

**AGENDA of the  
Portfolio Committee : Investment & Infrastructure  
6 April 2022  
(Also the agenda for the Mayoral Committee Meeting : 25 April 2022)**

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7.

**OPERATION OF ILLUMINATED STREET SIGNS ON VARIOUS PROPERTIES IN THE OVERSTRAND: DEVIATION FROM PARAGRAPH 18 AND 20.1(B) OF THE ADMINISTRATION OF IMMOVABLE PROPERTY POLICY OF 2015 ALLOWING THE MUNICIPALITY TO TEMPORARY RENEW THE LEASE OF PORTIONS OF MUNICIPAL PROPERTIES TO DIRECTOSIGN (NORTH) (PTY) LTD FOR A SHORT-TERM PERIOD - FINALISATION OF THE TENDER PROCESS**

7/2/3/1

A Le Roux

Manager: Property Administration

7 March 2022

(028) 316-5623

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**1. Executive Summary**

To obtain approval from the Executive Mayor to enter into a further short-term lease agreement for a period of 6 (SIX) months with Directosign (North) (Pty) Ltd, hereinafter referred to as “the Applicant”, in respect of various portions of properties in the Overstrand as indicated on the approximate locality maps attached as “Annexure A”, hereinafter referred to as “the Properties”, for the purpose of providing, erecting, maintaining and operating 85 illuminated street signs with advertising panels thereon;

To obtain approval from Council for the deviation from paragraph 18 of the Administration of Immovable Property Policy (as approved by Council on 25 November 2015) allowing the Municipality to enter into a further short-term lease agreement with the Applicant in respect of the Properties, for the purpose of providing, erecting, maintaining and operating 85 illuminated street signs with advertising panels thereon, without following a competitive process now, and

To obtain approval from Council for the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy (as approved by Council on 25 November 2015) allowing the Municipality to enter into a further short-term lease agreement with the Applicant in respect of the Properties for the purpose of providing, erecting, maintaining and operating 85 illuminated street signs with advertising panels thereto, without following a public participation process.

**2. Service Delivery and Budget Implementation Plan - IGNITE**

Infrastructure and Planning  
Property Administration

**3. Compliance with Strategic Priorities**

Provision of democratic, accountable and ethical governance

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Promotion of tourism, economic and social development

**4. Delegated Authority**

Partly delegated to the Executive Mayor

**5. Legal Requirements**

- Municipal Asset Transfer Regulations (R. 878 of 2008)
- Administration of Immovable Property Policy of the Overstrand Municipality, as amended

**6. Background/Discussion/Evaluation/Conclusion**

**Background**

The lease of the Properties in the Overstrand for the purpose of providing, erecting, maintaining and operating 85 illuminated street signs with advertising panels thereon was advertised for tenders in 2011. On 2 March 2012 the Bid Adjudication Committee awarded the tender to the Applicant whereafter a lease agreement was entered into.

The Applicant has a lease agreement with the Overstrand Municipality for the lease of the Properties, for a period of 9 (NINE) years and 11 (ELEVEN) months which will expire on 31 May 2022.

The Municipal Manager approved in principle the lease of the Properties by means of a tender process.

**Discussion**

The Supreme Court of Appeal Judgement in the case of Afribusines NPC v The Minister of Finance (Case no 1050/2019) [2020] ZASCA 140 (2 November 2020) declared the Preferential Procurement Regulations of 2017 invalid. The order of declaration of invalidity was suspended for 12 months. The Minister of Finance lodged an application for leave to appeal against the above decision, which was granted on 16 February 2022. National Treasury subsequently on 25 February 2022 advised that no new tenders be advertised until there is more clarity on this matter.

A second advisory note was issued to Municipalities by National Treasury on 3 March 2022. National Treasury indicated that it is preparing a new draft regulation in terms of the Preferential Procurement Policy Framework Act, 2000 to be published for comments. This was published for comments on 10 March 2022. It has also advised Municipalities that *“an organ of state may, in terms of section 3(c) of the Act request an exemption from the provisions of*

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*the Act for a specific procurement or category of procurement requirements. Such requests should be limited to procurement requirements that cannot wait the new regulations or the Constitutional Court's guidance."*

This particular tender is not of such an urgent nature as there are means to deal with the lease pending the finalisation of the regulations or outcome of the Constitutional Court matter.

Property Administration will however proceed to finalise the tender specifications and submit same for approval.

As it is in the best interest of the community to still have the various sign boards across the Overstrand, the Municipal Manager approved in principle a short-term renewal for a period of 6 (SIX) months, subject to the Executive Mayor approving the renewal and Council approving the deviation from paragraphs 18 and 20.1(b) of the Administration of Immovable Property Policy.

### **Evaluation**

A: Administration of Immovable Property Policy of the Overstrand Municipality:

The following paragraphs of the Administration of Immovable Property Policy are applicable:

**Paragraph 4: "No application for the purchase, lease of or encroachment on immovable property (save for the instances mentioned in paragraphs 58 to 62 and 64.1 below) shall be processed unless the prescribed application fee as per tariff approved in the annual budget for that financial year has been paid, nor shall any proposed lease or encroachment (save for the instances mentioned in paragraphs 58 to 62 and 64.1 below) be advertised unless the applicant has confirmed, in writing, that he/she will bear all costs involved in such transaction including – but not limited to – legal, survey, re-zoning, sub-division, consolidations, advertisement, relocation or provision of services and, where applicable, a deposit as per prescribed rate to cover incidental costs has been paid."**

As the renewal was considered before the expiry of the last agreement there is no need for a formal application form to be completed and no application fee is payable.

