other services**

- 1.6.1. The Department: Operational Services does not have any information regarding any Telkom-, other telecommunications- and / or Electrical services which may be affected by the proposed development. The Electrical- and Traffic departments, as well as Telkom and other relevant service providers, must therefore also give their recommendations regarding the application.

**1.7. Refuse removal**

- 1.7.1. Refuse will be removed from sidewalks as per municipal arrangements.

**1.8. Irrigation water**

- 1.8.1. No irrigation water is available in this area.

**1.9. Waste Water Treatment Works (WwTW)**

- 1.9.1. The proposed removal of restrictive conditions, departure and proposed consent use will not have a significant impact on the Waste Water Treatment Works. The Directorate: Infrastructure and Planning must however give comment with regard to the relevant Bulk Services Levies.

**1.10. Bulk Water Supply**

- 1.10.1. The proposed removal of restrictive conditions, departure and proposed consent use will not have a significant impact on the bulk water supply, reservoirs or other bulk water infrastructure. The Directorate: Infrastructure and Planning must however give comment with regard to the relevant Bulk Services Levies.

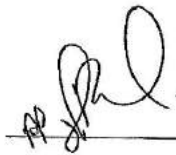
## 2. RECOMMENDATION

- 2.1. With regard to the application for the proposed removal of restrictive conditions, departure and proposed consent use on Erf 905, Vermont towards establishment of a guest house, the **Department: Operational Services (Hermanus)** has no objection to the application, subject to the following conditions:
- 2.1.1. That the existing water- and sewer connections to Erf 905 shall be used to service Erf 905.
- 2.1.2. That the Directorate: Infrastructure and Planning give comment on the relevant network capacities with regards to the water- and sewer networks in the area.
- 2.1.3. That any commercial food preparation facilities (e.g. restaurant / guest house etc.) must be provided with a grease trap, which must comply with the standards and specification of the Department: Operational Services.
- 2.1.4. That the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 10400 – P: 2010: Drainage*.
- 2.1.5. That on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Department: Operational Services.
- 2.1.6. That any additional and / or extended vehicle entrances will be for the owner's account.
- 2.1.7. That, should any upgrading and / or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Area Manager: Hermanus for written approval.
- 2.1.9. That the proposed development on Erf 905 be provided with a central refuse collection facility, which must comply with the standards of the Department: Operations (Hermanus).
- 2.1.10. That refuse will be removed from sidewalks as per municipal arrangement.
- 2.1.11. That the Electrical- and Traffic Departments, as well as Telkom and any other relevant authorities and service providers not have any objections to the application.

Yours faithfully



**T.I. Marx**  
Principal Technician: Operational Services  
Hermanus



**J. de Villiers Pr. Eng.**  
Senior Manager: Operational Services  
Hermanus

ANNEXURE F 1/5

FEE		Opgestel deur my, <i>Allden</i> TRANSPORTBESORGER VAN STADEN E	
R. 500,00			
VERBIND MORTGAGED			
VIR 450 000,00 FOM R. ....			
B	015031/10	<i>Allden</i> REGISTRATEUR/REGISTRAR	DATA / CAPTURE 04 JUN 2010 -NGAPALINDA-
31 MAY 2010			
		T 026233/10	
<b>AKTE VAN TRANSPORT</b>			
HIERMEE WORD BEKEND GEMAAK			
DAT ELFRIDE VAN STADEN <i>Stephanus Cornelius Nell</i>			
voor my die REGISTRATEUR VAN AKTES te KAAPSTAD verskyn het, die genoemde Komparant synde behoorlik daartoe gemagtig deur 'n Volmag aan hom/haar verleen deur ANNELI VAN ZYL, geteken te Onrusrivier op 23 APRIL 2010, behoorlik daartoe gemagtig deur 'n Spesiale Prokurasie van			
1.	MARLO DE SWARDT Identiteitsnommer 680402 5034 082 Getroud buite gemeenskap van goed		
2.	CARINE DE SWARDT Identiteitsnommer 751230 0017 081 Getroud buite gemeenskap van goed		
Gedateer 1 Maart 2010 en geteken te ELDORAIGNE			
		DATA / VERIFY 2010-06-09 ZWELONKE NTOMBI	

2

EN GENOEMDE Komparant het verklaar dat sy prinsipaal, op 12 Januarie 2010, waarlik en wettiglik verkoop het per privaatooreenkoms en dat sy in haar voornoemde hoedanigheid hierby sedeer en transporteer aan en ten gunste van:

**EUREKA NEHEMIA PRINSLOO**  
 Identiteitsnommer 521122 0081 085  
 Ongetroud

haar erfgename, eksekuteurs, administrateurs of regverkrygendes in volkome en vrye eiendom:

**ERF 905 VERMONT**  
**IN DIE OVERSTRAND MUNISIPALITEIT**  
**AFDELING CALEDON**  
**PROVINSIE WES-KAAP**

GROOT : 715 (SEWE HONDERD EN VYFTIEN) vierkante meter

OORSPRONKLIK oorgedra kragtens Transportakte Nr. T10669/1957 met Kaart Nr. 1502/46 daaraan geheg en gehou kragtens Transportakte Nr. T53030/2007.

