

**AGENDA of the
Portfolio Committee : Infrastructure and Planning
21 April 2015
(Also the agenda for the Mayoral Committee Meeting : 29 April 2015)**

17.

ERF 5972, 80 NINTH AVENUE, KLEINMOND : OVERSTRAND MUNICIPAL AREA : PROPOSED REZONING TO SUBDIVISIONAL AREA, SUBDIVISION, AND ESTABLISHMENT OF A HOME OWNERS' ASSOCIATION : HILLSIDE EARTHMOVING (PTY) LTD

5972 KKM (2683)

H van der Stoep

4 March 2015

(028) 313 8900

Hermanus Administration

1. Executive Summary

An application has been received on 8 September 2014 from Messrs Plan Active on behalf of Messrs Hillside Earthmoving (Pty) Ltd for the following applications:

- An application has been received for the rezoning of Erf 5972, Kleinmond from Residential Zone I : Single Residential to Subdivisional Area;
- An application has also been received for the subdivision of the applicable rezoned erf to create the following land uses:
 - 7 General Residential Zone 1: Town Housing erven; and
 - 3 Transport Zone 2: Road and Parking erven (2 portions for public road purposes and 1 portion for private road purposes).
- An application has lastly been received for an establishment of a Home Owners' Association.

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 in support of the proposal is attached as Annexure C.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Town Planning

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

Executive Mayor

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5. Legal Requirements

- Section 17, 22(i)(a), 24 and 29 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)

6. Background/Discussion/Evaluation/Conclusion

Background

A similar application was lodged during October 2006 and was approved during 2006. The applicant did implement some of the approval conditions relating to Engineering Services, but failed to register the properties within the five year period as prescribed by the Land Use Planning Ordinance, 1985. This has led to the submission of this application, which is precisely the same to be able to register the erven.

The application was advertised in the local newspaper and Government Gazette, and registered notices were sent to all surrounding affected property owners. One objection was received against the proposal.

The application was also circulated to all relevant municipal departments and state departments. No objections were received against the application.

Discussion

The objection received from Mr. MJ Louwrens is addressed as follows:

Mr. Louwrens:

The motivation report gives the impression that the application is casted in concrete and that the surrounding owners have no say in the matter.

Applicant's comment:

It is not true; the report indicates that the merit of the application was considered during 2006. The surrounding owners have the right to participate as it is part of the public participation process.

Town Planner's Comment:

Irrespective whether the previous approval has lapsed, the application is a new application and full public participation process was followed.

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Mr Louwrens

The motivation letter is not clear whether single or double storey buildings will be erected, as more than single buildings will have a negative impact on the surrounding properties.

Applicant's response:

The proposed zoning will be General Residential Zone 1 : Town Housing, which allows a height of 8,0m. This has the implication that the applicant may erect a double storey building. The objector should keep in mind that a single residential zoned erf also has the right of a double storey building eg 8,0m in height.

Town Planner's comment

Same as applicant.

Mr. Louwrens

The proposed development will drastically increase the amount of traffic and could become a burden for Erven 6228 and 6229.

Applicant's response

We disagree with the above statement. The additional twelve vehicles envisaged travelling different times of the day will not have a great impact on the existing traffic in the area.

Town Planner's comment

The Engineering Services Department did not request an additional traffic assessment as this development does not warrant a Traffic Impact Assessment (TIA) in terms of the Roads Access Guidelines.

The threshold for a TIA is for traffic of 150 vehicles per traffic flow, and a Traffic Impact Statement (TIS) is for traffic less than 150 and more than 50 vehicles per traffic flow. Thus the proposed development does not warrant a TIS.

Mr. Louwrens

The proposed development will have a negative impact on the resell value of the surrounding properties.

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Applicant's response

The objector indicated that in principle it does not have any objections against the applications as the vacant erf is being used as a toilet and hiding place for vagrants. The proposed development will resolve this issue.

Town Planner's comment

The possible devaluation of surrounding properties has not been proved.

Mr Louwrens

Traffic and noise pollution (Tenth Avenue) will be of a major concern once the construction of the proposed dwellings commenced.

Applicant's response

This is a concern with any type of development proposed and is unrealistic to expect that no development should take place due to the aforementioned concerns.

Town Planner's comment

Any development will generate noise and traffic pollution. This aspect needs to be addressed in manner conducive to everyone and thus should a Management Plan be drafted in terms of addressing the concerns raised by the objector.

