

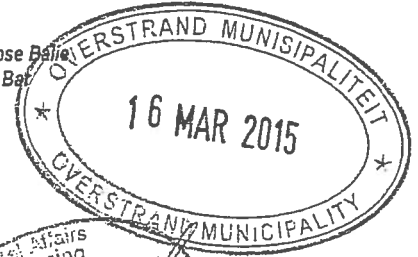
TR. A Theart
(S. J. de Merwe)

FILE NO:	EL713 JK A DE V LA GRANGE SC
SCAN NO:	34
COLLABORATOR NO:	765452

Praktiserende Advokaat van die Hooggeregshof van Suid-Afrika en Lid van die Kaapse Barre
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DIRECTOR: INTEGRATED ENVIRONMENTAL MANAGEMENT

Provincial Government of the Western Cape

Private Bag X9086

CAPE TOWN

Ref: 15/3/1/4/E2/5/Erf 713, De Kelders (G Cambell))

13 March 2015

**REMOVAL OF RESTRICTIONS ACT, 67 (ACT 84 OF 1967): ERF 713 DE
KELDERS (OVERSTRAND MUNICIPALITY)**

The notice by registered mail dated 29 January 2015, as prepared by Messrs WRAP on behalf of Mr JV Meintjies as well as the letter of objection by my wife, Mrs E la Grange - the owner of Erf 712⁷¹⁴ De Kelders, refer.

To the extent that I have a vested financial interest in Erf 712, De Kelders, I hereby wish to associate myself with the objection raised by Mrs La Grange.

To the extent that it may be necessary to follow the argument concerning the detrimental effect that the removal of title deed restrictions (which were in place at the time when my wife decided to purchase the property) will have on the "basket of amenities" (which were intended to be preserved by the title deed restrictions concerned), as alluded to in paragraphs 7 to 12 of her letter of complaint, I deemed it prudent to refer you to the judgment in the matter of Sunningdale Development (Pty) Ltd v Umhlanga Borough TC 1993 (3) SA 711 (D & CLD) wherein an exposition of the meaning of the word "amenities" in the context of planning and property law is to be found.

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The long and the short of it is that the term has to be understood as referring to "pleasant circumstances or features and advantages" of the neighbourhood such as "wide streets and plenty of air and room between houses" – with reference to the pleasurable as distinguished from the "utilitarian features of an estate ..."

The removal of the restriction in question will clearly seriously detract from the pleasurable features of Erf 712 and the neighbourhood as such. As such (and for the other reasons set forth in the objection referred to above) the application for the removal of the title deed restriction – which can only be favourably entertained if the MEC is satisfied that such removal will serve the interests of the township, area or public – should be refused.

I trust that you will be guided accordingly.

Regards


André la Grange



February 20, 2015
 Office of the Director, Integrated Environmental Management: Provincial Government,
 Private Bag X9086,
 Cape Town 8000

OVERSTRAND MUNICIPALITY (HERMANUS ADMINISTRATION)
OBJECTION TO APPLICATION IN TERMS OF THE REMOVAL OF RESTRICTIONS
ACT (1967) (ACT 84 OF 1967) FOR THE REMOVAL OF RESTRICTIVE TITLE
CONDITIONS APPLICABLE TO ERF 713, DE KELDERS (21 FRONT STREET) TO
ENABLE THE OWNER TO SUBDIVIDE THE PROPERTY INTO TWO PORTIONS.

A. COMPATIBILITY WITH THE SURROUNDING ENVIRONMENT AND IMPACT ON
EXISTING LAND USE RIGHTS:

The erf concerned is one of 15 same size erfs which are contiguous which have not been divided as is proposed in this plan. If this plan is approved erf 713 will not be in conformity with its neighbors. If this plan is allowed to proceed a precedent will have been set and there will be no reason for permission not to be granted to the 15 neighboring erfs of similar size. This will greatly change the character of the front street location. This is not desirable as it goes against the original vision for those erfs in the community. These erfs were left big for a purpose: so that part of Front Street would consist of bigger lots with bigger dwellings which help to create the charm and character of that portion of DE KELDERS.

B. IMPACT ON SERVICE INFRASTRUCTURE:

If all the neighboring erfs of ERF 713 are granted permission to subdivide then the density of the neighborhood is negatively affected which will affect the **HEALTH AND WELFARE** of the neighborhood since:
 15 new **WATER SUPPLY** connections will be required
 15 new **ELECTRICAL SUPPLY** connections will be required
 15 new **SEWAGE SUPPLY** connections will be required.