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**Paragraph 17: “Taking into consideration the nature and duration of the lease to be entered into, the leasing of immovable property may be affected by means of either:**

- 17.1 a competitive process, which may include a closed or public tender or proposal call, specifically in circumstances listed in paragraph 18 below; or**
- 17.2 a direct lease.”**

**Paragraph 18: “A competitive process must at all times be followed in circumstances where:**

- 18.1 the lease is for a long term with an income value in excess of R10 million;**
- 18.2 the lease is for a formal business premises with a market related rental;**
- 18.3 more than one party, in discretion of the municipality, is interested in the lease of the subject property; and/or**
- 18.4 by discretion of the municipality, a competitive process will best serve the interests of the community”.**

The long-term lease of the Properties which will be made available by means of a tender entails the advertising of the tender itself. Even though the lease with the Applicant will be for a short period, the total lease period is still more than 3 years and therefore is classified as a long-term lease. Therefore, a request is made to Council to deviate from this paragraph. The request is that the agreement be renewed for a period of 6 (SIX) months pending the outcome of the tender.

**Paragraph 20: “Long term lease of municipal immovable property with an income value less than R10 million:**

**20.1 The Municipality may grant a long term lease of municipal immovable property with an income value of less than R10 million only after:**

- (a) the Accounting Officer has approved the lease in principle;**
- (b) in the case of a direct lease, the proposed lease was advertised in terms of paragraph 10.1 and 10.2 above to invite the local community and other interested parties to submit comments or representations; and**
- (c) the Executive Mayor, as delegated authority, has subsequently approved that the right may be granted.”**

The Accounting Officer (Municipal Manager) approved in principle the short-term renewal of the lease of the Properties to the Applicant for a period of 6 (SIX) months, subject thereto that the approval of Council is obtained for the deviation from paragraphs 18 and 20.1(b) of the Administration of Immovable Property Policy.

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A request is made to Council to deviate from paragraph 20.1(b) as the Properties will only be leased for a short period and further as the tender for the long-term lease will be advertised.

The approval from the Executive Mayor for the renewal of the lease agreement is hereby requested subject to the mentioned deviations being approved by Council.

**Paragraph 24 “The fair market value for the alienation of, the rental amount for the leasing or compensation payable for a servitude over municipal immovable property shall be determined by an independent professional valuer or professional associated valuer registered in terms of the Property Valuers Profession Act, 2000 (Act 47 of 2000), or any ensuing act at the cost of the purchaser (in the case of a direct sale) or lessee (in the case of a direct lease)/servitude holder (in the case of a servitude).”**

The current rental is R27,321.62 (TWENTY-SEVEN THOUSAND THREE HUNDRED AND TWENTY-ONE RAND AND SIXTY-TWO CENTS) (Excluding VAT) per month. The rental amount is the amount that was previously tendered for with an annual escalation which can be seen as a market related rental as it is the amount that a lessee is willing to pay.

**B: Advertisement/Notification**

It is requested that a deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy be approved in that an advert not be published for the temporary lease agreement.

**Conclusion**

Taking the above into consideration, it is recommended that:

- (a) The Executive Mayor approves the short-term renewal of the lease of the Properties to the Applicant for a period of 6 (SIX) months at a rental amount of R27,321.62 (TWENTY-SEVEN THOUSAND THREE HUNDRED AND TWENTY-ONE RAND AND SIXTY-TWO CENTS) (Excluding VAT) per month;
- (b) Council approves the deviation from paragraph 18 of the Administration of Immovable Property Policy in order to renew the current lease agreement with the Applicant for a period of 6 (SIX) months without following a competitive process; and

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- (c) Council approves the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy in order to renew the current lease agreement with the Applicant for a period of 6 (SIX) months without following a public participation process.

## **7. Financial Implications**

The Municipality stands to gain a rental amount of R27,321.62 (TWENTY-SEVEN THOUSAND THREE HUNDRED AND TWENTY-ONE RAND AND SIXTY-TWO CENTS) (Excluding VAT) as well as electrical service charges for June 2022. The rental amount will escalate on 1 July 2022 by a percentage equal to the consumer price index.

## **8. Staff Implications**

None

## **9. Comments from other Departments, Divisions and Administrations**

Senior Manager: Expenditure and Assets, Mr J Vorster - (028) 313 8046

*“As this application is dealt with in terms of the Administration of Immoveable Property Policy and it relates to a revenue generating project, with no intension of disposing of the asset, there is no objection to the application.”*

## **10. Annexures**

Annexure A: Maps of approximate localities

## **RECOMMENDATION TO THE EXECUTIVE MAYOR:**

1. that the short-term renewal of the lease of portions of various properties in the Overstrand as indicated on the locality maps, to Directosign (North) (Pty) Ltd for a period of 6 (SIX) months from 1 June 2022 for the purpose of providing, erecting, maintaining and operating 85 illuminated street signs with advertising panels thereon, at a rental amount of R27,321.62 (TWENTY-SEVEN THOUSAND THREE HUNDRED AND TWENTY-ONE RAND AND SIXTY-TWO CENTS) (Excluding VAT) per month, **be approved**;
2. that the rental amount in 1 above escalate on 1 July 2022 with a percentage equal to the consumer price index; and
3. that the approval in 1 above be subject to Council approving the deviation from paragraphs 18 and 20.1(b) of the Administration of Immovable Property Policy of 2015.

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**RECOMMENDATION TO THE COUNCIL:**

1. that the deviation from paragraph 18 of the Administration of Immovable Property Policy in order to renew for a short-term period the current lease agreement with Directosign (North) (Pty) Ltd for a period of 6 (SIX) months without following a competitive process, **be approved**; and
2. that the deviation from paragraph 20.1(b) of the Administration of Immovable Property Policy in order to renew for a short-term period the current lease agreement with Directosign (North) (Pty) Ltd for a period of 6 (SIX) months without following a public participation process, **be approved**.