Mr Louwrens

The question with regard to the complete installation of all services.

Applicant's response:

The information given by the client is that all services have been installed, however should it be found that it does not comply with the Overstrand Municipality's standards, the owner will have to comply.

Town Planner's comment

Although it seems that services have been installed, it must be signed off by the Engineering Services Department confirming that it complies with the rules and regulations pertaining to the installation of engineering services. Thus should it be found that the existing services do not comply, this aspect must be addressed and rectified by the applicant.

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Mr Louwrens

The two major concerns of the objector are the possible construction of double or three storey units and that all the access points will be from Ninth Avenue and not Tenth Avenue as proposed in the application.

Applicant's comment

The access point of Tenth Avenue was approved by the Engineering Services Department and should the aforementioned indicate differently, the Site Development Plan must be amended.

Town Planner's comment

Access points are evaluated by the Engineering Department and the applicant must abide by their decision.

Mr Louwrens

The objector also requests that no building contractors reside on the property during construction.

Applicant's response:

Noted and has been conveyed to the developer.

Town Planner's comment

A Management Plan indicating times of operation, noise and security measures be distributed to the surrounding owners and Municipality for discussion and approval.

Evaluation

The application was previously approved, dated 2006, however, the applicant did not register the property within the five year period as stipulated by the Land Use Planning Ordinance, 1985. The application is exactly the same and no additional rights are requested. The applicant did install internal services and has acted upon the previous approval. The objector did question the level of quality of services, which is a valid concern; however, the services will only be signed off by the Engineering Services Department if the standard of services complies with legislation.

The question of height raised by the objector is not a reasonable request as a single residential dwelling can also be a double storey building. The height will be restricted to 8m as prescribed in the Overstrand Municipality Zoning

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Scheme ensuring that it is in line with the development parameters allowed for single residential buildings.

Similar applications have been approved in the area and are therefore in line with the Overstrand Densification Management Strategy. The proposed development will address some of the concerns of the objector in terms of the vagrancy presently happening on the property. The proposed application will not deter from the surrounding area and the development principle of pockets of densification has been established.

Conclusion

The application is recommended for approval.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Building Control Department

"Size of the erven within single residential parameters and there are a number of such subdivisions in the area, therefore supported."

Fire Department

"Provide fire hydrants in compliance with SANS 10400T:2011 – 4.35.4 (Town House Complex)."

Waste Management

"Refuse area to be constructed according to municipal requirements."

Engineering Services Department

Attached as Annexure F.

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10. Annexures

- Annexure A: Locality Plan
- Annexure B: Proposed Subdivision Plan
- Annexure C: Motivation Report
- Annexure D: Objection received
- Annexure E: Applicant's comment on objection received
- Annexure F: Services Report

RECOMMENDATION:

1. that, in terms of Sections 17 and 22(i)(a) of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) the application for the rezoning of Erf 5972, Kleinmond from Residential Zone I: Single Residential to Subdivisional Area, **be approved**;
 2. that, in terms of Section 24 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) the application on Erf 5972, Kleinmond for the subdivision of the applicable rezoned erf to create the following land uses:
 - 7 General Residential Zone 1: Town Housing erven; and
 - 3 Transport Zone 2: Road and Parking erven (2 portions for public road purposes and 1 portion for private road purposes)**be approved**;
 3. that, in terms of Section 29 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) the application on Erf 5972, Kleinmond for the establishment of a Home Owners' Association, **be approved**;
- subject to the following conditions:
- (a) that this approval only has reference to the Subdivisional Plan, Drawing No. kleinm5972s.drw dated July 2014, as submitted with the application;
 - (b) that all other parameters as prescribed in the Zoning Scheme be adhered to;
 - (c) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
 - (d) that all internal services be signed off by the Engineering Services Department before occupation of the dwellings;

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- (e) that a Management Plan of the project be compiled, distributed and discussed with the surrounding owners for approval by the Municipality; and
 - (f) that all the conditions in the Services Report (attached as Annexure F) be complied with.
4. that the applicant/objector be notified of his right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above decision.

