

- The granted approval stipulates:
 - that the approval does not absolve the application from compliance with other relevant legislation and it is also taken that the approval also does not allow the applicant from development actions that are in conflict with agreement between council and other affected parties – This to be addressed under municipal services towards the end of the document.
 - that the approval dictates that all development parameters as prescribed in the relevant Zoning Scheme be complied with. In terms of the previously applied zoning scheme, which was addressed with affected parties such as the Mariners Village residential complex, the development was to comply with directives as per SR1 zoning directives - that was agreed to by those but not any of the other herein documented Affected Parties. The SR1 zoning terms and regulations clearly do not make provision for a TRA and forms part of the reasoning for our in principle rejection of the application for departure to enable a TRA.

Application for departure – documented acknowledgements

The application for departure to erect a Temporary Relocate Area on corner Stil and Church Street refers

- The application acknowledges the fact that care has to be taken with the planning and implementation of the proposed TRA, specifically so as the positioning is defined as being “Close to high income developments” and “located on the main entrance routes to the Hermanus Harbour”.
- The application document further acknowledges the fact that the TRA development will have “impact on the surrounding properties”.
- The application document further acknowledges the fact that the TRA development will “impact on the privacy of surrounding properties”.
- The application is for a “Temporary Departure to use the site as a TRA”

Given the above stipulations in the application there can be no disputing the fact that approval of requested departures is going to result in a very material negative impact on all the deemed affected areas such as Whale Rock Estate, Whale Bay Cascades, Hermanus Beach Club, Mariners Village and surrounding Westcliff properties - no doubt with loss of capital value, safety of surroundings and current accepted so well-being status.

Whale Bay Cascades executives act on behalf of the development owners as well as the 150 future residents of Whale Bay Cascades. They, as do all the other recorded Affected Parties act as contributing S.A tax payers and rates and tax contributors in the Overstrand to enable the upkeep and development of Hermanus including areas such as the proposed Temporary Relocation Area.

It needs to be understood therefore that the only way that we, the representatives, can accommodate the request for departures is if we, as materially affected parties, are assured that the requested departures will be developed in such a way that it has absolutely no negative effect that could lead to loss of capital



value, safety of surroundings and current accepted social well-being status. It is after all our tax monies that are to be used to provide these facilities and services.

With the aforesaid in mind and given the clear statements by the applicant that the affected parties are going to experience various negativities as a result of the proposed departures, we have no option but to state that

WE IN PRINCIPLE REJECT THE PROPOSED APPLICATION FOR DEPARTURE TO ERECT A TEMOPRATRY RELOCATION AREA ON ERF 1938, IN TOTAL.

That having been said and with an understanding that there is the need for housing in the area and given the mayor's very clear statement that she will not allow any development to take place if it should be done in such a manner whereby it negatively affects property values of near or surrounding properties and residential areas, we declare that we are willing to **CONDITIONALLY ACCEPT** the proposed Departure Requests subject to agreement with and execution of ALL of the terms and conditions as outlined below:

Conditional Terms Of Approval

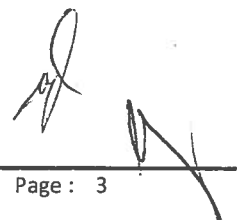
- **Term of approval**

Application is made for a "Temporary Departure" from the previous approvals. It is required of council to provide the executive of the above documented Affected Parties with a legally binding document which clearly states the latest date by when this Temporary Departure will be considered as having reached its legally expired timeframe with the clear understanding that the document affected parties will be entitled to take legal action to force council to comply to the terms and that all such legal expenses incurred through breach will be for the account of Council

