

**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
19 May 2015  
(Also the agenda for the Mayoral Committee Meeting : 28 May 2015)**

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**8.  
ERVEN 1449, 1450, 1452 AND 1734, SANDBAAI, OVERSTRAND MUNICIPAL  
AREA: PROPOSED AMENDMENT OF THE GREATER HERMANUS SPATIAL  
DEVELOPMENT FRAMEWORK (STRUCTURE PLAN) THE OVERSTRAND  
MUNICIPAL WIDE SPATIAL DEVELOPMENT FRAMEWORK, CONSOLIDATION,  
REZONING, CONSENT USE AND REMOVAL OF RESTRICTIONS : PROPOSED  
REGIONAL SHOPPING CENTRE : RETAIL AFRICA**

**1449, 1450, 1452 & 1734, HSB (1216)**

**H Olivier**

**(028) 313 8179**

**Hermanus Administration**

**6 May 2015**

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**1. Executive Summary**

A Locality Plan of the properties concerned is attached as Annexure A.

An application was received in 2009 from Messrs. BCD Town and Regional Planners on behalf of Retail Africa (Pty) Ltd for the amendment of the Greater Hermanus Spatial Development Framework (Structure Plan) and the Overstrand Municipal Spatial Development Framework, the consolidation of the erven, rezoning thereof and consent use to operate a regional shopping centre from the consolidated property.

The Site Development Plan is attached as Annexure B, whilst the motivation report of the applicant is attached as Annexure C.

A separate application was then also received for the removal of restrictive conditions in the Title Deeds for the properties, submitted by Messrs Walkers Attorneys, on behalf of Retail Africa (Pty) Ltd. The conditions prohibited the sale of liquor or opening of a hotel on the relevant properties.

On 25 April 2012 the application was considered by the Executive Mayor and Council, who provided their support for the application. (See Resolution dated 25 April 2012 attached as Annexure S.)

A later report was also tabled before the Executive Mayor and Council on 30 May 2012, to rectify some amendments to the recommendation dealing with the consideration of the amendment of the Overstrand Municipal Wide Spatial Development Framework, 2006. (See Resolution dated 30 May 2012 attached as Annexure T.)

Due to the nature of the application, which included an amendment of a Structure Plan and removal of restriction application, the afore-mentioned Resolution included recommendations to the Department of Environmental Affairs and Development Planning (DEA&DP), to then make a final decision on the applications.

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In a letter dated 31 July 2014 from DEA&DP (See Annexure U) that Department indicated that, due to a Constitutional Court judgment of 4 April 2014, the Municipality now has the delegated authority to take a final decision on the application.

It is further to be noted that in a letter dated 22 April 2015, DEA&DP indicated that the Removal of Restriction application was approved and finalized. (See Annexure W.)

Considering the above, the recommendations made by the Executive Mayor and Council on 25 April 2012 and 30 May 2012 to DEA&DP therefore have to be amended to finalize the planning application. The Planning Report tabled before the Executive Mayor and Council in 2012 has thus been amended accordingly.

**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

**5. Legal Requirements**

- Sections 17 and 4(7) of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)
- Clause 4.7 of the Section 8 Zoning Scheme Regulations and the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)
- Section 34 of the Local Government : Municipal Systems Act, 2000 (Act 32 of 2000)

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

**Background**

The original application that was received from Messrs. BCD Town and Regional Planners on behalf of Retail Africa (Pty) Ltd was for the amendment of the Greater Hermanus Spatial Development Framework (Structure Plan) and the Overstrand Municipal Spatial Development Framework, the consolidation of

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Erven 1449, 1450, 1452 and 1734, Sandbaai, rezoning thereof and consent use to operate a regional shopping centre from the consolidated property.

The development consists of the following development parameters:

Business Zone I : 13,7ha

Regional Centre of 38 000m<sup>2</sup>, which includes the following:

- four major anchor shops;
- a food court;
- cinemas;
- approximately 108 line shops and banking facilities and one drive thru restaurant.
- surface parking to the amount of 2289 bays.
- supermarket, bottle store, place of assembly, institution and service trade.

A Locality Plan of the properties concerned is attached as Annexure A. The Site Development Plan is attached as Annexure B, while the motivation report of the applicant is attached as Annexure C.

A separate application in terms of the Removal of Restrictions Act, 1967 in the Title Deeds was also submitted by Messrs Walkers Attorneys, on behalf of Retail Africa (Pty) Ltd. The Executive Mayor recommended on 25 April 2012 to DEA&DP that the Removal of the Restrictive Conditions be recommended for approval. In a letter dated 22 April 2015 DEA&DP confirmed that the relevant conditions have been removed from the Title Deed. (See Annexure W.)

It is also to be noted that the Greater Hermanus Spatial Development Framework, 2000 lapsed on 5 July 2012.

It is furthermore to be noted that in the Planning Report dated 10 February 2012 all objections received against the Town Planning application and Removal of Restriction application was summarized in one report and considered by the Executive Mayor. Due to the fact that the Removal of Restriction application has now been finalised, only the objections received against the planning application, and the applicant's comments thereon will now be considered.

It is again to be noted that the application was advertised in the local newspaper, the Government Gazette and notices were served on all the potentially affected property owners.

Nine letters of objection were received against the application. It is to be noted that five letters were also submitted with conditional support.

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One of the letters of objection (CF Breda and residents of Bergzicht Complex) included a petition list. The applicant is of the opinion that the petition list was not submitted in terms of legal requirements, and should be ignored.

It is also to be noted that the applicant mentioned an additional objection letter in their response on the objections, being from Mr G Bester, Chairman of Bergzicht Home Owners' Association, dated 6 August 2009.

This office did not receive such letter and it is also noted that the letter is dated after the closing date for objections. It is therefore not attached to this report and not considered a valid objection in this process.

**The objections and the applicant's response on the objections can be summarised as follows:**

*Traffic Impact Assessment (TIA) not sufficient, traffic impact on the existing road infrastructure (including intersections), pedestrians and on the surrounding residential area and industrial area.*

- ❖ The Historical information and information from new traffic counts were used to determine the level the road infrastructure had to be upgraded or improved and mitigation measures are also indicated in the TIA to limit the impacts on other properties. Mitigation measures have been identified to deal with intersection improvements, pavement conditions and pedestrian crossings can be implemented similar to other examples along the R43 District Road closer to Hermanus.

*No need for a shopping centre and not desirable.*

- ❖ Market studies of Fernridge Consulting identify a need for such development and need is also based on a free market system. The various specialist studies prove the desirability of the development.

*Impact of noise, pollution, negative visual impact and lighting on surrounding residential properties and the tranquil character of the area.*

- ❖ Various studies for example the TIA, Noise Impact Assessment (NIA), Visual Impact Assessment (VIA), etc. were done and mitigation measures for example the erection of berms and planting of trees were identified to limit the impact of additional lighting, the aforementioned measures the construction of road barriers and using noise reducing road surfaces will help reduce noise levels. These measures will also limit the visual impact of the development on the character of the adjacent residential area.