RESPONSIBLE OFFICIAL :	H VAN DER STOEP
TARGET DATE FOR IMPLEMENTATION :	13 MAY 2015
TARGET DATE TO INFORM APPLICANT :	13 MAY 2015
TARGET DATE TO INFORM OBJECTOR :	13 MAY 2015

**PROPOSED REZONING AND
SUBDIVISION**

ERF 5972 KLEINMOND

**DIVISION: CALEDON
OVERSTRAND MUNICIPALITY**

MOTIVATION REPORT

1. BACKGROUND

Mr. H.L. van Zyl, on behalf of Hillside Earthmoving (Pty) Ltd, the owners of erf 5972 Kleinmond, has instructed the companies Plan Active and Van Dyk Land Surveyors to apply for the rezoning and subdivision of erf 5972 Kleinmond.

Erf 5972 Kleinmond is 4394m² in extent and is held by title deed number T41352/2007. A previous application was submitted to develop erf 5972 Kleinmond to create seven town housing erven and three transport zone erven. Please refer to the letter of approval dated 7 June 2006 attached. The owners intend to apply for exactly the same land use rights that were initially awarded to them in 2006. Since the approval has lapsed it is not an option to apply for an extension of the validity of the approval.

It is the intention of the owners of erf 5972 Kleinmond to rezone and subdivide the subject property to create seven town house erven, two portions of public road and a private (internal) road.

2. APPLICATION DETAILS

Application is made in terms of:

- Section 17 of the Ordinance on Land Use Planning, Ordinance 15 of 1985, for the rezoning of erf 5972 Kleinmond from Residential Zone I: Single Residential to Subdivisional Area;
- Section 24 of the Ordinance on Land Use Planning, Ordinance 15 of 1985, for the subdivision of erf 5972 Kleinmond;
- Section 29 of the Ordinance on Land Use Planning, Ordinance 15 of 1985, for the establishment of a Home Owners' Association.

3. DESIRABILITY

3.1 PROPERTY DESCRIPTION

The subject property borders two roads namely 9th and 10th Avenue, Kleinmond. Please refer to the locality plan attached. Erf 5972 Kleinmond is 4394m² in extent and it is situated in a residential environment.

3.2 ZONING

Erf 5972 Kleinmond is zoned Residential Zone I: Single Residential.

Surrounding properties are zoned for mainly General Residential Zone I and Residential Zone I: Single Residential, purposes.

3.3 LAND USE

There is one dwelling situated on erf 5972 Kleinmond. Please refer to the aerial photograph and previously approved subdivision plan attached.

Land uses that surround erf 5972 Kleinmond are group / town housing units, single residential dwellings and public roads. Please refer to the land use plan attached. It is therefore evident that erf 5972 Kleinmond is surrounded by a variety of residential land uses.

3.4 PROPOSAL

- The rezoning of erf 5972 Kleinmond, in terms of Sections 17 of the Ordinance on Land Use Planning, Ordinance 15 of 1985, from Residential Zone I: Single Residential to Subdivisional Area to create two portions of public road, a private road and seven town house (general residential) erven;
- The subdivision of erf 5972 Kleinmond in terms of Section 24 of the Ordinance on Land Use Planning, Ordinance 15 of 1985;
- The establishment of a Home Owners' Association in terms of Section 29 of the Ordinance on Land Use Planning, Ordinance 15 of 1985.

The owners of the subject property want to develop town housing opportunities in the Kleinmond area. A previous application was submitted to develop erf 5972 Kleinmond to create seven town housing erven and three transport zone erven. Please refer to the letter of approval dated 7 June 2006 attached. The owners intend to apply for exactly the same land use rights that were initially awarded to them in 2006. Since the approval has lapsed it is not an option to apply for an extension of the validity of the approval.

Consequently it is proposed to rezone erf 5972 Kleinmond, from Residential Zone I: Single Residential to Subdivisional Area to create the following:

- 7 General Residential Zone I: Town Housing erven;
- 3 Transport Zone 2: Road and Parking erven
 - Two portions for public road purposes;

- One portion for private road purposes.

It is furthermore proposed to subdivide erf 5972 Kleinmond as follows:

TOTAL AREA:	4394m ²
AREAS FOR SUBDIVISION:	PORTION A: 12m ² PORTION B: 422m ² PORTION C: 425m ² PORTION D: 433m ² PORTION E: 1061m ² PORTION F: 452m ² PORTION G: 427m ² PORTION H: 423m ² PORTION I: 433m ² REMAINDER: ±360m ²
OWNER:	HILLSIDE EARTHMOVING (PTY) LTD
TITLE DEED:	T41352/2007

Please refer to the subdivision plan attached. The immediate area surrounding erf 5972 Kleinmond is already characterised by higher density residential development that is indicative of the higher density residential developments already being considered in this area.

