

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
22 May 2017
(Also the agenda for the Mayoral Committee Meeting : 31 May 2017)**

14.

ERF 121, 16 GEELBEK STREET, VAN DYKSBAAI (KLEINBAAI), OVERSTRAND MUNICIPAL AREA : PROPOSED REZONING AND CONSENT USE : MESSRS PDM CONSULTING ON BEHALF OF THE SCM TRUST

121 GKB (3164)

**SW van der Merwe
20 March 2017**

(028) 313 8900

Hermanus Administration

1. Executive Summary

To consider an application received on 15 November 2010 from Messrs PDM Consulting on behalf of The SCM Trust, the owner of Erf 121, van Dyksbaai, for the following:

- amendment of the Greater Gansbaai Spatial Plan: 2004 and the Overstrand Spatial Development Framework: 2006 (SDF);
- rezoning from Single Residential Zone to Local Business Zone, and
- consent use (tourism business and tourism accommodation) to accommodate the existing shark viewing business and as well as two (2) proposed guest rooms.

A Locality Plan of the property concerned is attached as Annexure A. The proposed Site Development Plan (SDP) is attached as Annexure B, and the Motivation Report from the applicant in support of the proposal is attached as Annexure C.

2. Service Delivery and Budget Implementation Plan - IGNITE

Infrastructure and Planning
Town Planning

3. Compliance with Strategic Priorities

Provision of democratic and accountable governance
Promotion of tourism, rural and economic development

4. Delegated Authority

Executive Mayor

5. Legal Requirements

- Section 16 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)

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- Section 5.7 of the Gansbaai Zoning Scheme Regulations

6. Background/Discussion/Evaluation/Conclusion

6.1 Background

The application is considered in terms of the former Gansbaai Zoning Scheme Regulations and the provisions of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) which applied at the submission date of the application. It should be noted that since the repeal of structure plans by the Provincial Government: Western Cape (PGWC) the amendment of the Greater Gansbaai Spatial Plan is no longer applicable.

Kleinbaai over a number of years developed from a tranquil residential holiday town into a town renowned for its shark and whale watching opportunities, giving rise to the development of a lucrative tourism business industry (shark and whale watching business, restaurants, accommodation establishments and support services). The aforementioned occurred in an uncoordinated manner attracting large numbers of tourists, locally as well as internationally.

The shark and whale watching companies launch from the Kleinbaai Slipway, which is also used by sport and line fishers. Most of the shark cage diving operators conduct their businesses from single residential properties without the necessary approvals. There is therefore a need to legalise these operators. As a result the area around the Kleinbaai Slipway was designated as a tourism node/economic opportunity in terms of the Overstrand Growth Management Strategy, 2010.

More recently Council adopted the Kleinbaai Nodal Development Framework as a Precinct Plan that forms part of the SDF on 30 March 2016. The approval imposed certain conditions, namely a restriction on the number of shark and whale watching boats launching from the Kleinbaai Slipway to a maximum of ten (10) boats, whilst any additional permit holders [above ten (10)] shall launch from the Gansbaai Harbour (Minutes of the Mayoral Committee meeting attached as Annexure F). The aforementioned framework provides for mixed use tourism related development into the designated node, planning for the specific needs of the sector, balanced against the need to protect the character and amenity of the area.

The subject property is situated adjacent to Geelbek Street, in close proximity to the junction with Kusweg and the Kleinbaai Slipway. The property comprises a double storey dwelling, of which the ground floor is utilised for tourism business purposes ($\pm 108\text{m}^2$). The first floor comprises a dwelling unit, utilised by the property owner for residential purposes.

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The current application seeks to obtain the necessary development rights to legalise the current unauthorised business activities on the premises, situated on the ground floor of the existing house, comprising the following, namely:

- administrative/booking office component;
- transportation of guests from Cape Town to the premises arriving at 06:00;
- guests receive a safety brief before boarding the boat;
- transportation of guests to the slipway (mainly walking);
- provide breakfast and lunch before and after a trip for paying guests;
- provision of diving gear to guests, and
- sale of souvenirs.

White Shark Projects has a designated parking area adjacent to the slipway. A maximum of eighteen (18) tourists can be accommodated on their boat. A typical trip lasts about three (3) hours. Two (2) trips are being conducted on a daily basis. The first group arrive at 07:00 and the second group at 12:30, seven (7) days a week, weather permitting. The company provides eleven (11) employment opportunities. On-site parking is provided to the rear of the existing dwelling.

The application also proposes two (2) guest rooms on the first floor, which is currently utilised for residential purposes. The proposed guest rooms will be accommodated at first floor level in a proposed addition behind the existing house.

