

FILE NO:  
 Farm 764  
 SCAN NO:  
 COLLABORATOR NO:  
 586147

# WRAP



Svd/Merwe  
Ile Roux



**ESTABLISHED 2002**

**Town and Regional Planning**

**Municipal Legislation and Procedures**

**Local Economic Development Technical Assistance**

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 P.O. Box 1247  
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Web: [www.wrapgroup.co.za](http://www.wrapgroup.co.za)

**Wright Approach Investments 336 CC**

Reg No  
 CK 2002/060745/23

Our reference: 14/002

20 January 2014

The Municipal Manager  
 Overstrand Municipality  
 PO Box 26  
 GANSBAAI  
 7220

Sir

**FARM NO. 764, DIVISION CALEDON: OBJECTION TO APPLICATION FOR CONSENT USE AND DEPARTURE**

Your notice dated 15 November 2013, inviting comments on the abovementioned application, has reference.

1. We hereby confirm that we've been instructed by our client, Guilder Investments 46 (Pty) Ltd, the registered owner of Farm 648, Caledon, to object to the application based on a number of concerns with regard to the proposed land use as described in the motivational documentation attached to the first-mentioned notice.
2. Our client's first concern is that of noise that will be generated by the proposed land use. Weddings by nature, are accompanied with music as well as noise created by guests themselves. Ambient noise levels for agricultural areas are around 35 dBA at night time. Our concern is that noise impact has not been addressed in the application. What will the impact of the proposed activities be on the existing land use rights of the surrounding area? It must be kept in mind that the primary land use right of the area is agriculture and that the land use rights that are being applied for are additional to the last-mentioned. The onus is therefore on the applicant to prove that the land use will definitely not impact on the existing land use rights, as well as the character of the rural area, in any negative manner.

No mitigating measures are proposed in the application document to address the above concern. It is also not clear what the operating hours will be of the facility and what the frequency of use will be. We are of the opinion that these issues have to be addressed before an informed decision can be taken by the Overstrand Municipality.

Onus alben  
Farm 764  
Caledon

3. In the application it is stated that the necessary civil engineering services are in place to accommodate the proposed land use. However, no confirmation is provided by an engineer confirming this statement. We are doubtful that a sewage system, designed to accommodate volumes generated by normal domestic use, will have the necessary capacity to accommodate a commercial venture as proposed in the motivational documentation.

Furthermore, no details are provided regarding the nature of the existing sewage system. Is the system a conservancy tank system, or a septic tank system with a soak away? If the existing system is indeed a septic tank system with accommodating soak away then surely it is not in the best interest of the environment to continue with this type of sewerage disposal? Our client's homestead is located below the proposed facility and the possibility should not be ruled out that overflow sewage can re-surface at this location. We therefore require that proof be submitted that the existing sewage system indeed has the necessary capacity to accommodate the proposed land use.

4. Our client's third concern relates to the access road that will be utilised for the purposes of the application. No confirmation is provided in the application that the road has the carrying capacity to accommodate the extra traffic generated by the proposed land use. It is our client's opinion that the road, as it currently sits, will not be able to accommodate the traffic that will be generated by the proposed land use. It is also not clear who will be responsible for the maintenance of the road? Property owners that make use of said road have taken it upon themselves to ensure that the road is maintained and passable. With more frequent use, the road will have to be graded and maintained on a more frequent basis. Who will be responsible for this and who will foot the bill? It is therefore our opinion that more clarity regarding this matter must be provided by the applicant before the proposal can be considered for recommendation.
5. Farm 764 has been documented in the Overstrand Heritage Survey. In this document, the old farm house is identified as a building of older than 60 years. It is recommended that a Heritage Western Cape permit of approval is required for any demolition, alteration or change in planning status. In the application, no mention is made that the necessary approval has been obtained, or has been applied for, from Heritage Western Cape in terms of the National Heritage Resources Act, 1999 (Act 25 of 1999).
6. Having dealt with similar applications in the Stanford area, we have been advised by the Overstrand Municipality on more than one occasion, to apply for the rezoning of such properties to Special Zone, rather than applying for various different consent uses and departures. In terms of the Overstrand Municipality Zoning Scheme that has come into effect on 1 January 2014, tourist accommodation can be provided as a consent use on properties zoned as Agriculture Zone I. It is therefore not necessary to apply for a departure. Based on the above two facts we are therefore of the opinion that the proposed methods of dealing with the land uses are not in line with past practices of the Overstrand Municipality or with the applicable zoning scheme. Clarity on this matter would therefore be appreciated.
7. We must categorically state that our client is not totally opposed to the establishment of tourist facilities on the subject property. However, adequate information has not been provided to determine the real impact of the proposal on the surrounding area and until such time that the necessary information is provided, the content of this letter must be regarded as a formal objection to the application.