General Residential Zone I allows for town housing units to be developed as a primary right on the aforementioned zoning. The owners of the subject property intent to develop portions B-H for town housing purposes with one town housing unit situated on each portion. Portion A and Remainder erf 5972 Kleinmond will be used for public road purposes. Portion I will serve as the private (internal) road for the proposed town house development.

There is no site development plan available yet. Each town house within the proposed town house development will be developed in accordance with the Overstrand Municipal Zoning Scheme with reference to provision of parking, internal building lines, coverage, the provision of open space, etc. The proposed subdivision plan does however indicate the building lines applicable to the perimeter of the proposed town house development.

To ensure that the already small erf sizes are not made any smaller by means of providing a road of 10m wide it is proposed to give access to the proposed development with a ± 8 m wide private road that takes access from 10th Avenue.

The proposed subdivision plan makes provision for two service yard / refuse removal areas of ± 6 m² in extent each by means of servitudes. The proposed service yards will be situated on Portions B and H, portions of erf 5972 Kleinmond, at the entrance of the proposed development to ensure that the refuse can be easily removed from the site. Please refer to the subdivision plan attached.

The proposed development will have a density of 16 units per hectare.

The title deed T41352/2007 has no restrictions that need to be removed in order for this application to be approved.

The proposed rezoning and subdivision will have a minimal impact on the surrounding properties. The properties surrounding erf 5972 Kleinmond are undoubtedly in a mixed residential land use area and the proposed application for erf 5972 Kleinmond is only following the existing land use / development trends in the area. The proposed land uses are also not associated with attracting high traffic volumes or will not amount to high levels of noise pollution in the area. The proposed rezoning and subdivision will therefore not have a negative impact on the surrounding erven and therefore we do not foresee any problems with the proposed application.

3.5 ACCESS

Access to six (B, C, D, F, G, H) of the seven town housing units will be from the private road that links to 10th Avenue. Access to Portion E will remain unchanged and will be from 9th Avenue. To ensure that the already small erf sizes are not made any smaller by means of providing a road of 10m wide it is proposed to give access to the proposed development with a ± 8 m wide private road that takes access from 10th Avenue.

The proposed development will also not attract high traffic volumes.

3.6 SERVICES

All services on the subject property already exist. Since the previous application was approved on erf 5972 Kleinmond, the owners confirmed that they have already completed the installation of all services on the subject property except for the final finishes to the internal road.

Provision is made for services servitudes to adhere to the previous conditions of approval (see letter dated 7 June 2006 and proposed subdivision plan).

Additional services will be provided to the satisfaction of the Overstrand Municipality.

3.7 TITLE DEED

The title deed T41352/2007 has no restrictive title deed conditions that need to be removed in order for this application to be approved.

There is a bond registered against the subject property. The bondholder's consent was requested and will follow.

3.8 FORWARD PLANNING

The Overstrand Spatial Development Framework (2006) earmarks erf 5972 Kleinmond for residential purposes. After rezoning and subdivision the subject property will still be used for residential purposes and therefore the proposal conforms to the spatial planning policies for the Kleinmond area.

Erf 5972 Kleinmond forms part of Planning Unit 9 as identified by the Overstrand Municipal Growth Management Strategy (2010). The aforementioned planning unit is earmarked as a densification zone allowing for densities of between 20 and 30 density units per hectare.

The proposed development will have a density of 16 density units per hectare. The proposal is therefore compatible with the OMSGMS (2010). Please refer to the OMSGMS's (2010) proposal plan for Kleinmond attached.

4. RECOMMENDATION

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

- The application entails exactly the same proposal than what was previously approved (see letter of approval dated 7 June 2006 and endorsed subdivision plan attached);
- All services on the subject properties already exist;
- The proposed rezoning and subdivision erf 5972 Kleinmond falls within the existing land use tendencies for the area;
- The proposed rezoning and subdivision erf 5972 Kleinmond is compatible with the spatial planning policies applicable to the area;
- The proposal is compatible with the existing built character of the area;
- The impact on the traffic and services will be kept to a minimum;
- The proposed rezoning and subdivision of erf 5972 Kleinmond will not have a negative impact on the current character and land values of the surrounding erven.

With regards to the above mentioned it would be appreciated if Council would approve the application to allow seven town housing erven, two portions public road and a portion private road on erf 5972 Kleinmond.