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*Impact on views.*

- ❖ The objection regarding view is rejected, because it does not vest in terms of a *servitus prospectus* on the applicant's properties. This development should not have any major impact on views, and view is not a right.

*Impact on property values.*

- ❖ Due to the high value of business / commercial land, the close proximity of residential land to business / commercial land will have a positive influence on the value of the residential land.

*Increased crime (security problems).*

- ❖ Shopping centres do have security personnel on the premises, and it is unreasonable to make the assumption that the close proximity of commercial areas effects crime in residential areas.

*Negative impact on the existing Central Business District (CBD) of Hermanus (close to the CBD and retailers will move out of the CBD to the shopping centre – will lead to decay of CBD).*

- ❖ The Hermanus CBD's heritage character and position next to the tourist coastline makes it unique and many businesses and services are tourism orientated. The new proposed shopping centre cannot replace this unique environment. In terms of the feasibility study by Fernridge Consulting an under supply of 86 000m<sup>2</sup> Gross Leasable Area (GLA) can be catered for in the Hermanus catchment area, and at this stage the loss in trade to Somerset West and Cape Town has a negative impact on the local economy, and a local regional shopping centre can turn around the situation.

*The amendment of the Spatial Development Framework (SDF) and public participation process thereof should have been dealt with prior to considering the planning application for shopping centres.*

- ❖ This application includes the amendment of the SDF, without which the rezoning of the properties and the proposed development of the shopping centre will not go forward.

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*Access to adjacent erf to be provided over portion of application land to ensure access to such erf.*

- ❖ The land owner will register a servitude-right-of-way to provide access to the adjacent owner's property.

*Negative impact on surrounding properties during construction phase.*

- ❖ In the NIA various recommendations were made to kerb and soften noise by making use of noise barriers and berms at various locations. No construction will take place after 18:00 and on weekends. Services and equipment that may cause noise will be assessed by a registered acoustics professional, and if necessary soundproofing will be prescribed to ensure no disturbing noise is created.

*Proposal in conflict with Policy Plans.*

- ❖ In terms of the SDF the area is identified for a mix of residential and commercial development, with an existing mix of residential, commercial and service industrial uses in the area. The infill of vacant land within the urban edge is in line with the principles of Section 4(6) of the Provincial Spatial Development Framework (PSDF).

*Will have a negative impact on the character of Hermanus and therefore on tourism.*

- ❖ The proposed shopping centre is designed by a specialist team of architects, town planners, etc. and considering the fact that a VIA was prepared for the development which forms part of the Environmental Impact Assessment (EIA). There is no reason why the shopping centre would have a negative impact on the character of Hermanus. A shopping centre would provide more restaurants, choice of more shops, cinemas, etc. which would have a positive effect on tourism.

*It is not the best site for a shopping centre, and the location is not necessarily ideal.*

- ❖ The site is very accessible and other sites in the area are too small to cater for a regional shopping centre as identified for the potential market.

*Development will have major stormwater problems, water reticulation and sewerage reticulation are not dealt with and who would finance the upgrade of electrical infrastructure?*

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- ❖ A storm water pipe be installed and connected to the existing system in Sandbaai Main Road. A full Storm Water Master Plan was included in the application. The water pipe's upgrade and the connection of the development into the existing sewerage reticulation are addressed in the Engineering Reports submitted with the application. The capacity of the Hermanus electrical network will have to be upgraded, and this will be at the developer's cost.

The objections are attached as Annexure D and the applicant's response thereon as Annexure E.

**Applicant's Motivation**

It was identified by way of a retail potential estimate and consultation with national retailers, fashion and food anchors that a strong demand exists in the Hermanus region for a regional shopping centre.

The Hermanus town has a unique seafront village character and many buildings have heritage status. The impact of bulky infrastructure and parking areas for a large mall development would destroy the sense of place, character and ambience of the historic village. Therefore Erven 1449, 1450, 1452 and 1734, Sandbaai was identified as an alternative location, with good access from the R43 District Road and Bergsig Street.

The Policies makes certain proposals regarding commercial facilities and the Central Business District (CBD), being that business uses, commercial, retail and offices should be concentrated within the CBD, as well as within the existing areas (commercial nodes) identified. The commercial nodes are the Hermanus CBD, the Gateway Mall and along Swartdam Road and around the Sandbaai Main Road intersection.

The area around the Sandbaai Main Road intersection is considered the most desirable location for a mall. It would not contribute to inner (CBD) traffic congestion, is walking distance from high density affordable housing extensions, will have maximum exposure, is close to a service trade area and would encourage developers in the surrounding area to complete some of the incomplete residential developments in the area.

The retail potential estimate by Ferridge Consulting reflects an undersupply of ±86 000m<sup>2</sup> GLA in the Hermanus catchment area. A regional shopping centre of ±45 000m<sup>2</sup> GLA can be warranted. This application is for a centre with a gross leasable area of 38 000m<sup>2</sup>.

The erven will have to be rezoned to Business Zone I purposes and consolidated to accommodate the shopping centre. The shopping centre would

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consist of major anchors and line shops. A total of 2289 parking bays will be provided in the shape of street level parking.

The application also includes consent uses for a supermarket, bottle store, place of assembly, institution and service trade.

**Town Planning Evaluation**

The evaluation is done in terms of Planning Legislation (Land Use Planning Ordinance, 1985), Environmental Legislation, Title Deed Restriction, the applicable Zoning Scheme Regulations, the existing Policy Documents, Overstrand Retail Study by Douglas Parker Associates (Business Development and Research Consultants) and Classification and Hierarchy of Retail Facilities in South Africa by Dr. Dirk A Prinsloo:

Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) and Section 8 Zoning Scheme Regulations

In terms of the Zoning Scheme for the area Erven 1449, 1450 and 1734, Sandbaai area are zoned Agriculture Zone I, whilst Erf 1452, Sandbaai is zoned Institutional Zone I.

The application therefore includes the rezoning of the abovementioned erven to Business Zone I, and also for consent uses for a supermarket, bottle store, place of entertainment, place of assembly, place of instruction and service trade. The aforementioned consent uses are land uses usually associated with a regional mall.

The application was duly advertised in terms of the requirements of the legislation.

The application will therefore also be considered in terms of the criteria to determine desirability in terms of Section 36 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985).

Environmental Legislation (NEMA)

The application does trigger listed activities in terms of the Environmental Conservation Act. The applicant did submit an Environment Impact Assessment (EIA) to DEA&DP. The aforementioned Department provided a positive EIA Record of Decision early in 2014. Appeals were received against such application, but on 5 May 2015 DEA&DP indicated that the appeals have been dismissed. (See copy of the letter attached as Annexure X.)