Section 36 of the Land Use Planning Ordinance (LUPO) states the following:

"Any application under Chapter II or III shall be refused solely on the basis of a lack of desirability of the contemplated utilisation of land concerned including the guideline proposal included in a relevant structure plan in so far as it relates to desirability, or on the basis of its effect on existing rights concerned (except any alleged right to protection against trade competition)".

In Hayes and Another V Minister of Finance and Development Planning, Western Cape, and Others 2003 (4) SA 598 (C) Erasmus AJ gave the following interpretation:

"The test of desirability is conclusive – in terms of s 36(1) a departure application 'shall be refused solely on the basis of a lack of desirability. Though the test is phrased in the negative, it lays down a positive test: the test is the presence of a positive advantage which will be served by granting the application".

An application will therefore be deemed to be desirable if the applicant is able to prove that the proposed land use rights will have a positive impact on the existing surrounding environment (which includes the character of the surrounding area, existing land use rights as well as existing service infrastructure).

We contend that the land use proposal will have a positive impact on the economic sector of the Overstrand Municipality, being that the majority of the municipality's economy is based on the tourism sector, but that such land use must not be to the detriment of existing rights of neighbours such as our client. In order to ensure sustainability, the "triple bottom line" principle must be adhered to. This principle is based on economic efficiency, social equity and ecological integrity. It is our opinion that only one of the above have been addressed in the application and that the other two components have been neglected.

8. Notwithstanding the above, our client has confirmed that he is willing to withdraw his objection the proposed land uses, if the above concerns can be adequately addressed by the applicant and that the remedial actions be made conditions of approval by the Overstrand Municipality. The approval should also contain a condition to the effect that if such conditions of approval are not adhered to at all times, the approval can be withdrawn by the Overstrand Municipality.

We trust that you will find the above in order. Should you require any additional information, please do not hesitate to contact this office.

Yours faithfully



**JOHANN PIENAAR**  
B.Art et Scien (Pr.PIn A/125/2009)

COMPANY RESOLUTION

The Director of **GUILDER INVESTMENTS 46 (PTY) LTD**, the owner of **FARM 648, CALEDON**, authorizes

**CHRISTOFFEL FREDERICK DE WIT**  
**ID NUMBER: 4810285123087**

In his capacity as only Director to act on behalf of the company regarding the

**THE SUBMISSION OF AN OBJECTION AGAINST THE LAND USE PROPOSAL ON FARM 764, CALEDON**

SIGNED AT STANFORD ON THIS 21 DAY OF JANUARY 2014

  
CF DE WIT

  
WITNESS

## POWER OF ATTORNEY

I, the undersigned

**CHRISTOFFEL FEDERICK DE WIT**

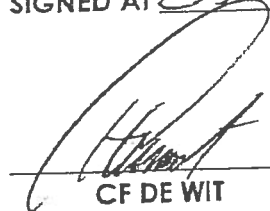
**ID NUMBER: 4810285123087**

In my capacity as Director of **GUILDER INVESTMENTS 46 (PTY) LTD**, the owner of **FARM 648, CALEDON** hereby nominate, constitute and appoint Wright Approach Investments 136 CC (Reg number CC 2002/060745/23) trading as Wright Approach Consultancy, with power of substitution, to be the duly authorised attorney and agent in name, place and stead, which may be necessary in order to sign documents and to perform all such acts which may be necessary in connection with:

**THE SUBMISSION OF AN OBJECTION AGAINST THE LAND USE PROPOSAL ON FARM 764, CALEDON**

and generally for effecting the purposes aforesaid, to do or cause to be done whatever shall be requisite, as fully and effectual, for all intents and purposes as I might or could do if personally present and acting herein – hereby ratifying, allowing, confirming, promising and agreeing to ratify, allow and confirm all and whatsoever my said Agent shall lawfully do, or cause to be done, by virtue of these presents.