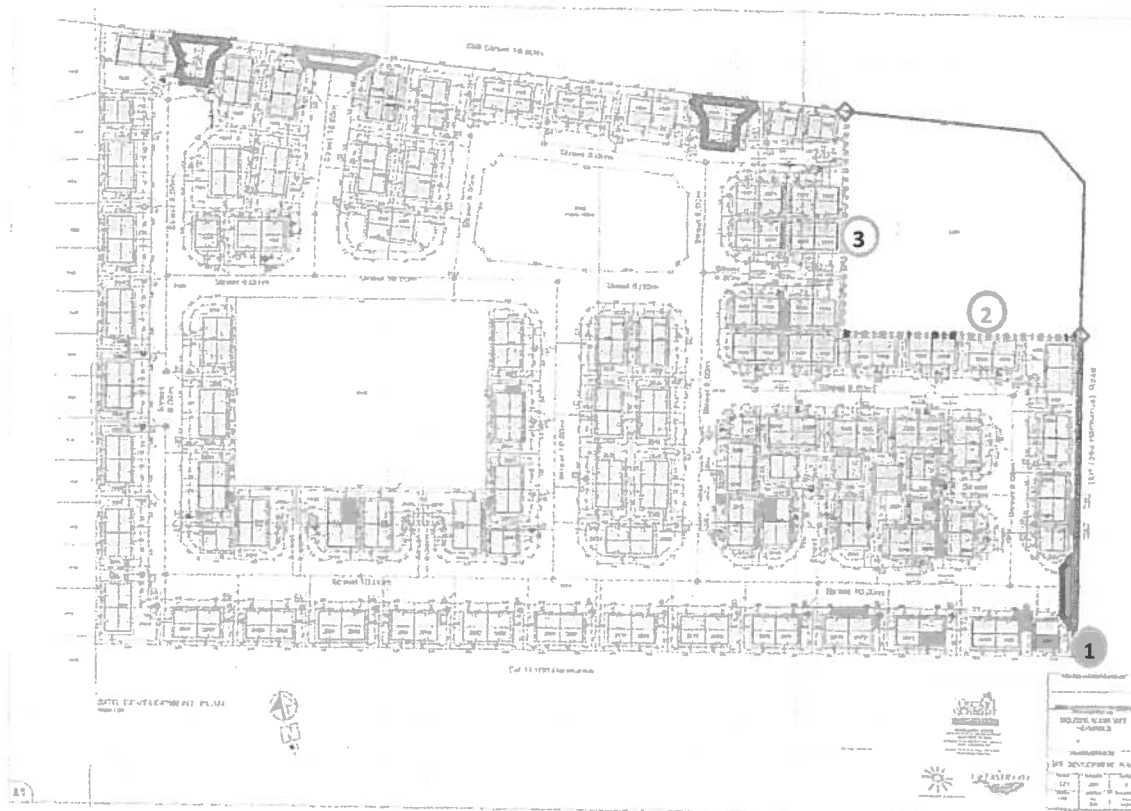
- **Access road to Church Street:**

No access roads facility leading from the proposed TRA or future residential zoned SR1 area are to be catered for onto Church Street at any stage, now or in the future.

- The initially proposed location is deemed unsafe and is likely to lead to loss of life of person or animal and is to be avoided at all cost.
- The internal design of the proposed TRA clearly suggests that this proposed access-road is to function as the main access road to the TRA - this increases chance of disaster.
- Church Street is targeted as becoming a main through road to link up to the Schulphoek Boulevard which is definitely going to increase traffic flow and unacceptable risk of disaster.
- Should this condition not be accommodated then all terms of acceptance or approval documented elsewhere in this document are to be ignored and only the rejection of the proposed Departure Application is to be recorded
- Appended below is a diagram of what we propose.



- ∞ The **Red** Indicator indicates a required **closure** of the proposed access road to Church Street –NOT NEGOTIABLE
- ∞ The **Orange** indicator indicates a proposed **closure** of an access road to Stil Street
- ∞ The **Green** indicators indicate a proposed **access** roads to Stil Street



- **Intended Commercial Zone on corner of Stil and Church Street**

At the Mayoral Committee meeting held on 26 February 2015 it was approved that 1 x Local Business (B3) erf be approved on unregistered Erf 1938.