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In the Botanical Impact Assessment it is quoted:

*"No impact is anticipated as a result of this development, as the area is already transformed and therefore no conservation value and furthermore, is not connected to natural areas or offer linkage to any".*

In the comments by the Western Cape Nature on this application it is quoted:

*"The proposed development site has been transformed by residential development, earthworks, dumping and invasive alien vegetation. It is unlikely that there is any habitat remaining of conservation significance. Cape Nature has no objection to the proposed activity".*

Considering the above, it is the opinion that the application will not have a negative effect on the natural environment.

#### Title Deed Restrictions

The restrictive conditions in the Title Deeds of the properties were already addressed in the Executive Mayor's recommendation on 25 April 2012 to DEA&DP. DEA&DP also indicated in their letter dated 22 April 2015 that all the relevant restrictive conditions have been removed. (See Annexure W.)

#### **Direct Impact on Overstrand**

##### Road Infrastructure

The Department of Transport and the Municipal Engineering Branch require the following upgrades:

- The upgrade of Bergsig Street between Sandbaai Main Road and Schulphoek Road;
- The upgrade of the R43 District Road (dual road) from Sandbaai Main Road to Mimosa Road, with a bus stop, sidewalks and pedestrian crossing at the R43 District Road/Sandbaai Main Road and R43 District Road/Mimosa Road crossing;
- The upgrade of Schulphoek Road from the R43 District Road to Bergsig Street (dual road from R43 District Road to Adam Road);
- The upgrade of Sandbaai Main Road from the R43 District Road to Bergsig Street;
- A traffic signal must be installed at the R43 District Road/Swartdam Road crossing and a single lane roundabout must be provided at the Sandbaai Main Road/Bergsig Street crossing, and
- Lay byes for taxis must be constructed along Bergsig Street.

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The developer will have to make financial contributions to upgrade the road infrastructure. The upgrade of the road infrastructure will be to great benefit of the Hermanus community as it would help to alleviate the existing congestion experienced at the Sandbaai Main Road/R43 District Road crossing. The upgrade of Bergsig Street will also help with the realisation of the long term planning of utilizing Bergsig Street as an additional sub-regional distributor road, alleviating the congestion problems on the R43 District Road.

Although it is safe to say that the proposed development would lead to an increase of traffic into the area, the upgrade of especially Bergsig Street would help to create the important additional distributor road that would help to alleviate the impact of any additional traffic into the area. A portion of this link road between Sandbaai and the Hermanus Industrial Area has been constructed.

The Department of Transport has been upgrading the R43 District Road into a dual passage way from Sandbaai Main Road/R43 District Road crossing to Mimosa Road. The upgrades have been completed.

In addition to the upgrading the developer needs to pay a bulk services contribution levy of R925,932.00 to the Municipality for roads and stormwater.

The Department of Transport however requires that the Municipality make commitments that the Sandbaai Main Road be deproclaimed as Provincial Road to Municipal Road, and also that the Municipality constructs the extension of Bergsig Street to Church Street within a reasonable time frame. The applicant will be required to make the necessary financial contributions to address these requirements of the Department of Transport.

#### Water

The existing reservoir has sufficient capacity to serve the development. The water reticulation system will have to be upgraded at the developer's cost. A bulk services contribution levy of R3,540,044.00 will have to be paid to the Municipality for water.

#### Sewerage

There is capacity in the existing system to accommodate the development. The development will tie in with Council's sewer line. A bulk services contribution of R2,841,216.00 will have to be paid to the Municipality for sewerage.

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Electricity

The Hermanus Electrical network has been upgraded and a new 66 k V Substation was installed.

Accepting that a binding contractual obligation exist between the parties, the proposed Retail Africa Project 11 k V reticulation, transformation, switch gear and infrastructure can be procured and installed according to the Electrical master plan and approval of Electrical Department.

The applicant would be required to pay a bulk services contribution levy to the Municipality for the upgrading of the electrical network.

The developer will purchase his electricity supply from the Municipality, which would mean additional revenue for the Municipality.

Socio Economic

At this stage the Overberg Area does not have a regional mall and local residents travel large distances to *inter alia* Somerset Mall in Somerset West for certain services. The proposed mall's location in relation to the primary catchment area is ideal, and Hermanus' location in context to the secondary catchment area is also ideal for a regional mall. The Retail Study shows that 89% of the respondents in the retail survey indicated their support for a shopping centre in Hermanus, which indicate that such facility will be supported.

In the Retail Study it is indicated that 600 to 650 permanent job opportunities will be created by the shopping centre, and temporary jobs will also be created at the construction phase.

The proposed mall is also situated in a higher density residential pocket in Sandbaai, and also walking distance from lower income areas such as Mount Pleasant and Zwelihle. This will not only make the mall accessible to a workforce, but make the mall easily accessible to such residents for shopping.

The proposed mall would require major services upgrades, especially the road network, which will be to the benefit of the Hermanus community in the short term and also long term.

The proposal shows that cinemas are proposed within the development. This is one of the needs of the communities that would be welcomed by the local residents and tourists alike.

The Municipality would be able to utilize the additional income from rates, taxes and electricity sales for the social upliftment of residents in Overstrand.

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Overstrand Retail Study

The Overstrand municipal area has a total of some 161 000m<sup>2</sup> of retail space at the present time, generating retail sales of R2,3 billion per annum. With population projected to grow at 4,7% per annum over the next ten years, the supply of retail space could be expected to increase at a similar pace, representing some 7500m<sup>2</sup> per year or about 69000m<sup>2</sup> net area the next ten years after allowing for 20000m<sup>2</sup> that is presently vacant. (Parker – 2011)

The study was extended to include the Theewaterskloof and Agulhas areas; the amount of retail space is 209 000m<sup>2</sup> with a 9% vacancy. The study did indicate that most of the retail space is for consumer goods and very little space is taken by clothing, footwear, furniture and appliances. Hermanus is by far the biggest town within the greater study area.

The study did indicate that a substantial flow of retail spending is lost within the region due to that none of the towns are large enough to accommodate major retail chains. Hermanus is the biggest retail centre within the study region and should a retail facility be established in Hermanus it would serve the whole region and reduce much of the outflow to Somerset Mall and Cape Town.

It was found that Hermanus can accommodate a centre of 28 000m<sup>2</sup> by 2013 and has the potential to increase to 34 000m<sup>2</sup> by 2019 with an additional increase to about 39 000m<sup>2</sup> by 2024.

However, the following must be taken into account that a regional retail facility typically focuses on fashion retailing, and in this respect the CBD would be affected and can lose a substantial amount of clothing shops. It is not foreseen that the specialized shops would be affected and that the restaurants will benefit due to increased visitors or shoppers from the region.