<b>RESPONSIBLE OFFICIAL :</b>	<b>M ERASMUS</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>31 MAY 2022</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>15 MAY 2022</b>
<b>TARGET DATE TO INFORM OBJECTOR :</b>	<b>N/A</b>

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7/2/3/1

A Le Roux

Manager: Property Administration

7 March 2022

(028) 316-5623

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
6 APRIL 2022, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION TO THE EXECUTIVE MAYOR:**

1. that the short-term renewal of the lease of portions of various properties in the Overstrand as indicated on the locality maps, to Directosign (North) (Pty) Ltd for a period of 6 (SIX) months from 1 June 2022 for the purpose of providing, erecting, maintaining and operating 85 illuminated street signs with advertising panels thereon, at a rental amount of R27,321.62 (TWENTY-SEVEN THOUSAND THREE HUNDRED AND TWENTY-ONE RAND AND SIXTY-TWO CENTS) (Excluding VAT) per month, **be approved**;
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**RECOMMENDATION TO THE COUNCIL:**

1. that the deviation from paragraph 18 of the Administration of Immoveable Property Policy in order to renew for a short-term period the current lease agreement with Directosign (North) (Pty) Ltd for a period of 6 (SIX) months without following a competitive process, **be approved**; and
2. that the deviation from paragraph 20.1(b) of the Administration of Immoveable Property Policy in order to renew for a short-term period the current lease agreement with Directosign (North) (Pty) Ltd for a period of 6 (SIX) months without following a public participation process, **be approved**.

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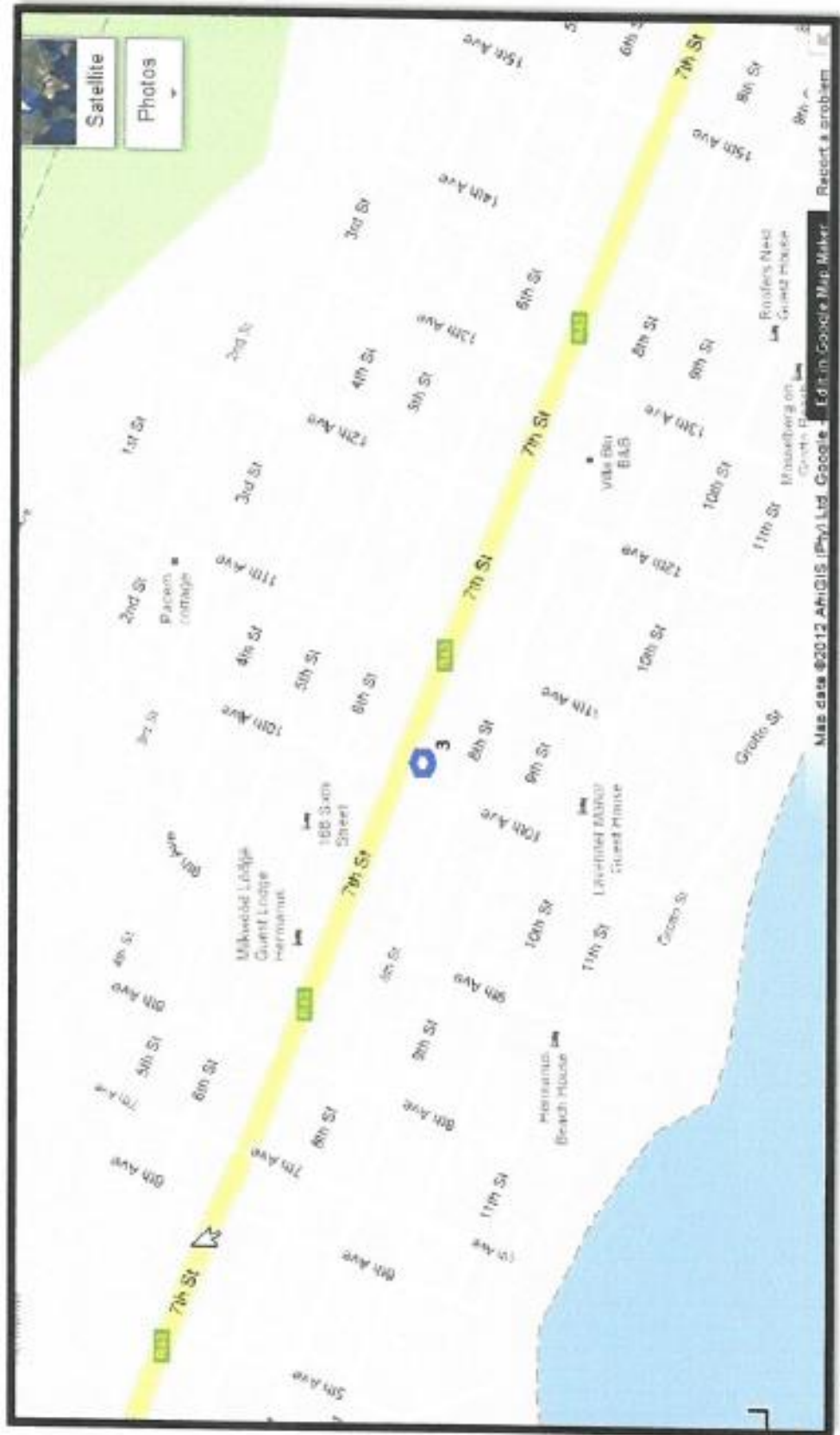
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20 Years