In light of the above it is maintained that this application does not comply with the provisions of Section 25 of the Land Use Planning Ordinance, 1985 (no 15 of 1985) to subdivide the property into two portions and should therefore not be approved,

HK and JR LEIBOWITZ
 23 YORK STREET (ERF number 803)
 DE KELDERS

FILE NO:	
SCAN NO:	
COLLABORATOR NO:	

13 MAR 2015

FILE NO:	EL 713-DK
SCAN NO:	43
COLLABORATOR NO: 765283	
DIE MUNISIPALE BESTUURDER MUNISIPALITEIT OVERSTRAND	

Posbus 20
HERMANUS
7200



ANNEXUREID 4/124
TP- A (heart)
(s v/d merwe)

13 MAART 2015

PER FAKS: .. (028) 313 - 2093

E-POS: alida@overstrand.gov.za

ERF 713, FRONTSTRAAT 21, DE KELDERS: AANSOEK INGEVOLGE DIE WET OP OPHEFFING VAN BEPERKINGE, 1967 (WET 84 VAN 1967)

Hiermee maak ek beswaar teen die voorgestelde opheffing van die beperking op die Titelakte en ook die onderverdeling van erf 713, De Kelders. Hiermee my spesifieke besware:

1. SKENDING VAN DIE KARAKTER VAN DIE DE KELDERS AREA:

- 1.1 A (b) *That no more than one half the area of the erf be built upon;*
 (c) *That no more than one dwelling, together with the necessary outbuildings appurtenances be erected on the erf.*
 B (e) *That this erf shall not be subdivided except with the consent in writing of the Administrator. (TITELAKTE T11510/2014)*

- Die beperking in die titel, was oorspronklik vervat in Titelakte 17576/1945 ingevolge waarvan die Administrateur die dorpsontwikkeling toegelaat het met die spesifieke bepalings soos hierin uiteengesit. Die aansoek van die Applikant hierin is lynreg in botsing met die beperking van die Titelakte.

1.2 Implementation considerations:

- *The process of densification should consider the following contextual factors:*
 - *Existing residential character (OVERSTRAND SECTORAL DENSIFICATION STRATEGY – PUBLIC INFORMATION SESSION – 7 MAY 2009)*

- 1.3 B: *Local Area Character and Density Analysis*
 (i) *Land use patterns (refer to Locality Plan: Sheet B)*

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The land use pattern of De Kelders is predominantly characterised by the single residential land uses with more than 35% vacant erven. No nodes of commercial or community facilities are represented within De Kelders. (OVERSTRAND MUNICIPAL SPACIAL GROWTH STRATEGY 2010, SECTION 7.4.11 DE KELDERS)

- Die bestaande karakter van die area, is groot erwe met enkel wonings. Die voorgestelde onderverdeling van erf 713 in twee klein erwe van ± 500 m², is nie in ooreenstemming met die bestaande karakter van die area nie, en is in botsing met die oorwegings soos daargestel deur die munisipaliteit in voormelde dokumente en kan derhalwe nie goedgekeur word nie.

2. BEWARING VAN OMGEWING EN NATUURLIKE KULTUURSKATTE:

2.1 *Challenges facing the local community*

Secondly, it is widely recognised that the physical beauty of the natural environment is the regions single largest asset. As such, the Overstrand's economy and its ecology are inseparable. If the natural environment is not effectively managed, the declining resources base will limit future economic growth. (OVERSTRAND DRAFT STRATEGIC ENVIRONMENT MANAGEMENT FRAMEWORK - PARAGRAAF 4.3.2)

2.2 *The PSDF will actioned by implementing the applicable policies (refer to Part 5.3.6 below) related to:*

- *The protection of heritage resources*
"Objective 5: Conserve and strengthen the sense of place of important natural, cultural and productive landscapes, artefacts and buildings";
- *Biodiversity management, the protection of agricultural resources and the management and protection of coastal and river bank areas*
"Objective 8: Protect biodiversity and agricultural resources"; and
- *The consumptive use of natural resources*
"Objective 9: Minimise the consumption of scarce environmental resources, particularly water, fuel, building material, mineral resources, electricity and land – in the latter case especially pristine and other

rural land, which is the Province's 'goldmine-above-the-ground'".
(OVERSTRAND DRAFT STRATEGIC ENVIRONMENTAL MANAGEMENT
 FRAMEWORK - PARAGRAAF 5.3.4)

2.3 The natural elements which contain the village and contribute to its form and structure include the following:

- The Walker Bay Nature Reserve which forms the northern edge of the village.
- The foot slopes of the Franskraal Mountains and the relative flat exposed nature of the coastal fynbos to the east of the R43.
- The rocky nature of the coastline, marked by the archaeologically significant De Kelders caves.
- The nature of the Duiwelsgat coastal trail, which links Gansbaai in the south to the Walker Bay Nature Reserve in the north. (OVERSTRAND MUNICIPAL SPACIAL GROWTH STRATEGY 2010)