The retail products which are undersupplied in the area are electronics/electrical goods and furniture, which will and can be catered for in such a retail centre.

The recommendation to minimize the impact on the Hermanus CBD is as follows:

- That the tenant mix concentrates on chain stores and limited specialized line stores;
- That the possibility of a value mart be incorporated into the tenant mix to cater for furniture, which is undersupplied in the region;
- The mall needs to focus what is not in Hermanus, and
- The proposed mall should be located in close proximity to the Hermanus CBD to in order to have a single core of shopping facilities.

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The application is to develop a regional mall of approximately 38 000m<sup>2</sup> (GLA) on Erven 1449, 1450, 1452 and 1734, Sandbaai. The size of the proposed mall would ensure that the mall would be able to cater for a mix of tenants of chain stores and would be able to cater for new retailers which are not available in the Hermanus area.

The location of the development close to the Hermanus CBD (±3km) would ensure that the proposed mall would be close to the primary and secondary catchment area shoppers. Its location relatively close to the Hermanus CBD would ensure that it would not operate as a separate node from the CBD and would therefore not have a detrimental effect on the CBD. Careful consideration should also be given to the size of the initial mall, and the mall should be approximately 30 000m<sup>2</sup> in extent in phase one. This mall will have potential to grow an additional 8000m<sup>2</sup> (GLA) to address the future needs of the region.

A copy of the Overstrand Retail Study is attached as Annexure Y.

Classification and hierarchy of retail facilities in South Africa

In terms of the abovementioned study the application can be classified as follows:

Small regional centre / large community centre:

The following is quoted from the Report:

*“The role and function of these types of centres are mainly to satisfy the needs of the broader community and to offer a better tenant mix than the community centres. Most of these centres do not necessarily fulfil a true regional role, but rather that of a larger community facility.*

*In some cases, especially in the more rural areas, these centres fulfil a much stronger regional role.”*

The Hermanus area is considered a rural area serving other smaller towns in the area. The function of the proposed mall would definitely be that of a small regional centre.

A small regional centre size is between 25 000m<sup>2</sup> – 50 000m<sup>2</sup> GLA, and this application is in line with these size requirements, providing for a centre of 38 000m<sup>2</sup> GLA. It would be able to accommodate the tenant mix required to be able to classify as a small regional mall. This is confirmed by the Retail Study by Douglas Parker.

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The proposed mall is also in line with location criteria required for such regional mall. It is situated next to the R43 District Road and will have good regional accessibility and be very visible. Four access / egress points would be provided to the property making the site very accessible to potential shoppers. In the study it is indicated that the average trade area is 3-5km. Considering this site, it would include Vermont, Onrus River, Sandbaai, Hermanus CBD, Zwelihle and a large portion of Hermanus proper. It includes areas that are well known to cater for a large number of permanent residents in the Hermanus area in such radius.

A copy of the Classification and Hierarchy of Retail Facilities in South Africa Study is attached as Annexure Z.

### **Policy Documents**

#### Greater Hermanus Sub Regional Spatial Development Framework, 2000

This policy document has lapsed on 5 July 2012 and is not applicable to the evaluation of this application anymore.

#### Overstrand Municipal Wide Spatial Development Framework, 2006

In terms of the policy document the Hermanus CBD, the Gateway Centre/Swartdam Road corridor and the Sandbaai/R43 District Road crossing and Hemel-en-Aarde Estate were identified as substantial commercial centres. Smaller centres were identified in Onrus River, Vermont and Hawston.

Most of the larger centres have been developed in line with the policy document or are vacant and can still be developed for commercial purposes.

The properties identified for a commercial area in Sandbaai includes Hemel-en-Aarde Village, two properties south of the R43 District Road at the Sandbaai Main Road/R43 District Road crossing and two properties south of the R43 District Road and west of the Sandbaai Business Park. The Hemel-en-Aarde Village have been developed for commercial purposes, whilst only a small portion of the one site at the R43 District Road/Sandbaai Main Road crossing (Engen and Agrimark) has been developed for commercial purposes. The other two sites are still vacant.

This application includes the two erven next to the Sandbaai Business Park (Erven 1734 and 1450) in the proposed development. The other two erven (Erven 1449 and 1452) have been earmarked for residential use in terms of the policy document.

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The application is partially in line with the policy document, but would lead to the amendment and the expansion of the Sandbaai node. This change however is substantiated in Douglas Parker's retail study and is deemed desirable.

Overstrand Municipal Spatial Growth Management Strategy, 2010

The policy document identified densification areas, but economic growth areas were also identified in such document to promote economic development. The areas with the most substantial economic development pockets are the Hermanus CBD, Sandbaai from the Main Road/R43 District Road crossing including the erven south of the R43 District Road and Sandbaai Business Park up to Schulphoek Road, and the Gateway Centre with the area next to Swartdam Road and the Hermanus Industrial Area.

This Policy Plan does make provision for the expansion of commercial use next to and south of the R43 District Road. The proposed regional shopping centre development would however also include areas identified for high density residential development.

The policy document acknowledges the need for the upgrade of services in the area. This would not only be a requirement for high density residential development, but also for a commercial development, as applied for.

Considering the above-mentioned policy documents, amendment of the two policy documents would be required, and the socio-economical impact and impact on services should be carefully considered.

The proposed development would require the upgrade of services especially the road infrastructure of Bergsig Street, as this road has been identified as a sub-regional distributor road, to help to alleviate traffic congestion in future. It is considered that it will have a substantial positive impact on the Greater Hermanus area.

In terms of the recommendations in the Overstrand Retail Study and the Hierarchy of Retail Facilities in South Africa Study, the development of a regional mall on the subject properties can be supported. Due to the size of the proposed mall and its location close to the Hermanus CBD, it is envisaged that the proposed mall will not have a detrimental impact on the CBD.

It is clear from the afore-mentioned recommendations that the amendments of the policy documents can be supported.

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*It is to be noted that the amendment of the Policy Documents was already considered by the Executive Mayor and approved by Council (see Minutes dated 25 April 2012 and 31 May 2012 attached as Annexure S and T). For this reason the Policy Amendment application is not addressed in the Recommendation to the Executive Mayor.*

**Additional relevant information received**

In the letter dated 31 July 2014 received from DEA&DP a planning comment was also provided by that Department on this application (See Annexure U). The recommendation was as follows:

*"In light of the above motivation it is recommended that:*

- *the application for the rezoning (and consolidation in terms of Section 16 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) of Erven 1449, 1450, 1452 and 1734, Sandbaai from Agricultural Zone I and Institutional Zone I to Business Zone I be supported for approval by the Municipality.*
- *The approvals must be made subject to the conditions of the Municipality and also the Environmental Authorization that was issued by this Department on 6 January 2014"*

**Conclusion**

The proposal is in line with the criteria as stipulated in the Study for Classification and Hierarchy of Retail Facilities in South Africa by Dr. Dirk A. Prinsloo and also the recommendation made in the Overstrand Retail Study by Douglas Parker.