**DIRECTOSIGN**  
 (PVT) LTD  
 OUTDOOR MEDIA

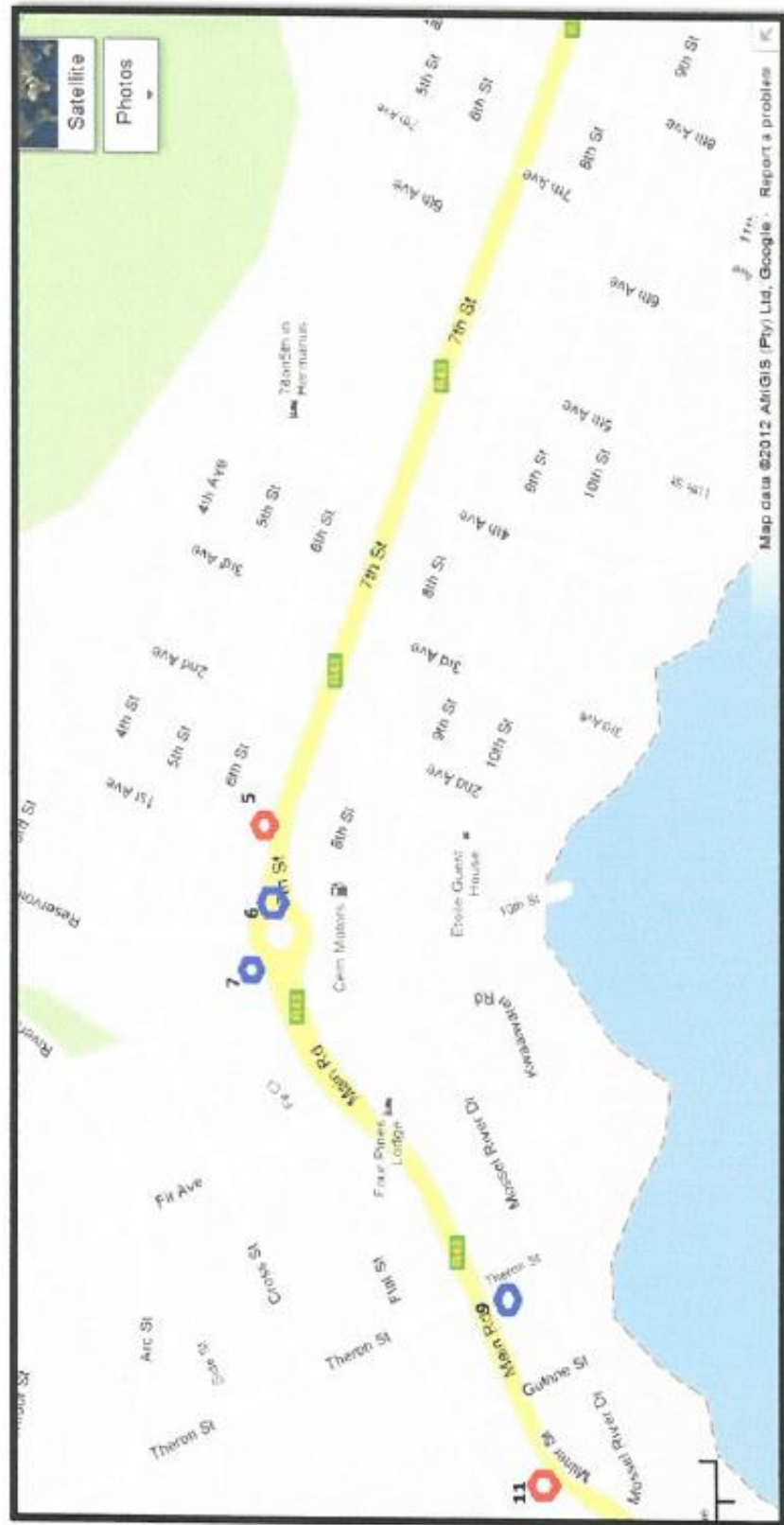
Excellent Service

Kaart 1 – Hermanus





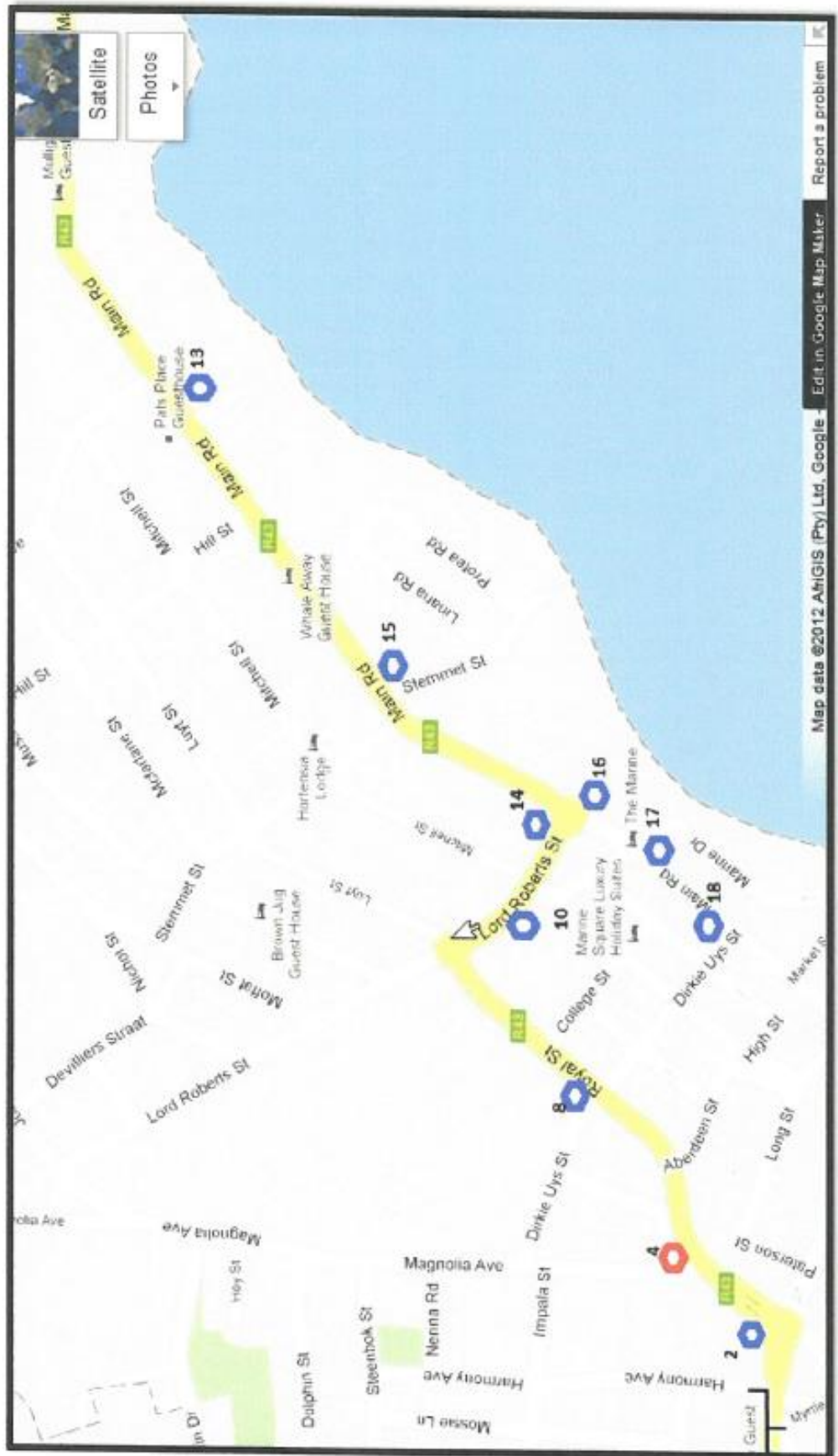
Kaart 2 – Hermanus