- We state our **OBJECTION** to this intention in fear of lack of control of the provisional open ground leading to:

controlled or uncontrolled Spaza shops, taxi ranks, free trading areas, vagrants, sports fields, squatting or informal housing of any nature starting to take occupation of the site, loitering and accompanying site abuse, any and all types of other unwanted elements and abuse of the site that will negatively affect our complete residential zone.

- We are willing to **ACCEPT** the proposal subject to:

- ∞ a written assurance being provided to the Whale Rock Estate, Hermanus Beach Club, Whale Bay Cascades and Mariners Village executive declaring that we, as affected

property owners, will be consulted about potential development plans before decisions are taken and requested to provide preferred use recommendations for the site once it comes to development planning stages and thereafter provide documented information on the Municipal preferred development and a period to object to such a development if it is considered as having a potentially negative impact on affected residential areas;

- ∞ the site being enclosed with a visual and **environmentally friendly fence** of minimum 1 metre in height;
- ∞ the site being kept in 'n neat manner devoid of any alien shrubs or bush by council;
- ∞ the site not being used as a recreational area or provisional area for any function, facility or service;
- ∞ municipal acceptance that we as rate payers will be entitled to claim damage from the municipality for occurrences of infringement of the above terms if not acted upon immediately after the lodging of a complaint and that the affected Rate Payers Association (or another body as may be elected by the affected parties) may have the breaches rectified at the expense of the municipality should the municipality fail to rectify any breach within 3 days of notification thereof;
- ∞ a municipal officer being nominated as the contact person to address any concerns of infringements related to the above terms and that an alternate is made available in his absence
- ∞ Council providing the above organisations with written guarantees that the site will be kept in adherence of all the elements referred to above

- **Wall enclosure**

The application dated 22 December 2015 requests that in keeping with prior approvals a 1,8 metre tall wall be erected around the TRA BEFORE occupation of any buildings.

Our understanding is that the proposed wall is going to be constructed of cement blocks, "bagged" and is to remain unpainted.

Whilst we agree that, subject to overall acceptance of our conditions of approval, the wall is a critical requirement, we do not agree that the proposed height of the wall provides sufficient security for the residents or passersby, that the bagging of the wall will enhance the area and that this nature of wall will assist or prevent our property values from devaluing.

What is required is an up market, featured wall that will actively enhance the area and provide enhanced security of the TRA occupants as well as passersby. We realise that no funds have been made available for this type of feature and accordingly propose as follows:

Subject to Agreement being reached between the affected parties and council that leads to acceptance of the Proposed Departures and the affected Parties' approval conditions:

Whale Bay Cascades undertakes to :

- canvas other affected parties with the objective of raising sufficient funds to upgrade one or more of the walls as indicated on the above diagram, starting at the wall indicated in Turquoise ¹, following with the wall indicated in Pink ² and ending with the wall indicated in Orange ³ as a contribution to the wellbeing of the Hermanus community as a whole
- project manage the construction of these sections of walls using Concrete BrickFrames to construct the wall
- ensure the use of local labour for the construction purposes at minimum wage as it is to the benefit of the community
- construct the wall to a 3 metre height
- ensure that the wall is plastered (Church Street facade - likely cape cottage style) and painted
- install lighting facilities in the walls to enhance security and appearance
- sufficient funds will be retained to plant a featured garden on the Church Street facing side to match that of Abagold
- should further funds be available a tree lane will be planted along Church street starting at Stil street and ending at Hermanus Beach Club entrance area
- The participating parties will undertake to maintain the external wall facade and gardens.
- This being subject to Council:
 - ∞ providing written consent for us to do so
 - ∞ providing written consent for a 3 metre tall wall (or as tall as the existing Abagold wall) to be constructed
 - ∞ approving the required plans at no cost
 - ∞ laying down the required foundations as they would have done had they constructed a 1,8 metre tall wall
 - ∞ providing electricity supply to the lighting units in the wall as part of road light expenditure
 - ∞ committing to use the walling funds so saved in the process to increase the remainder of the wall to the same height or as high as the additional funds will allow (our provisional calculations indicate the remaining funds should enable the remainder of the wall to be constructed to a 3 metre height as well, with remaining funds going towards wall lighting or wall-garden related expenses)



- **Housing Structure Development**

Prior approval for the development states that both single and double-storey structures were approved. This application states that only single storey units will be constructed to ensure improved privacy of surrounding affected parties.