M.J. Louwrens
84 Tiende laan
Erf 6228
Kleinmond.
7195



TP-ATheart
(H v d Stoep)

7 November 2014

For the Attention of: Mr. S Muller (Director Infrastructure and Planning)
CC: Mr. H van der Stoep (Senior Town Planner)
File Reference: Erf 5972 KKM (2683)
Your Letter dated: 31 October 2014.

Dear Sirs,

This letter serves as confirmation of receipt of your letter with file reference and date as above.

Please correct me if I am wrong, but reading through the attached document provided by yourself and especially the Motivation report, it seems that your letter is in fact a notification that subdividing of ERF 5972 is a made out fact casted in concrete and that the surrounding residents have no say in this matter.

Please do not miss understand me, I have no objection to the ERF being developed or sub divided for single residential housing, in fact I would appreciate it as currently the ERF is being used as a toilet for pedestrians passing by and as a hiding place and access to other residents homes for trespassers and criminals.

Seeing that the original application and approval of 7 June 2006 (not attached to your letter) which is eight years ago have lapsed and a lot has happened since, some residents from that time has moved some has passed and new residents have since moved in, surely the new residents should have the right to agree or disagree with the proposed rezoning and sub dividing of ERF 5972 which brings me immediately to the following points and queries.

- 1) Refer to your Motivation Report, sub heading "3.4 PROPOSAL" paragraph three (3), I quote certain extracts from this paragraph.
 - "Rezone ERF 5972 Kleinmond from residential Zone 1 single residential to sub divisional area to create the following".
 - "7 General Residential zone 1 **Town Housing erven**"
 - "3 Transport Zone 2 **Road and parking erven**"
 - "Two portions for public road purposes"

My concern and I trust and hope that I understand it correctly, is that (7) Zone 1 residential town houses will be erected, this mean that it will be single ground floor dwellings and **not** two or three story dwellings.

FILE NO:	EL 5972 KKM
SCAN NO:	04
COLLABORATOR NO:	684323
OVERSTRAND MUNICIPALITY DEPARTMENT: TOWN PLANNING P O BOX 20, HERMANUS, 7200	

(2)

See extract from **GREYVENSTEINS Attorneys, Notaries and Conveyancers – Cape Town**, with regard to Zoning.

“The different zones

For the purposes of this, we are discussing three basic categories of zoning – residential, business and industrial – and each category is sub-divided further into different zones. Looking first at residential property, there are four categories, and restrictions on the building or buildings to be constructed on the property are determined in terms of three elements known as coverage, F.A.R. and density. Coverage is the maximum area of land on which one is permitted to build; F.A.R. (floor area ratio, or Bulk) is the maximum floor area under roof allowed; and density is the number of dwellings permitted per hectare (10 000 square metres).

Residential 1: is the zoning which stipulates that properties can have a density of only one dwelling per stand or erf, that is, a house. An example here would be as follows: Firstly, one is allowed to build one house on the property in terms of this zoning. Coverage permitted is 40%, which means that on a 1 000-square metre stand one would be permitted to build a dwelling covering a maximum of 400 square metres, including garages and outhouses. If one is given the right to build a two or three-storied home, one can cover up to 400 square metres per story. The footprint cannot be more than 400 square metres.”

Your letter and motivation report is not clear with regard to permission granted for two or three storied homes/dwellings.

Should two and three storied homes be permitted a negative impact to the adjacent /surrounding residents would be enormous.

- 2) Refer to your Motivation Report, sub heading “3.4 PROPOSAL” paragraph eleven (11), I quote certain extracts from this paragraph.
 - *“The proposed rezoning and subdividing will have a minimal impact on the surrounding properties. The properties surrounding erf 5972 Kleinmond are undoubtedly in a mixed residential land use area and the proposed application for erf 5972 Kleinmond is only following the existing land use / development trends in the area. The proposed land use is also not associated with attracting high traffic volumes or will not amount to high levels of noise pollution in the area. The proposed rezoning and subdivision will therefore not have a negative impact on the surrounding erven and therefore we do not foresee any problems with the proposed application”*

Unfortunately this is not quite true, it is logic that with one entrance for (6) homes/dwellings and as most people nowadays have two vehicles per household plus service vehicles entering and exiting, such as refuse, sewage, garden services, security services and visitors etc, the traffic will increase drastically, which could become a major burden to erf 6228 and erf 6229 but also to all the adjacent residents to erf 5972.