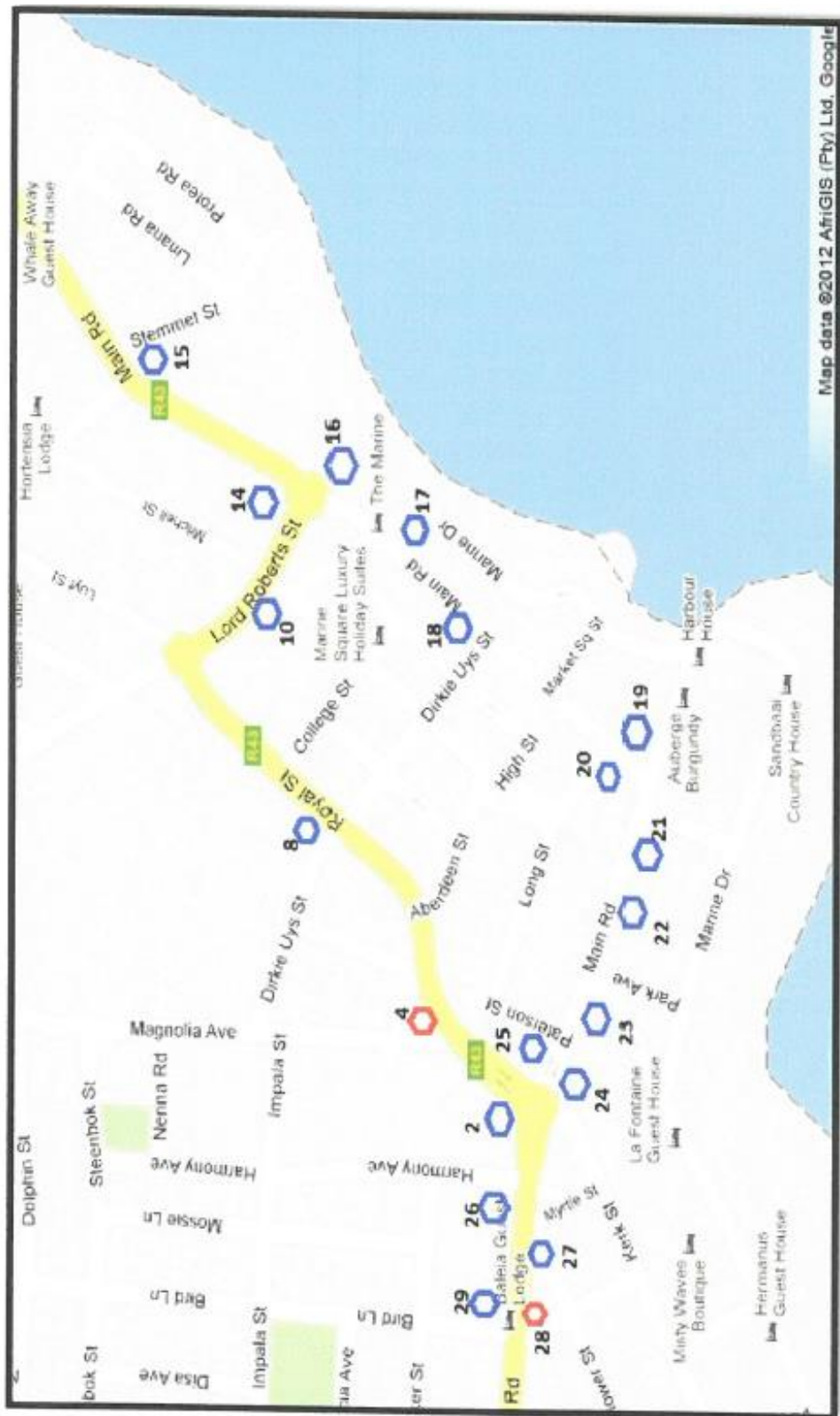


Kaart 4 – Hermanus





Kaart 5 – Hermanus



Map data ©2012 AfriGIS (Pty) Ltd, Google

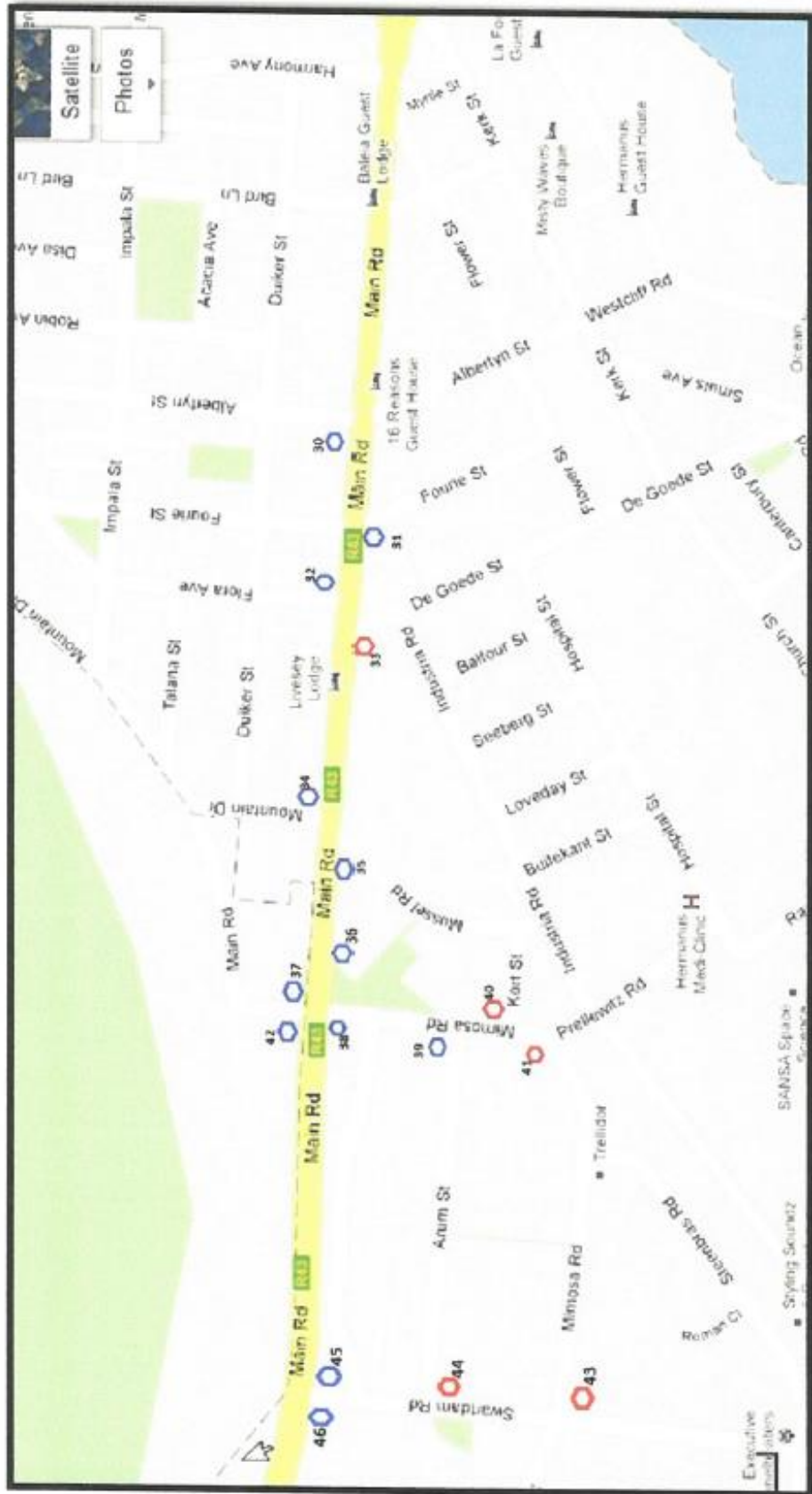
20 Years

**DIRECTOSIGN**

MARKING ARTS LTD  
OUTDOOR MEDIA