- A. ONDERHEWIG aan die voorwaardes waarna verwys word in Transportakte Nr. T23719/83.
- B. GEREGTIG op die voordele van die regte vermeld in die Endossement gedateer 16 September 1924 op Transportakte Nr. T2258/1921, wat soos volg lees:  
 "By Notarial Deed d.d. 31 July 1924 (1) condition (1) in Transfer No. 7685 d.d. 9 September 1913 re sale of liquor has been cancelled and (2) condition (2) in said Transfer No. 7685 d.d. 9 September 1913 re water rights have been varied."
- C. ONDERHEWIG aan die voorwaardes genoem in die Notariële Akte gedateer 11 April 1930, geheg aan Transportakte Nr. T9286/1925 en waarna verwys word in die Endossement daarop gedateer 29 April 1930, wat soos volg lees:-

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"By Notarial Deed dated 11.4.1930, a restriction has been imposed upon the remainder of the land held hereunder that no liquor shall be sold thereon without the consent of the present or future proprietors of the property held under transfer 53 dd. 5 Jan. 1918 as will more fully appear on reference to the copy annexed thereto."

- D. ONDERHEWIG aan die volgende voorwaardes genoem in Transportakte Nr T2287/1925 wat as volg lees :-

"SUBJECT to the condition that the present and future proprietors of all erven sold and transferred in the Township of Vermont (as shown on General Plan V.34) shall be entitled to means of the existing system of distribution laid down and situate on the said remaining extent of Lot No. 1 on ONRUST RIVER and RHEEZICHT to a reasonable supply of water for domestic purposes if available provided that the owners of this property shall in no way be responsible to provide water for such purposes if not available and that they shall have the right to impose a reasonable charge for any repairs and maintenance of the various pipelines and for the use and distribution of the water."

- E. ONDERHEWIG VERDER aan die volgende voorwaardes genoem in gesegde Transportakte Nr. 10669/1957 ten gunste van die Transportgewermaatskappy SOUTH WESTERN DISTRICTS LAND AND FINANCE CORPORATION LIMITED en die se opvolgers in titel as eienaars van die restant van die grond gehou kragtens Transportakte Nr. 7023/1935, naamlik:

- "(a) SAVE with the consent of the TRANSFEROR COMPANY in writing no building or structure or any portion thereof except boundary walls and fences shall be erected nearer than 3,15 metres to the street line which forms a boundary of the said property, and no such building or structure shall be situate within 1,57 metre of the lateral boundary common to the adjoining lot, nor save with the consent aforesaid, may the said (or any lot, if the property sold comprises more than one lot) be subdivided.
- (b) NO building shall be erected on the said property unless plans (including one showing siting of proposed buildings) and specifications

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have been previously submitted and are approved by the TRANSFEROR COMPANY in writing in addition to the requirements of the Local Authority in control over the area of the Township.

- (c) NO canteen, hotel, restaurant, shop, factory, industry or any place of business whatsoever shall be opened or conducted on the said property except with the consent in writing of the TRANSFEROR COMPANY.
- (d) UNLESS the permission of the TRANSFEROR COMPANY in writing be obtained under condition (c) above the said property shall be used for residential purposes only and only one dwelling together with such outbuildings as are ordinarily required for domestic purposes shall be erected on any one lot and in particular, subject to any permission granted as aforesaid, no structure of the type commonly known as "flats" shall be erected on the said property.
- (f) THE owner of the said property shall be obliged to allow the drainage of sewerage of any other lot to be conveyed over such property if deemed necessary by the Local Authority and in such manner and in such position as may from time to time be reasonably required by the said Local Authority."

Al die voorwaardes (a) tot (f) hierbo uiteengesit, sal bindend wees op die Transportontvanger en sy opvolgers in titel tot die gesegde grond, maar die Transportgewermaatskappy SOUTH WESTERN DISTRICTS LAND AND FINANCE CORPORATION LIMITED behou die reg oor om enige ander perseel of persele in die gesegde VERMONT DORP, vry van enige of meer van die voornoemde voorwaardes (a) tot (d) en/of onderhewig aan sodanige voorwaardes te verkoop.

NADAT die Transportgewermaatskappy SOUTH WESTERN DISTRICTS LAND AND FINANCE CORPORATION LIMITED opgehou het om die eienaar van enige eiendom kragtens Transportakte 7023/1935 of enige perseel in Vermont Dorp onder enige ander Transportakte te hou, sal die magte van toestemming en goedkeuring wat tans vestig in die Transportgewermaatskappy ingevolge voorwaardes (a) tot (d) uitoefenbaar


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wees deur die Plaaslike Owerheid indertyd wat die beheer van die VERMONT DORP uitoefen.

**WESHALWE** die Komparant afstand doen van al die regte en titel wat die gesegde transportgewers voorheen op die genoemde eiendom gehad het en gevolglik ook erken dat hul geheel en al van die besit daarvan onthef en nie meer daartoe geregtig is nie, en dat kragtens hierdie akte, die bogenoemde transportnemer, haar erfgename, eksekuteurs, administrateurs of regverkrygendes tans en voortaan daartoe geregtig is, ooreenkomstig plaaslike gebruik, behoudens die regte van die Staat en ten slotte erken sy dat die verkoopprijs die bedrag van R965 000.00 (NEGE HONDERD EN VYFTIG DUISEND RAND) beloop.

**IN GETUIENIS WAARVAN EK**, die genoemde Registrateur van Aktes tesame met die Komparant, q.q. hierdie Akte onderteken het en my Ampseël bekragtig het.

**ALDUS GEDOEN EN GETEKEN** by die kantoor van die REGISTRATEUR VAN AKTES te KAAPSTAD op 31 Mei 2010.

  
q.q. Handtekening van Komparant

In my teenwoordigheid

  
REGISTRATEUR VAN AKTES