It must be understood that such a development could also have a huge negative impact on the surrounding properties **resell value**.

(3)

3) Refer to your Motivation Report, sub heading "3.5 ACCESS" paragraph one (1), I quote certain extracts from this paragraph.

- *"Access to six (B, C, D, F, G, H) of the seven town housing units will be from the private road that links to 10th Avenue. Access to portion E will remain unchanged and will be from 9th Avenue"*

This becomes a major concern as we have in 10th Avenue a relatively quiet with low traffic road, can you imagine the traffic and noise pollution once construction of these dwellings start, with earthmoving machines arriving for levelling out the terrain, with trucks delivering building materials and supplies etc, etc, etc. the list is endless.

4) Refer to your Motivation Report, sub heading "3.6 SERVICES" paragraph one (1), I quote certain extracts from this paragraph.

- *"All services on the subject property already exist"*
- *"the owners confirmed that they have already completed the installation of all services on the subject property"*

I am not a hundred percent sure that this statement is correct. As you know 10th Avenue Kleinmond does not have a free running sewage system and I doubt that sewage storage tanks have been installed on the subject property.

In Conclusion:

For the development project to proceed without delay and unhappiness, I would like to make the following proposal for consideration;

There is only two points that stand out as problem areas that need reconsidering and one point of concern that need to be addressed i.e.

- 1) If it is the intention of the developers to erect two and/or three story homes/dwellings, this idea should be scrapped. Single ground floor homes/dwellings would not at all be a problem.
- 2) Access to the six (6) (B, C, D, F, G, H) townhouse units should be revised by closing up the existing access that link to 10th Avenue and move that access point to 9th Avenue. It is a fact that 10th Avenue access is not the only option, standing in front of the existing dwelling at 80 Ninth Avenue facing the mountain in the northerly direction, there is more than ample space to move the access point to the left side of the existing dwelling.
It is also my understanding that the subject property involved i.e. erf 5972 would be registered on its title deed as a subject property address as 80, 9th Avenue and not 10th Avenue.

(4)

- 3) A Final request would be that as soon as building and any construction work starts, that none of the Contractors workers/employees reside on the mentioned subject property for security reasons.

I therefore kindly request that the above points of concern be reconsidered prior to start with construction/building procedures.

Yours faithfully

M.J. Louwrens.

Cell: 083 259 6605

E-Mail : louwrensthys@mweb.co.za

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Website: www.planactive.co.za

Our reference: PA14045/ML
Your reference: Erf 5972 KKM (2683)

16 JANUARY 2015

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

FILE NO:	EL 5972 KKM
SCAN NO:	16
COLLABORATOR NO:	704767

FOR ATTENTION: MRS HANNEEN VAN DER STOEP

Sir

PROPOSED REZONING & SUBDIVISION: ERF 5972 KLEINMOND

- **HILLSIDE EARTHMOVING (PTY) LTD**

Reference is made to our application dated 3 September 2014 and your letter dated 10 December 2014. An objection was received from M.J. Louwrens and can be summarized as follows:

- *It should be noted that the objector is not against the development of the subject property.*
- *The motivation report seems to indicate that the subdivision of erf 5972 Kleinmond is casted in concrete and that the surrounding residents have no say in this matter.*

This is not true. The motivation report simply emphasizes the fact that the merit of the proposed subdivision and rezoning of the subject property was already considered in the past. We are not asking for more than what was already approved in the past. In fact, the new proposed layout also took into consideration previous conditions of approval and comments from municipal departments. We are simply of the opinion that the merit of the previous application remains unchanged and therefore this application can be considered for re-approval.

The Land Use Planning Ordinance, Ordinance 15 of 1985, makes provision for public participation to ensure that a transparent process is followed. Since this is a new application the correct public participation process was followed to ensure that surrounding property owners are given the opportunity to comment / raise concerns on the proposed development.