Excellent Services

Kaart 6-Hermanus

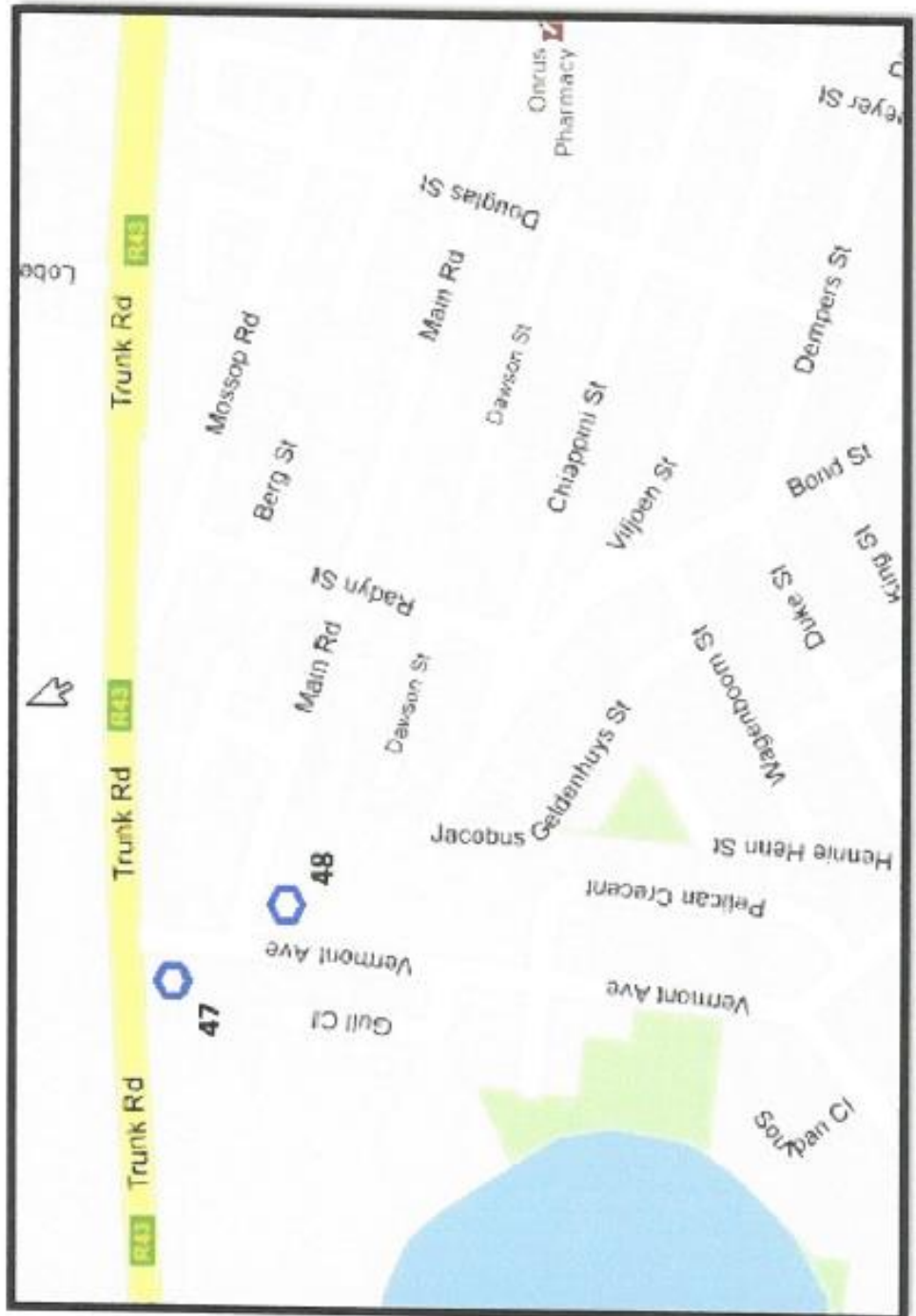


20 Years

**DIRECTOSIGN**  
SINCE 1997  
OUTDOOR MEDIA

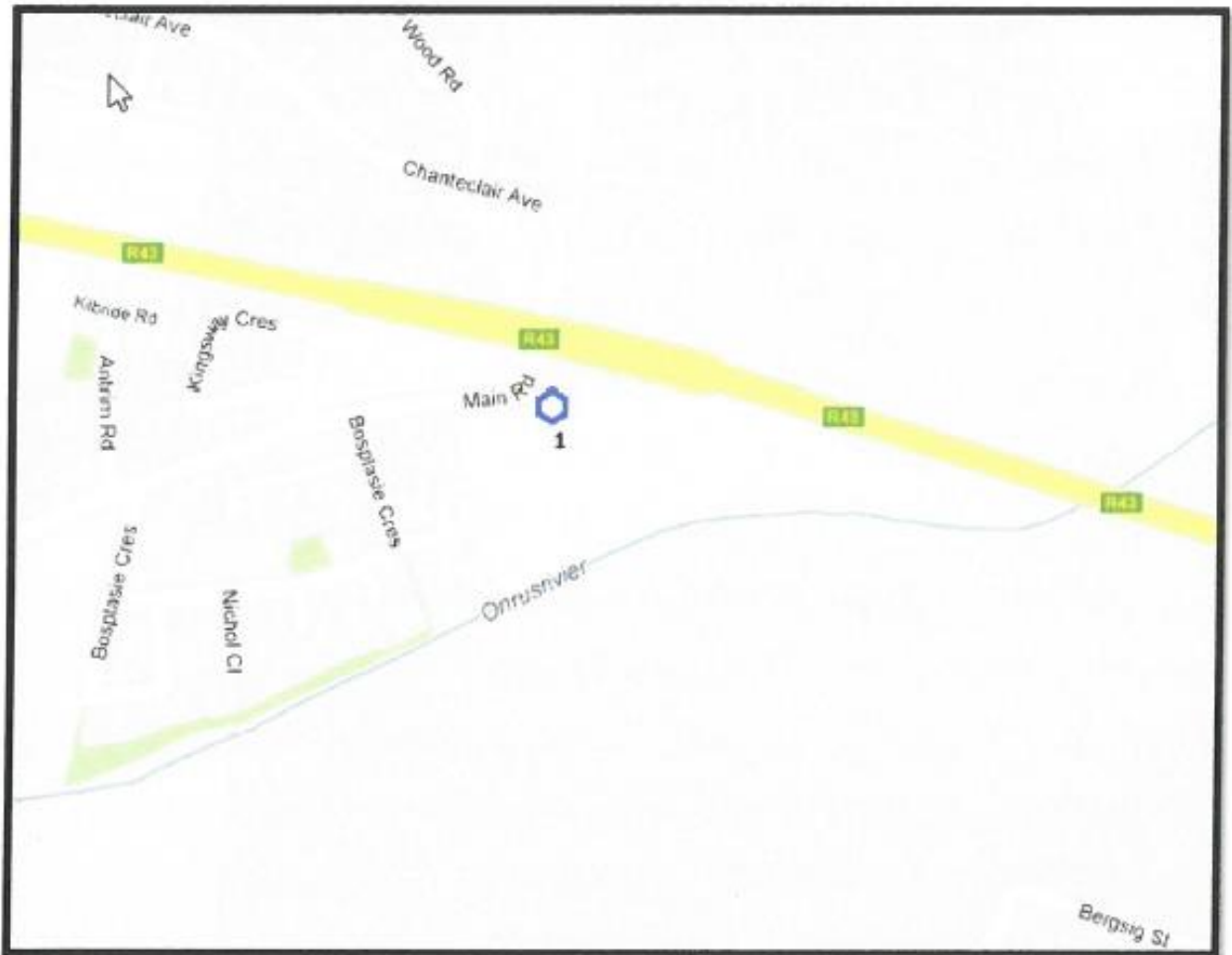
Excellent Service

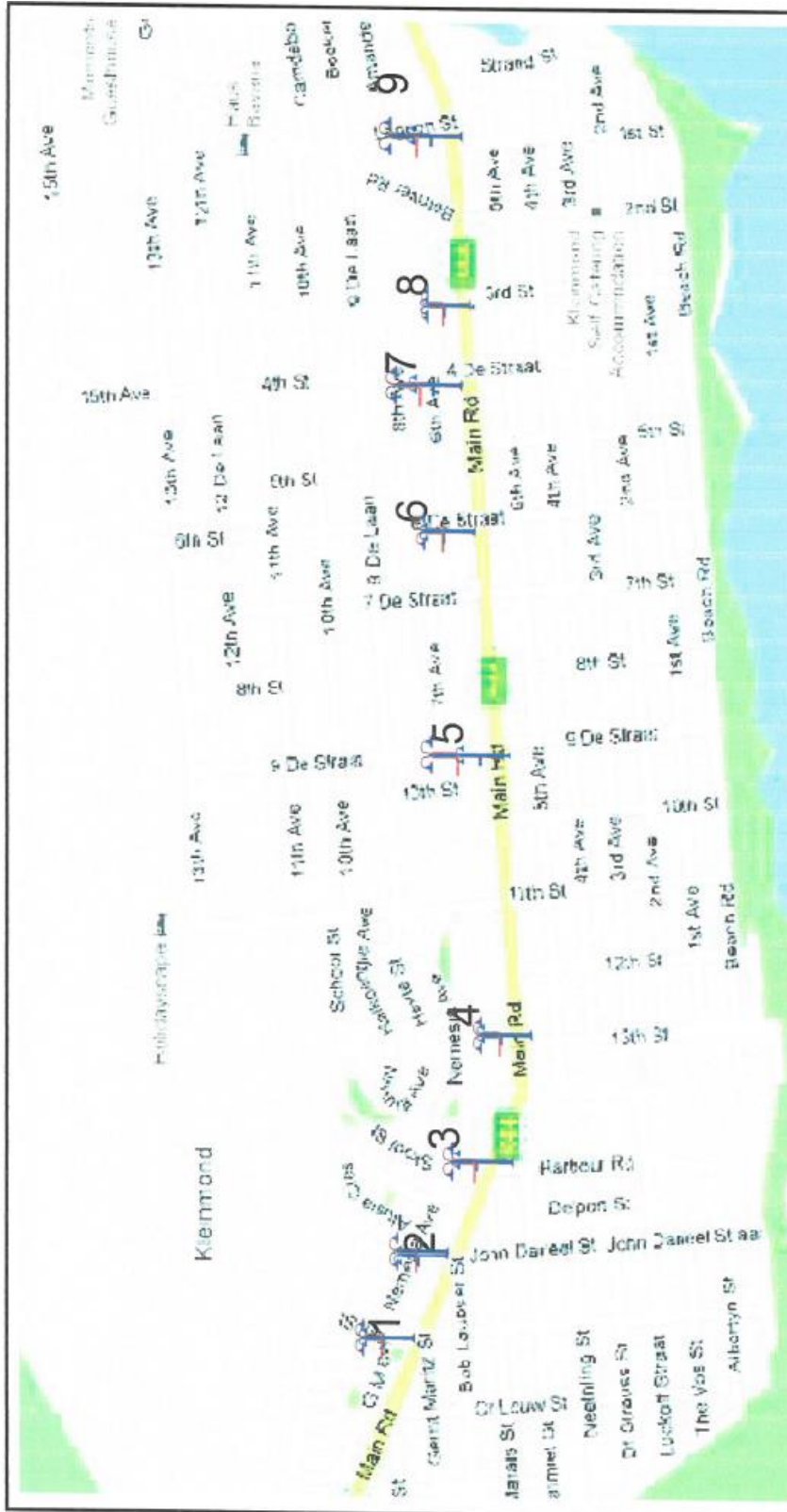
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<p><b>SITE DEVELOPMENT PLAN WITH ENVISAGED POSITIONS</b></p> <p><b>KLEINMOND</b></p> <p>DATE: OCTOBER 2011</p>	<p>STRUCTURE:-</p> <p>MIN. CLEARANCE: 2.1 METRE</p>	<p>FOR:-</p> <p><b>DIRECTOSIGN</b></p> <p><b>LKLEIN</b></p> <p><b>1-9</b></p> <p>P.O. BOX 3689 BLOEMFONTEIN 9300</p> <p>TEL:-051-4670644 FAX:-051-4670446</p>
	<p>REMARKS:</p> <p><b>Kaart 8</b></p>	