The amendment of the policy documents for the area was supported as this development should not have a detrimental effect on the sustainability of the Hermanus CBD and other commercial areas, and it would lead to the improvement of infrastructure. The amendment of the policy document has already in 2012 been recommended for approval by the Executive Mayor, and approved by Council.

With the relevant mitigation measures the impact of the development on the immediate area can be limited. The proposed mall will be located close to the highest concentration of residents and potential employees and be very accessible to the largest portion of the residents of the Greater Hermanus area. The application is considered to be desirable in terms of the criteria to determine desirability in terms of Section 36 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985).

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**7. Financial Implications**

Increase in revenue derived from property tax and sale of municipal related services. Co-funding of infrastructure.

**8. Staff Implications**

None

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

Internal Circulation

**Engineering Services**

Attached as Annexure O.

**Fire Department**

All developments must comply with SANS 0400 (T, W and related Sections) and the community Fire Safety By-Law PN 638/2006.

**Protection Services**

Adequate water should be available for fire fighting purposes. Sufficient emergency exists. Any informal traders. Loitering after completion.

**Waste Management**

Refuse area according to municipal specifications. Separate area for recyclable material must be erected.

**Traffic Department**

To be noted that there are concerns regarding increase traffic and congested intersections.

**Building Control Department**

See Local Heritage Minutes.

**District Health**

Approval recommended. (See Annexure R.)

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**Environmental Section**

Require an EIA. EIA approval was obtained.

External Circulation

**Department of Economic Development & Tourism**

Annexure G

**Heritage Western Cape**

Annexure H

**Eskom**

Annexure I

**Western Cape Nature**

Annexure J

**Department of Water Affairs and Forestry**

Annexure K

**Department of Agriculture: Western Cape**

Annexure L

**Department of Agriculture: National**

Annexure M

**Telkom**

Annexure N

**Department of Transport**

Annexure P

**DEA&DP : EIA Record of Decision**

Annexure X

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**DEA&DP : Planning Comments**

Annexure U

**10. Annexures**

- Annexure A: Locality Plan
- Annexure B: Proposed Site Development Plan (and Elevation Plan)
- Annexure C: Motivation Report
- Annexure D: Objections
- Annexure E: Applicant's response on objections
- Annexure F: Commitment from applicant to provide access to land locked Erf 1659, Sandbaai
- Annexure G: Letter dated 6 July 2009 received from Department of Economic Development and Tourism
- Annexure H: Letter dated 29 August 2008 received from Heritage Western Cape
- Annexure I: Letter dated 29 May 2009 received from Eskom
- Annexure J: Letter dated 7 July 2009 received from Western Cape Nature
- Annexure K: Letter dated 14 July 2009 received from Department of Water Affairs and Forestry
- Annexure L: Letter dated 26 May 2009 received from the Department of Agriculture: Western Cape
- Annexure M: Letter dated 5 November 2009 received from the Department of Agriculture: National
- Annexure N: Letter dated 31 July 2009 received Telkom
- Annexure O: Services Report: Municipal
- Annexure P: Letter dated 9 February 2010 received from the Department of Transport and Public Works
- Annexure Q: Local Heritage Committee's comments made on 30 July 2009
- Annexure R: Letter dated 18 June 2009 received from District Health
- Annexure S: Executive Mayoral Committee and Council Minutes dated 25 April 2012
- Annexure T: Executive Mayoral Committee and council Minutes dated 31 May 2012
- Annexure U: Letter from DEA&DP dated 31 July 2014 (Planning Comment)
- Annexure V: Planning Circular 14/2012 from DEA&DP (Lapsing of Structure Plans)
- Annexure W: Letter from DEA&DP dated 22 April 2015 informing of approval of Removal of Restriction application
- Annexure X: Letter from DEA&DP dated 5 May 2015 with final EIA RoD approval (Appeal dismissed)
- Annexure Y: Overstrand Retail Study
- Annexure Z: Classification and Hierarchy of Retail Facilities in South Africa Study

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**RECOMMENDATION:**

1. that, in terms of Section 16 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) application for rezoning and consolidation of Erven 1449, 1450, 1452 and 1734, Sandbaai to Business Zone I purposes, **be approved**, subject to the following conditions:
  - (a) that all conditions imposed in the Record of Decision obtained for the Environmental Impact Assessment (EIA) from the Department of Environmental Affairs and Development Planning dated 5 May 2015 (attached as Annexure X), be complied with;
  - (b) that the erven be consolidated;
  - (c) that a final Site Development Plan that complies with all the requirements of the Municipality and government departments, be submitted to the Municipality for approval;
  - (d) that a servitude right of way be registered over the consolidated erf in favour of the owner of Erf 1659, Sandbaai;
  - (e) that the application for a total GLA of 38 000m<sup>2</sup>, be approved, subject thereto: -
    1. that only phase 1 of 30 000m<sup>2</sup> GLA may be developed at this stage; and
    2. that any future phases may only be commissioned after proof has been provided to Council's satisfaction, that there is further market demand for additional retail space;
  - (f) that the cinemas be developed as part of Phase One of the development;
  - (g) that this approval does not absolve the applicant/owner from compliance with any other relevant legislation;
  - (h) that all other development parameters, as prescribed in the Zoning Scheme, be retained;
  - (i) that a minimum of six parking bays per 100m<sup>2</sup> GLA be provided on the consolidated site;
  - (j) that a Landscape Plan be submitted for consideration by the Municipality for the development and that the Municipality reserves the right to impose conditions upon approval of this document;

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- (k) that internal services remains the responsibility of the developer/owner, or his/her successor in title;
- (l) that all the conditions imposed by the Heritage Western Cape as in their letter dated 29 August 2008 (attached as Annexure H), be complied with;
- (m) that all the conditions imposed by Eskom as in their letter dated 29 May 2009 (attached as Annexure I), be complied with;
- (n) that all the conditions imposed by the Department of Water Affairs and Forestry as in their letter dated 14 July 2009 (attached as Annexure K), be complied with;
- (o) that all the conditions imposed by the Department of Agriculture: Western Cape as in their letter dated 26 May 2009 (attached as Annexure L), be complied with;
- (p) that all the conditions imposed by the Department of Agriculture: National as in their letter dated 5 November 2009 (attached as Annexure M), be complied with;
- (q) that all the conditions imposed by Telkom as in their letter dated 31 July 2009 (attached as Annexure N), be complied with;
- (r) that all the conditions imposed in the Services Report (attached as Annexure O), be complied with;
- (s) that all the conditions imposed by the Department of Transport and Public Works as in their letter dated 9 February 2010 (attached as Annexure P), be complied with;
- (t) that all the conditions imposed by the District Health as in their letter dated 18 June 2009 (attached as Annexure R), be complied with;
- (u) that all development must comply with SANS 0400 (T, W and related Sections) and the Community Fire Safety By-Law PN 638/2006; and
- (v) that a refuse area according to municipal specifications and a separate area for recycleble material be provided.