SIGNED AT STANFORD ON THIS 21 DAY OF JANUARY 2014

  
\_\_\_\_\_  
CF DE WIT

  
\_\_\_\_\_  
WITNESS

(S. J. M. M. M.)  
I Le Roux

WRAP

ESTABLISHED  
2002Town and  
Regional  
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Technical  
AssistanceMyrtle Avenue  
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Email:  
wrap@telkomsa.netWeb:  
www.wrapgroup.co.zaWharf Approach  
Investments 136 ccReg No  
CIC 2002/0607/5/23

Our reference: 14/002

20 February 2014

The Municipal Manager  
Overstrand Municipality  
PO Box 26  
GANSBAAI  
7220

Sir

FARM NO. 764, DIVISION CALEDON: OBJECTION TO APPLICATION FOR  
CONSENT USE AND DEPARTURE

Our letter dated 20 January 2014 with regard to the above has reference.

1. We have been informed by our client that a meeting between the applicant and themselves took place on 6 February 2014 with regard to the above matter.

2. In the meeting the following was agreed upon:

- The applicant will inform our client timeously of any confirmed evening events to take place. The applicant's function packages will specify that events must end at midnight. If events should carry on after this time, music and noise should be kept to a level that will not disturb the neighbours.
- Current ablutions are sufficient for the restaurant and smaller functions. Should more than 100 guests attend a function at the facilities, they will be instructed to provide extra toilet facilities.
- It was agreed that the use of the access road for visitors to Stanford Hills will not be a problem under normal circumstances.
- The applicant assured our client that there have been no structural changes made to existing heritage buildings at Stanford Hills. Should any structural changes be required in future, these would be applied for through the correct channels and including any approvals required in terms of relevant Heritage legislation.

3. Based on the aforementioned, our client is willing to withdraw the objection dated 20 January 2014 on condition that the matters agreed upon between the parties, are made conditions of approval.

FILE NO: *Farm 764*

SCAN NO:

COLLABORATOR NO:

*597078**Owens  
Farm 764*

We trust that you will find the above in order. Should you require any additional information, please do not hesitate to contact this office.

Yours faithfully



**JOHANN PIENAAR**  
B.Art et Scien (Pr.Pln A/125/2009)

**OVERBERG**

DISTRIKSMUNISIPALITEIT  
DISTRICT MUNICIPALITY  
UMASIPALA WESITHILI



*MELD ASB/PLEASE QUOTE*

*Ons Verw./Our Ref.:*

*Navrae/Enquiries:* E Barnard

*Bylyn/Ext.:*

Privaatsak: X22  
Private Bag:  
BREDASDORP  
7280  
Tel.: (028) 4251157  
Faks/Fax: (028) 4251014

Sub-District Office  
The Hermanus Station  
Office 3  
HERMANUS  
Tel: 028 3131 243  
Fax: 028 3131 263

14/11/2013

A Knoetze  
Overstrand Municipality  
GANSBAAI  
7220

COMMENTS ON THE PROPOSAL: APPLICATION FOR CONSENT USE AND DEPARTURE, FARM NR. 764, CALEDON DISTRICT

Water

Water must be purified and it must comply with SABS 241 standard.

Sewerage

It is important to note that no soak ways are allowed within 100m of river streams, boreholes, and fountains.

Waste

A central refuse area must be provided and it must be constructed as follow:

- Walled in;
- Must be provided with a smooth cement surface;
- Floor must drain to a gallery which is connected to the sewer system;
- Lockable gates;
- Inaccessible to animals; and it
- Must be spacious.

Certificate of acceptability

All food premises will have to apply for a certificate of acceptability at the Overberg District Municipality.

Your cooperation in this regard will be appreciated.

Yours faithfully

**MUNICIPAL MANAGER**

Eb/nc

**INTERNE MEMO**

AAN : STADSBEPLANNING (A KNOETZE)  
VAN : BOUBEHEER (R DICKSON)  
DATUM : 25 November 2013  
INSAKE : ERF 764 , STANFORD HILLS

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Inspeksie is uitgevoer op bogenoemde perseel en kommentaar is soos volg;

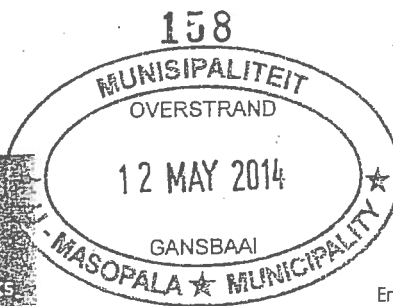
Planne vir gebou D moet ingedien word vir goedkeuring, alle nuwe herstelwerk.  
Gestremde toilet moet voorsien word in die restaurant.