2.4 The De Kelders area has several sensitive natural and cultural features that need to be conserved and respected in order to retain the precious character of the area, given the substantial development opportunities in this area. Although a large percentage of erven has not yet been developed, it is important, given the special features of the area, to compile specific development urban design guidelines timely to ensure that these sensitive areas are respected. (OVERSTRAND MUNICIPAL SPACIAL GROWTH STRATEGY 2010)

2.5

- **Conclusion**
 The proposals made for De Kelders will contribute substantially to an increase in the density of the area. Therefore it is vitally important that the necessary measures be put in place to ensure the conservation of the precious natural features and the character of the area. (OVERSTRAND MUNICIPAL SPACIAL GROWTH STRATEGY 2010)

Opportunities for densification are limited by the need to retain the nature of the R43 scenic drive traversing a predominantly green landscape, and the sensitive coastal interface. (OVERSTRAND MUNICIPAL SPACIAL GROWTH STRATEGY 2010)

2.6

GOALS	OBJECTIVES
<p>To promote the conservation of the natural resources in the Overstrand Municipal Area</p>	<p>To limit and control development and activities within environmentally sensitive and/or conservation worthy areas so as to ensure their sustainability taking into account effects on biodiversity.</p>
<p>To ensure that ongoing development pressure and its spatial implications are managed in a sustainable manner that protects the unique character of the existing cultural landscape and the place-specific character and form of the existing settlement pattern.</p>	<p>To promote a spatial development pattern that contains urban sprawl / urban development and promotes compact well defined settlements.</p> <p>To retain and strengthen the unique identity of the Municipal areas and its districts</p>

(OVERSTRAND DRAFT STRATEGIC ENVIRONMENTAL MANAGEMENT FRAMEWORK - PARAGRAAF 5.3.5)

- Die seefront area in De Kelders, is 'n area met 'n natuurlike habitat vir skilpaaie, seemeeue, suikerbekkies, Jan Fiskaal, tarentaal en muishonde. In die strategiese beplanning en beleid van die munisipaliteit hierin verwys, moet die natuurlike omgewing en ook natuurlike kultuurskatte beskerm word wanneer oorweging gegee word aan verdigting. Die voorgestelde onderverdeling en verdigting in hierdie spesifieke area van De Kelders is in botsing met die beleid van die munisipaliteit. 'n Foto geneem van die stoep van my huis wat die natuurlike omgewing aantoon is hierby aangeheg. Met verwysing na die verdigtingsbeleid van die munisipaliteit vir die De Kelder area, voer ek aan dat daar heelwat ander erwe in die area beskikbaar is wat geskik is vir onderverdeling, ten einde te voldoen aan die behoefte van verdigting, en ook in lyn is met die beleid van die munisipaliteit, maar dat onderverdeling van erf 713 en ander erwe op die seefront en omgewing negatief sal impak op die natuurlike sensitiewe habitat en die karakter van die omgewing. Hierdie aansoek is nie in lyn met verskeie beleidsbepalings van die munisipaliteit, soos hierin uiteengesit nie.

3. GEBREK AAN DIENSTE:

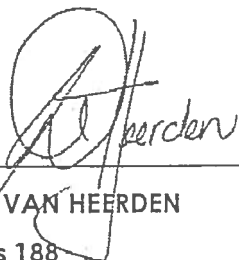
The area is reliant on a septic tank system which restricts any further development until such time as the area is connected to the waste water treatment works.

The existing electricity network makes no provisions for additional development and network upgrades are required before any development can take place. The Eskom intake pint offers sufficient capacity for the town. (OVERSTRAND MUNICIPAL SPACIAL GROWTH STRATEGY 2010)