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2. that, in terms of Section 4.7 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), a consent use on the consolidated site of Erven 1449, 1450, 1452 and 1734, Sandbaai to establish a supermarket, bottle store, place of entertainment, place of assembly, institution and service trade, **be approved**; and
3. that the applicant/objectors be notified of their right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No. 32 of 2000 with regard to the above approval and conditions of approval.

<b>RESPONSIBLE OFFICIAL :</b>	<b>H OLIVIER</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>11 JUNE 2015</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>11 JUNE 2015</b>
<b>TARGET DATE TO INFORM OBJECTORS :</b>	<b>11 JUNE 2015</b>

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8.

**ERVEN 1449, 1450, 1452 AND 1734, SANDBAAI, OVERSTRAND MUNICIPAL AREA: PROPOSED AMENDMENT OF THE GREATER HERMANUS SPATIAL DEVELOPMENT FRAMEWORK (STRUCTURE PLAN) THE OVERSTRAND MUNICIPAL WIDE SPATIAL DEVELOPMENT FRAMEWORK, CONSOLIDATION, REZONING, CONSENT USE AND REMOVAL OF RESTRICTIONS : PROPOSED REGIONAL SHOPPING CENTRE : RETAIL AFRICA**

**1449, 1450, 1452 & 1734, HSB (1216)**

**H Olivier**

**(028) 313 8179**

**Hermanus Administration**

**6 May 2015**

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**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON  
19 MAY 2015, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:**

**RECOMMENDATION:**

1. that, in terms of Section 16 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) application for rezoning and consolidation of Erven 1449, 1450, 1452 and 1734, Sandbaai to Business Zone I purposes, **be approved**, subject to the following conditions:
  - (a) that all conditions imposed in the Record of Decision obtained for the Environmental Impact Assessment (EIA) from the Department of Environmental Affairs and Development Planning dated 5 May 2015, be complied with;
  - (b) that the erven be consolidated;
  - (c) that a final Site Development Plan that complies with all the requirements of the Municipality and government departments, be submitted to the Municipality for approval;
  - (d) that a servitude right of way be registered over the consolidated erf in favour of the owner of Erf 1659, Sandbaai;
  - (e) that the application for a total GLA of 38 000m<sup>2</sup>, be approved, subject thereto: -
    1. that only phase 1 of 30 000m<sup>2</sup> GLA may be developed at this stage; and
    2. that any future phases may only be commissioned after proof has been provided to Council's satisfaction, that there is further market demand for additional retail space;

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- (f) that the cinemas be developed as part of Phase One of the development;
- (g) that this approval does not absolve the applicant/owner from compliance with any other relevant legislation;
- (h) that all other development parameters, as prescribed in the Zoning Scheme, be retained;
- (i) that a minimum of six parking bays per 100m<sup>2</sup> GLA be provided on the consolidated site;
- (j) that a Landscape Plan be submitted for consideration by the Municipality for the development and that the Municipality reserves the right to impose conditions upon approval of this document;
- (k) that internal services remains the responsibility of the developer/owner, or his/her successor in title;
- (l) that all the conditions imposed by the Heritage Western Cape as in their letter dated 29 August 2008, be complied with;
- (m) that all the conditions imposed by Eskom as in their letter dated 29 May 2009, be complied with;
- (n) that all the conditions imposed by the Department of Water Affairs and Forestry as in their letter dated 14 July 2009, be complied with;
- (o) that all the conditions imposed by the Department of Agriculture: Western Cape as in their letter dated 26 May 2009, be complied with;
- (p) that all the conditions imposed by the Department of Agriculture: National as in their letter dated 5 November 2009, be complied with;
- (q) that all the conditions imposed by Telkom as in their letter dated 31 July 2009, be complied with;
- (r) that all the conditions imposed in the Services Report, be complied with;
- (s) that all the conditions imposed by the Department of Transport and Public Works as in their letter dated 9 February 2010, be complied with;
- (t) that all the conditions imposed by the District Health as in their letter dated 18 June 2009, be complied with;
- (u) that all development must comply with SANS 0400 (T, W and related Sections) and the Community Fire Safety By-Law PN 638/2006; and

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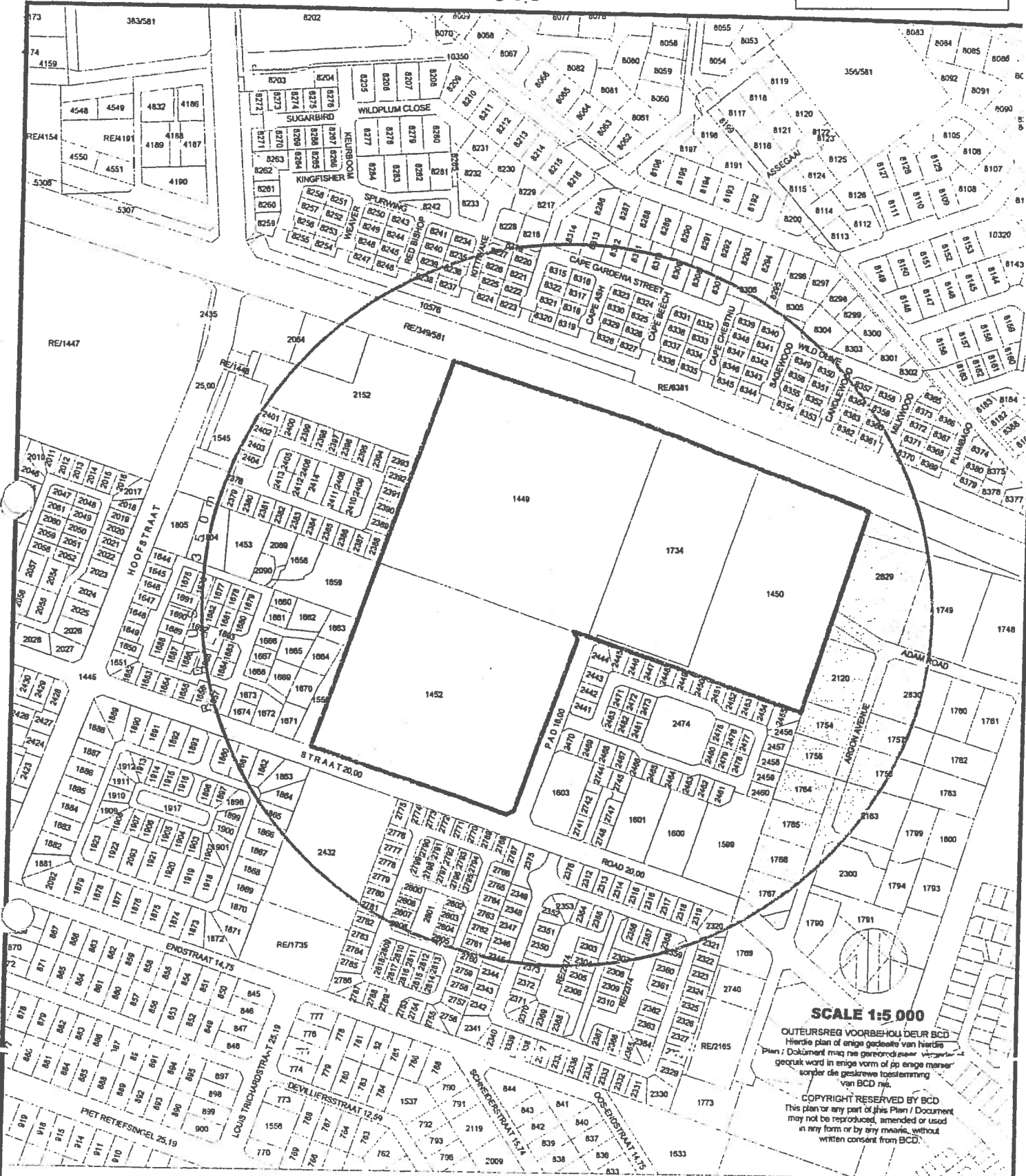
**AGENDA of the  
Portfolio Committee : Infrastructure & Planning  
19 May 2015**