- It is required that :

- ∞ council withdraws the previous approval for double storey structures to be erected so that once the TRA is completed, no subsequent approvals of double storey structures are catered for at any stage
- ∞ the signed condition of sale and transfer documentation details clearly define this construction limitation
- ∞ the title deed document reflect this limitation and that no subsequent alterations thereof be allowed
- ∞ Council provides a contractual agreement to the executive of the affected parties as documented in this document of objection, committing to ensure that the construction limitations will not be altered in future

- **TRA and subsequent site occupation requirements**

It is advised that TWO families are to be placed per structure and two structures are to be semi-detached thereby making provision for four TRA families.

One of the largest risks that we are exposed to is the likelihood of occupant expansion on the TRA. To gain support from us as Affected Parties, we require council to legally bind themselves to the control of number of occupants and the commitment that on relocation of one group of people to another site that absolutely no stragglers will be left behind

We require of council a document that clearly stipulates that ONLY an agreed and documented number of family members per placed family will be allowed per unit and that this be properly administered - no extra friends and extended family members of any sorts should be allowed to be housed in these units during the contracted period of stay in these transit units. A breach clause should be included in such a contractual commitment whereby we as affected parties will be entitled to claim damages from council for failure to comply with commitments

- **Stormwater connection**

- Whale Bay Cascades entered into a Service Level Agreement with Council whereby the stormwater system that exhausts in the middle of Whale Bay Cascades development will not be exposed to additional capacity or stormwater origins.

Council has already breached this agreement by upgrading the capacity of the stormwater pipe that was installed at the time of the agreement and have recently further breached this agreement by increasing the capacity of the stormwater piping system that runs from Zwelihle.

We give notice to Council that should the TRA and future SR1 development targeted for completion on this site be approved (and come to fruition) and at any stage result in stormwater pipes coupling with the structure that exhausts at the Whale Bay Cascades development, we will take legal action and seek applicable relief.

- The above referred to Service Level Agreement stipulates that the municipality is responsible for the maintenance of the stormwater facility and its outflow as well as safety issues related thereto.

The outflow section is being clogged up by "impurities" at the outflow point. This results in the water-flow spreading to the sides which in turn forces Whale Bay Cascades to spend funds on maintenance of the flow so as to prevent damage to structures.

It is required that Council commits in writing to dispatch cleaning staff to the outlet on a quarterly basis to uproot the accumulated "impurities" so as to preserve the Whale Bay Cascades premises

- Whale Bay Cascades lodged a complaint regarding "impurities" that have been exhausted from the stormwater system. The Municipality has attempted to address this but this has only marginally improved the situation. A written commitment to the executive is required to improve this situation during the next financial year and to arrange for a meeting with the executive and their structural representatives to address an improved solution.
- With the provision of the Stormwater outflow, Council has now prevented pedestrians from crossing the outflow area safely. It is required of council to provide for a safe, sturdy crossing feature to enable residents to traverse the area in keeping with environmental and right of way directives – Date of action and commitment from council is required

- **General required commitments to facilitate approval**

- The Affected Parties herein defined objects strongly to the proposed departures and requires written assurances of Council of such a nature that legal action can be taken against Council for failure to perform according to commitments made.

The performance terms should cover commitments that the intended TRA site as well as the eventually intended SR1 housing development will be kept clean, that regulations regarding