- *The motivation letter is not clear whether single, double or three storey dwellings will be constructed on site. Two or three storey dwellings will have a negative impact on the surrounding properties.*

Divine Inspiration Trading 329 (Pty) Ltd. trading as Plan Active
Reg. No. 2006/030921/07
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John Mc Lachlan: Ndip (Town Planning) Tech Witwatersrand; MSAPI
Pauline Spronk: B (Soc Sc) US, BA Hon (UNISA)
Meriké Lerm: B. Art et Scien Cum Laude (Town Planning) UNW; SACTRP

The proposed zoning for the town house units will be General Residential Zone 1: Town Housing. This zoning allows for a maximum height of 8m, measured from the base level to the top of the roof. Consequently (if the development is approved) the developer will be allowed to construct a double storey dwelling on each newly created erf. Each town house within the proposed town house development will be developed in accordance with the Overstrand Municipal Zoning Scheme with reference to provision of parking, internal building lines, coverage, the provision of open space, etc. The proposed subdivision plan also indicates the building lines applicable to the perimeter of the proposed town house development. Developing the subject property within the applicable building lines will assist to keeping the impact of double storey dwellings (if the developer is indeed considering constructing double storey dwellings) to a minimum.

The objector should bear in mind that the parameters for Single Residential Zone 1 also permits double storey dwellings – therefore the impact on the adjacent properties will not be greater than the impact that a Single Residential development would have on the adjacent property owners.

- ***The proposed development will drastically increase the amount of traffic to the area. The aforementioned could become a major burden to erven 6228 and 6229 Kleinmond.***

We disagree with the above statement. We cannot see how an additional 12 vehicles travelling at different times of the day will have a great impact on the existing traffic in the area. The amount of trips generated by the proposed development will have a low impact on the area.

- ***The proposed development will have a negative impact on the resell value of the surrounding properties.***

We would like to refer to the objectors opening statement where it is stated that he is not against the proposed development of the subject property since "it is currently being used as a toilet for pedestrians passing by and as a hiding place and access to other residents' homes for trespassers and criminals". We disagree with the abovementioned statement since the proposed development will add value to the area and eliminate the aforementioned negative uses associated with the subject property.

Therefore, keeping the property undeveloped will have a greater negative impact on the surrounding property values.

- ***Traffic and noise pollution (especially in 10th Avenue) will be a major concern once the construction of the proposed dwellings commence.***

This will be a concern with any type of development proposed for the subject property or for any other property in the immediate area and it is unrealistic to expect that no development should take place on the subject property due to noise and traffic associated with the construction phase.

- ***The objector questions the complete installation of all services on the subject property as 10th Avenue does not have a free running sewerage system and he doubts that septic tanks have been installed on the property.***

The information given to us by our client was that all services on the subject property except for the final finishes to the internal road were already installed after the previous application was approved. Provision was also made for services servitudes to adhere to the previous conditions of approval (see letter dated 7 June 2006 and proposed subdivision plan). As mentioned in our report any

additional services will be provided to the satisfaction of the Overstrand Municipality (i.e. if it is found that the necessary sewerage upgrades have not been done yet, the municipality will make this a condition of approval for the proposed development). Sewage storage tanks are normally only constructed when the housing units are built.

- ***The major two concerns for the objector are:***
 1. ***The possible construction of double or three storey dwellings;***
 2. ***Access to all the proposed dwelling units should be from 9th Avenue and not 10th Avenue as proposed in the application.***

Concern no. 1 was already addressed in a previous paragraph.

Concern no. 2 refers. Our client prefers that the access to most of the town housing units should be taken from 10th Avenue (and this was also how the previous application was approved). The municipality's engineering services department will evaluate the proposal and if deemed necessary request that the site development plan be amended to give access to the proposed town housing units from 9th Avenue instead of 10th Avenue. Until then the proposed access points remain unchanged for the purposes of the application.

- ***The objector also requests that no building contractors reside on the subject property during construction (for security reasons).***

The abovementioned is noted and was brought under the developer's attention.

We trust that you find the above in order and that you will now be able to finalize the application.

Yours faithfully



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

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REZONING, SUBDIVISION & ESTABLISHMENT OF
HOA: ERF 5972, KLEINMOND**

Water	:	In order
Sewer	:	In order
Roads and traffic	:	In order
Stormwater (SW)	:	According to the master plan
Electricity	:	In order

Conditions:

1. That a Bulk Services Contribution Levy (BICL) be paid by the developer to supplement municipal services and amenities in accordance with the relevant legislation and as determined by the Council. The BICL tariff is adjusted by Council annually. The total BICL payable will be the amount as determined by the BICL Policy and tariff at the date of **actual payment**. BICL amounts quoted in any document will normally be applicable to the particular year in which the document was compiled and Council will not be bound by the quoted amounts.

1.1 Developments containing Sectional Title Units/ Commercial Buildings (non-free standing properties – property is not to be subdivided)

The BICLs are to be paid in full **prior** to submission of the building plans. Building Plans will not be accepted unless the BICL is paid in full.