**(Also the agenda for the Mayoral Committee Meeting : 28 May 2015)**

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- (v) that a refuse area according to municipal specifications and a separate area for recycleble material be provided.
  - (w) that a service agreement be entered into between the applicant and the local authority to the satisfaction of the Director: Infrastructure and Planning; and
  - (x) that additional bus/taxi parking be provided on site closer to the main entrance of the mall building to the satisfaction of the Director: Infrastructure and Planning.
2. that, in terms of Section 4.7 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), a consent use on the consolidated site of Erven 1449, 1450, 1452 and 1734, Sandbaai to establish a supermarket, bottle store, place of entertainment, place of assembly, institution and service trade, **be approved**; and
3. that the applicant/objectors be notified of their right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No. 32 of 2000 with regard to the above approval and conditions of approval.




<b>RESPONSIBLE OFFICIAL :</b>	<b>H OLIVIER</b>
<b>TARGET DATE FOR IMPLEMENTATION :</b>	<b>11 JUNE 2015</b>
<b>TARGET DATE TO INFORM APPLICANT :</b>	<b>11 JUNE 2015</b>
<b>TARGET DATE TO INFORM OBJECTORS :</b>	<b>11 JUNE 2015</b>



SCALE 1:5 000

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-  STUDY AREA
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**EXTRACT: SECTION 4(6) GREATER  
 HERMANUS SUB-REGIONAL SP**

**PLAN NO. 7**

TOWN & REGIONAL PLANNERS  
 111, 113 & 115  
 111, 113 & 115  
 111, 113 & 115  
 111, 113 & 115



HERMANUS  
SOUTH AFRICAN ARCHITECTS  
101-103 WATERLOO STREET  
Cape Town

FOR RETAIL OFFICE

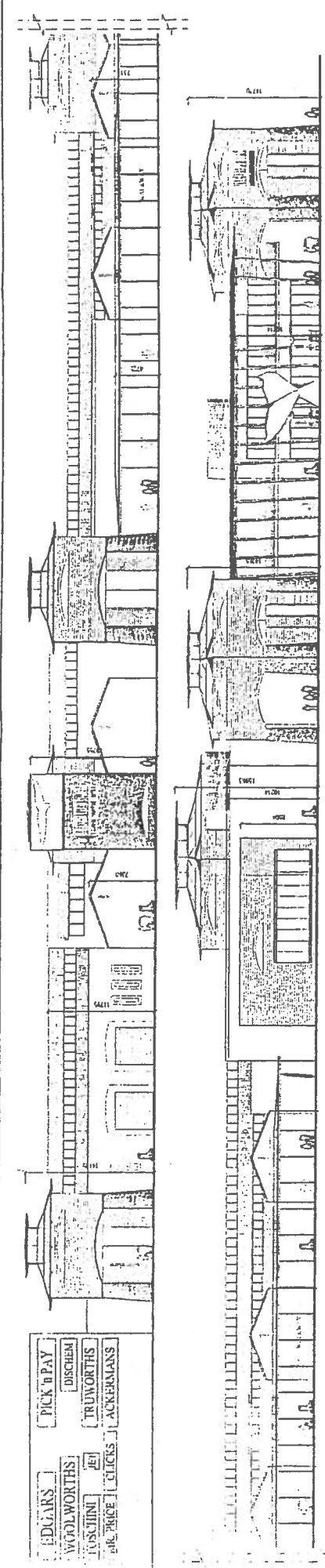
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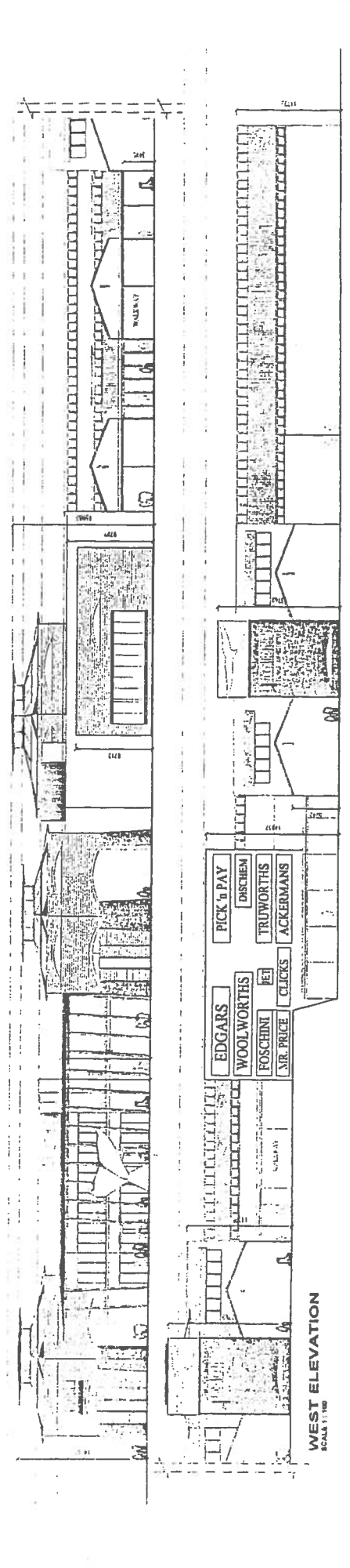
101-103 WATERLOO STREET  
Cape Town