By voorbaat dank

R DICKSON  
BOU-INSPEKTEUR



**Western Cape  
Government**  
Transport and Public Works



**ROAD NETWORK MANAGEMENT**  
Email: Grace.Swanepoel@westerncape.gov.za  
tel: +27 21 483 4669 fax: +27 21 483 2166  
Rm 335, 9 Dorp Street, Cape Town, 8001  
PO Box 2603, Cape Town, 8000

**REFERENCE: 16/9/6/1-21/11 (Job 19977)**  
**ENQUIRIES: Ms GD Swanepoel**  
**DATE: 25 April 2014**

The Municipal Manager  
Overstrand Municipality  
Gansbaai Administration  
PO Box 26  
**GANSBAAI**  
7220

Attention: Mr S van der Merwe

Dear Sir

**FARM NO. 764, CALEDON DIVISION: APPLICATION FOR CONSENT USE**

1. Your letter dated 7 March 2014 with reference "Farm 764 Weltevrede (2447)" refers.
2. The subject property is located 2km north-east of Stanford and takes access from Minor Road 4033 at km 1.19.
3. A site inspection showed that the access from Minor Road 4033 does not conform to the standards of a Main Farm Access.
4. This application is for the following:-
  - 4.1 A Consent Use being granted permitting the existing manor house as a guest house to accommodate 6 people;
  - 4.2 A Consent Use being granted permitting tourist facilities including wine-tasting, a restaurant for up to 40 people, and hosting wedding receptions on the lawn for up to 100 people;
  - 4.3 A Consent Use being granted permitting 2 additional dwelling units to accommodate up to 8 people and
  - 4.4 A Departure being granted permitting the utilization of the additional dwelling units as self-catering cottages.

5. This Branch offers no objection to this subject to the upgrading of the access from Minor Road 4033 at km 1.19 to a Main Farm Access (as per the attached plan).

Yours faithfully



ML WATERS  
For EXECUTIVE MANAGER: ROAD & TRANSPORT MANAGEMENT

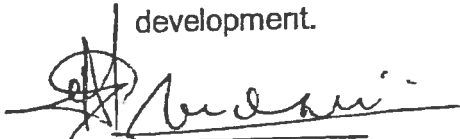


**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR CONSENT USE AND DEPARTURE, FARM NO. 764,  
STANFORD**

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

**Conditions:**

1. that no additional municipal services will be available for the proposed development.

  
**DENNIS HENDRIKS**  
SENIOR MANAGER:  
ENGINEERING SERVICES

21/11/2014  
DATE

# OVERBERG

DISTRIKSMUNISIPALITEIT  
DISTRICT MUNICIPALITY  
UMASIPALA WESITHILI



*MELD ASB/PLEASE QUOTE*

*Ons Verw./Our Ref.:*

*Navrae/Enquiries:* E Barnard

*Bylyn/Ext.:*

Privaatsak: X22

Private Bag:  
BREDASDORP

7280

Tel.: (028) 4251157

Faks/Fax: (028) 4251014

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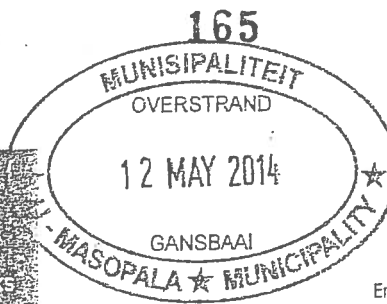
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For EXECUTIVE MANAGER: ROAD & TRANSPORT MANAGEMENT

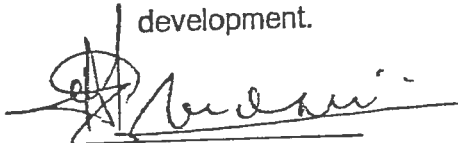


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**DENNIS HENDRIKS  
SENIOR MANAGER:  
ENGINEERING SERVICES**

21/1/2014

**DATE**