1.2 Developments with free standing properties (property that is subdivided and plots to be sold individually).

The BICLs are payable **prior** to clearance being issued by the Income Department of the Municipality.

The contribution according to the current policy (2014/2015) is as follows:

Freehold erven:

Water (W7A)	R 23 444.00 x 6	=	R 140.664.00
Sewerage (SEW5A)	R 18 816.00 x 6	=	R 112 896.00
Roads & SW (RDST1)	R 6 132.00 x 6	=	R 36 792.00
TOTAL (inclusive of VAT)			<u>R 290 352.00</u>

Note:

- 1.1 The above figures are estimates
- 1.2 That the Overstrand Electricity Department be contacted for the electricity bulk services levy amount
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 provided;
 - 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

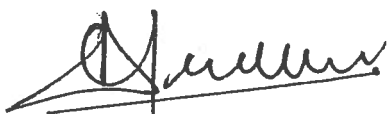
whether as a result of the damage to or interruption of or interference with the Council's services or apparatus or otherwise;

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 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;
13. that the above stormwater management plan include the following:
 - 13.1 pre-development run-off from the catchment area;
 - 13.2 post-development run-off from catchment area;
 - 13.3 existing stormwater reticulation system and the capacity thereof;
 - 13.4 connection of internal stormwater reticulation system;
 - 13.5 overland escape routes
14. that the connection to the stormwater reticulation system be provided according to the stormwater management plan, by the developer at his cost and approved by Overstrand Municipality;
15. 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
16. 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;
17. 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;

18. that the Home Owners Association be responsible for the operational costs and maintenance of street lighting, electrical reticulation and metering and all internal services;
19. that the developer provide bulk meters for water and electricity at approved positions as well as individual meters at each consumption point;
20. that an approved refuse collection area/room to sufficiently accommodate the refuse generated by the development and which is to be proved with the following:
 - a. properly ventilated;
 - b. a cement floor;
 - c. a tap and running water, as well as a drainage point which is connected to the sewer network;
 - d. is a position nearest to an access road for the development and be accessible for the refuse truck at all times, to the satisfaction of the Director: Infrastructure and Planning;
21. that the refuse room be completed prior to occupation of the first unit, to the satisfaction of the Director: Infrastructure and Planning;
22. that the electricity reticulation and supply be provided according to the master plan by the developer;
23. 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 and the upgrades required(if any) in accordance with the Master Plan;
24. that the developer will be responsible for the payment of electricity bulk contributions and that the bulk contribution be determined during the compilation of the services agreement;
27. that the developer apply for a temporary water connection at Overstrand Municipality's Finance Department, before commencement of construction;
28. that the developer apply for a bulk water connection on the prescribed application form, at Overstrand Municipality's Finance Department and that the installation of the bulk water meter, by the developer, be done under the supervision of the Operational Manager, Kleinmond;
29. that the connection to the main water line only be done by the Operational Department, after payment of the connection fee, by the developer;

30. that damage to the existing roads, used as routes for access to the development, for the provision of services, be repaired by the developer.
31. that the access road to the development be provided with a permanent asphalt surface and suitable substructure, according to the application standard;
32. that stacking distance of 6m be provided, measured from the edge of the closest lane or shoulder/cycle lane to the front of an access gate;
33. that all obstructions in the road widening be moved by the developer;
34. that the developer provide and install a 160mm diameter sewer line from the proposed development to the existing reticulation system at the intersection of 7th street with Main road;
35. that the required road widening property in 9th avenue and 10th avenue be transferred to Overstrand Municipality by the developer;
36. that an overland escape route for major storm events be provided through the proposed development and that the servitudes for such purposes be registered by the developer.



DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES

23 | 2 | 2015

DATE

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
Portfolio Committee : Finance & Local Economic
Portfolio Committee : Management Services
Portfolio Committee : Protection Services
Portfolio Committee : Community Services**

21 April 2015

(Also the agenda for the Mayoral Committee Meeting: 29 April 2015)

18.

**SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (SDBIP)
THIRD QUARTERLY REPORT: JANUARY- MARCH 2015**

9/1/2/5

R Louw

27 March 2015

(028) 313 8071

Corporate Head Office

REMARK :

**THIS ITEM WAS CONSIDERED AS ITEM 1 AT THE MANAGEMENT
SERVICES PORTFOLIO COMMITTEE MEETING.**