SITE DEVELOPMENT PLAN  
ELEVATIONS

SCALE 1:100



NORTH ELEVATION  
SCALE 1:100



WEST ELEVATION  
SCALE 1:100

**1.1 PURPOSE OF REPORT**

BCD TOWN AND REGIONAL PLANNERS have been appointed by WALKER BAY SHOPPING CENTRE (PTY) LTD. to prepare, lodge and facilitate the necessary land use applications in order to prepare the land use rights of erf 1449, erf 1452, erf 1450 and erf 1734 Sandbaai for a regional shopping centre. All four erven are in the process of being registered in the name of WALKER BAY SHOPPING CENTRE (PTY) LTD. However, no transfer took place at time of submission of this application and the original Title Deeds will therefore be included in this application. The consent of the new land owner of the four erven is included as part of Annexure B. Also, refer ANNEXURE B for the Special Power of Attorney, Company Resolution, proof of transfer of the property in the name of WALKER BAY SHOPPING CENTRE (PTY) LTD and ANNEXURE C for the Company Profile of RETAIL AFRICA PROPERTY DEVELOPMENTS (PTY) LTD (the developer).

According to the Zoning Certificates obtained from the Overstrand Municipality erven 1449, 1450 and 1734 are zoned Agriculture Zone I, while the proposed remainder of erf 1452 is zoned Institutional I. Refer ANNEXURE D: Zoning Certificates. The Section 8 Scheme Regulations as published in Official Gazette 4563, December 1988, is responsible for controlling land uses and land use rights within the Hermanus area.

The purpose of this document is therefore to serve as motivation for an application for:

- a) the **Consolidation and Rezoning** of erf 1449, erf 1450, erf 1452 and erf 1734 Sandbaai (Hermanus) from Agriculture Zone I and Institutional Zone I to Business Zone I, and
- b) **Consent uses** in terms of the Zoning Scheme for:  
Supermarket, Bottle Store, Place of Entertainment, Place of Assembly, Place of Instruction, Institution and Service Trade.
- c) **Amendment** of the Section 4(6) Greater Hermanus Sub-Regional Structure Plan (2000), to change the reservation of erven 1449, 1450, 1452 and 1734 from "Urban Area" to "Business Node".

It must be noted that the previous land use application lodged by the owner of Erf 1450 (Blue Horizons Prop CC) was withdrawn at the Local Authority and the Department of Environmental Affairs and Development Planning. We will hereafter refer to erf 1449, erf 1450, erf 1452 and erf 1734 collectively as the property or study area or property.

## 1.2 GENERAL INFORMATION

### 1.2.1 Locality

Regional locality:



Figure 1. The location of the property in context with Cape Town.

Hermanus is situated  $\pm 88$ km from the Cape Town CBD and  $\pm 52$ km (straight line) south east of the Somerset West Mall.

Local Context:

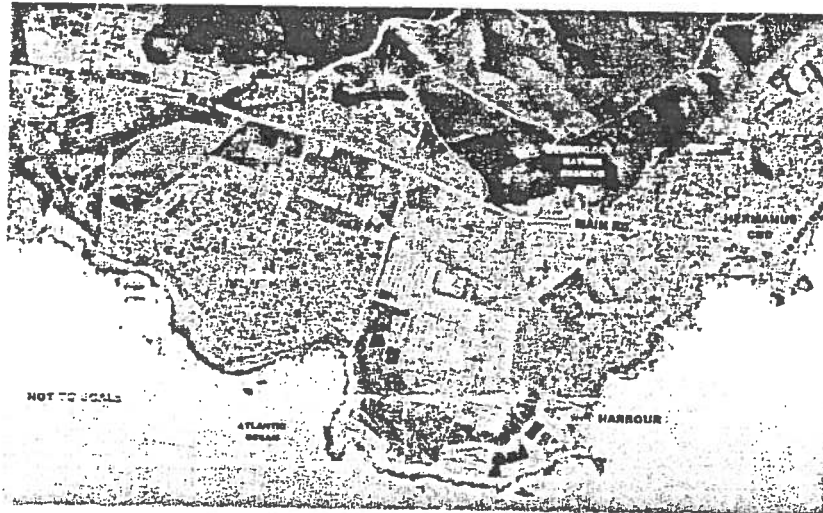


Figure 2. The location of the property in context with Hermanus

The property is situated between the R43 and Bergsig street, in the northern region of the Sanbaai suburb,  $\pm 3,3$ km west of the Hermanus Central Business District.

Also, refer PLAN NO. 1

### 1.2.2 Study area

Refer PLAN NO 2.

Any major redevelopment and extension of the existing Central Business District (CBD) of Hermanus must be carefully evaluated. The town is a unique seafront village with many buildings with heritage status which must be preserved for future generations. The impact of any bulky structures supported by much needed and prescribed parking areas within the existing CBD will destroy the existing sense of place, character and ambiance of the historic central village. A regional shopping centre covering 38000m<sup>2</sup> floor area and 2300 compulsory parking bays, cannot be accommodated in or adjacent to the historic CBD of Hermanus, without destroying the character and urban structure of the local built environment. It is against this background that erf 1734, erf 1449, erf 1450 and erf 1452 have been selected as an alternative location for a regional shopping centre, with good access from the R43 and Bergsig Road.

The study area consists of 4 erven. The details of each erf is summarised as follows:

	<b>ERF 1734</b>	<b>ERF 1449</b>	<b>ERF 1450</b>	<b>ERF 1452</b>
<b>OWNER</b>	WALKER BAY SHOPPING CENTRE (PTY) LTD	WALKER BAY SHOPPING CENTRE (PTY) LTD	WALKER BAY SHOPPING CENTRE (PTY) LTD	WALKER BAY SHOPPING CENTRE (PTY) LTD
<b>AREA (ha)</b>	2.0574	4.4648	2.4652	±3.8914
<b>*DEED NO.</b>	T10306/1997 (await new number)	T33989/1996 (await new number)	T28837/1988 (await new number)	T54318/1987 (await new number)
<b>LPI CODE</b>	C0130020000017430 0000	C0130020000014490 0000	C0130020000017500 0000	C0130020000014520 0000
<b>BOND</b>	NEDBANK	NEDBANK	NEDBANK	NEDBANK
<b>ZONING USE</b>	Agriculture Zone I Vacant	Agriculture Zone I Vacant	Agriculture Zone I Vacant / Mega Bricks	Institutional I Jubilee Centre / Cottages

\* The new Title Deeds and Title Deed Numbers will be provided upon receipt.

Refer ANNEXURE E for the relevant noting sheets, erf diagrams and deeds information sheets.

### 1.2.3 Bondholders Consent

A bond is registered against all four erven in favour of Nedbank. Consent for the development of this property has been requested from the bondholder and will be submitted to the local authority upon receipt.