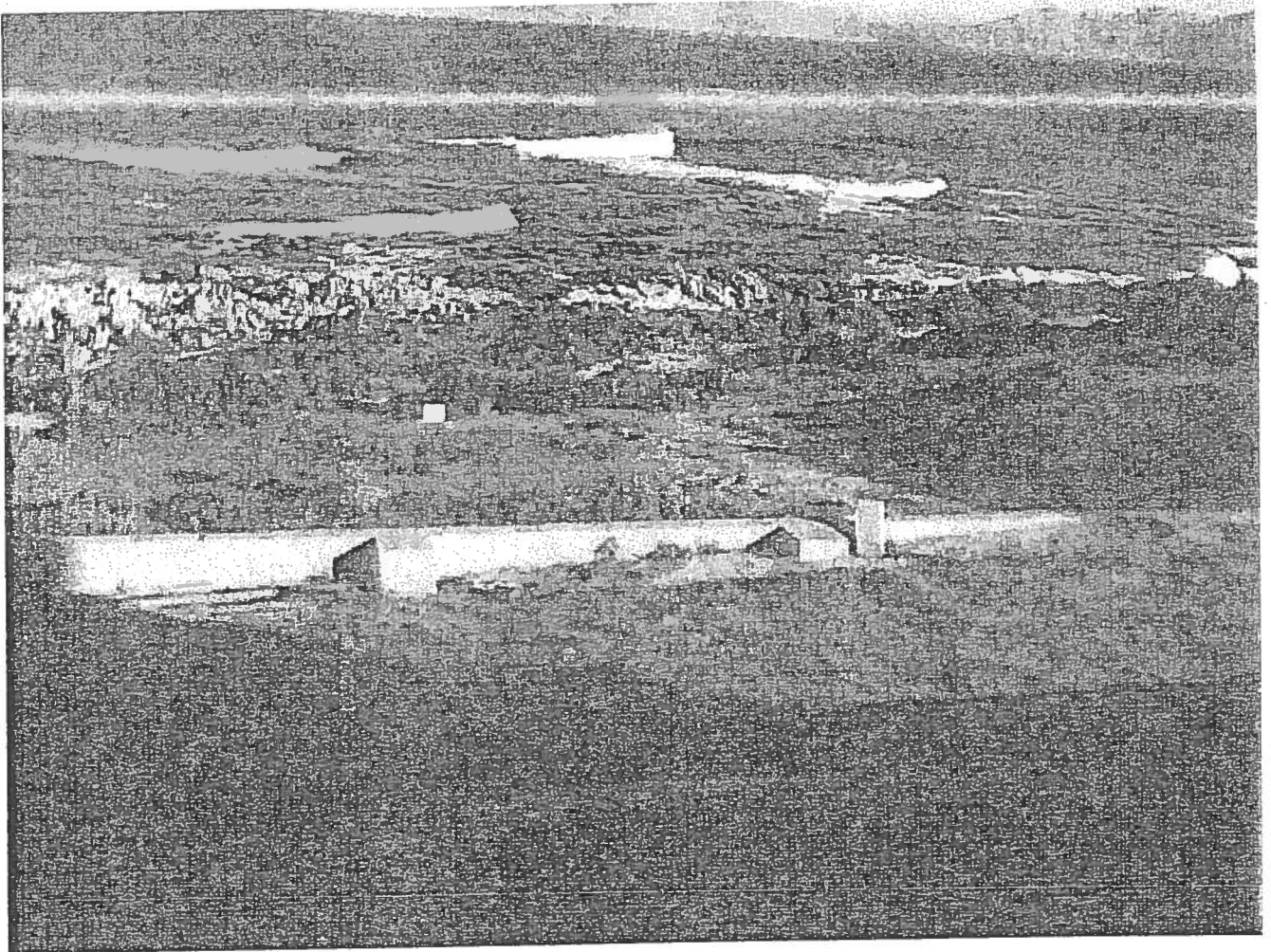
- Geen van die diens probleme uiteengesit in die beleidsdokument is aangespreek nie, en voer ek aan dat verdere verdigting en spesifiek die aansoek vir onderverdeling van erf 713 nie toegelaat kan word nie alvorens die dienste nie in plek is nie. Indien dit toegelaat word alvorens die dienste in plek is, is dit in botsing met die munisipaliteit se beleid.

4. GEVOLGTREKKING:

Ek is van mening dat die voorgestelde onderverdeling die spesifieke karakter van die area en die sensitiewe natuurlike omgewing negatief sal beïnvloed, en nie in ooreenstemming is met verskeie beleide van die munisipaliteit nie.



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TP-A Theat
C. S. Oldman



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SCAN NO:	35
COLLABORATOR NO:	765459

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CAPE TOWN

Ref: 15/3/1/4/E2/5/Erf 713, De Kelders (G Cambell))

12 March 2015

**REMOVAL OF RESTRICTIONS ACT, 67 (ACT 84 OF 1967): ERF 713 DE
KELDERS (OVERSTRAND MUNICIPALITY)**

The notice by registered mail dated 29 January 2015, as prepared by Messrs WRAP on behalf of Mr JV Meintjies refers.

I am the registered owner of Erf 712⁴, De Kelders (situated at 48 Steyn Street, De Kelders), which is the property situated immediately behind Erf 713, De Kelders. I hereby note my objection to the application for the removal of the title deed restriction concerned and the application for subdivision of Erf 713, as set forth in the notice referred to above. The basis of my objection will be made clear hereinbelow.

Before addressing the issues and setting out the bases of my objection, I wish to point out that the applications concern the removal of title deed restrictions which had been registered in favour of my property. Should the applicant be successful and the restrictions be altered or expunged it will amount to a deprivation of property within the meaning of Section 25(1) of the Constitution of the Republic of South Africa. As the application also involves intricate legal

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