6.2 Discussion

The application was advertised in the prescribed manner and registered notices were served upon interested and affected parties. Five (5) letters of objection were received. The objections were submitted by adjoining property owners, Mr GB Kapp, GJ van Heerden, AG Steyn, Kleinbaai Ratepayers and Residents Association and HJ Fourie. The main grounds for objection (attached as Annexure D) and the comment from the applicant (attached as Annexure E) can be summarized as follows:

Objection

GB Kapp, owner of Erf 119, Van Dyksbaai

- ❖ development in front of objector's property is a violation of their privacy;
- ❖ ground floor parking area encroach the applicable building lines;
- ❖ loss of sea view and property value;
- ❖ object, since the property is situated in a quiet single residential area and was acquired for its tranquillity and sea views;

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- ❖ object to parking on sidewalks;
- ❖ tractors and boats in Geelbek Street is dangerous, a source of frustration and delay traffic.

Applicant's comment

- the applicant is of the opinion that there will be no violation of privacy, since tourists would not spend a lot of time in the guest rooms;
- the parking within the building line does not require a departure application, since permanent structures are not involved;
- the impact on views has recently been duly considered by our courts. The opinion is held that although it will impact upon existing views, the applicant is permitted to develop his property in accordance with his primary rights; and
- the applicant with reference to noise, disturbance and traffic in Geelbek Street pointed out that his client's boat has a permanent parking bay at the slipway as well as sufficient on-site parking at the rear of the property. It is therefore not necessary to park in front of the dwelling or on the footway.

Objection

GJ van Heerden, owner of Erf 139, Van Dyksbaai

- ❖ proposed rezoning will result in a loss in property value of adjoining single residential properties being situated adjacent to business zoned properties;
- ❖ object to increase in traffic and tourists;
- ❖ development will violate the tranquillity of the area;
- ❖ parking problems associated with the development (i.e. parking on pavements, noise and disturbance);
- ❖ advertisement boards are situated on the pavements, obstructing pedestrian traffic;
- ❖ loss of sea view and resulting loss in property value.

Applicant's comment

- the objector's property is accessed from Mossel Street and not Geelbek Street and is not affected by increased traffic;
- the objector's property does not situate adjoining a business zone erf, but is separated from the application property by a road and a residential erf;
- the applicant is of the view that sufficient on-site parking provision had been made and that vehicles need not to be parked on the sidewalks;
- the applicant states that pertaining to obstruction of sidewalks it should be noted that the subject property does not have a formal sidewalk. There is a sidewalk on the opposite side of the property, able to accommodate pedestrians; and

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- the applicant confirmed that the applicant maintain the road reserve and that there is no obstruction.

Objection

Kleinbaai Ratepayers and Residents Association

No objection to the two (2) proposed guest rooms, subject to the number of bedrooms being monitored.

Does not support rezoning in a single residential area, but acknowledge that the shark viewing industry needs to be regulated and as such, requires the following, namely:

- ❖ sidewalks to be kept free from obstructions (vehicles, advertisements, obstructions);
- ❖ removal of “no parking” signage on premises;
- ❖ parking for clients, including deliveries to be accommodated on the property; and
- ❖ the applicable regulations should be applied, monitored and enforced.

Applicant’s comment

- the applicant advises that the placement of signage has already been addressed, but it was on the owner’s property, not the sidewalk (road reserve). It has since been removed; and
- parking will be subject to the applicable regulations (i.e. the Zoning Scheme).

Objection

AJ Steyn - Erf 125, Van Dyksbaai

The objector provides a detailed background of the activities in and around the slipway, illegal usage of residential properties by shark viewing operators, traffic impact, and property value, the character of the area and viability of the tourist facilities.

Object to the amendment of the SDF, rezoning and consent use due to a lack in proper planning of the development of the Kleinbaai Slipway and surrounding area without the necessary impact and feasibility studies, public participation and implementation plan.

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Applicant's comment

- Mr Steyn addresses the impact of the shark viewing industry, more specifically on Kleinbaai Slipway and the surrounding area;
- comment includes speculation pertaining to the long term viability of the industry;
- comment relates to the forward planning for the Kleinbaai area, thereby ensuring that the current utilisation and future development of the area complement each other;
- Mr Steyn's property is situated opposite the slipway that has historically been used by fisherman (recreational and occupational purposes); and
- applicant supports the importance of forward planning for the harbour area, that is to be done in collaboration with the Municipality.

Objection

HJ Fourie, owner of Erf 122, Van Dyksbaai

The writer expressly objected to the proposal, unless measures are put in place to address his concerns, namely:

- ❖ no constructive measures being put in place at the slipway and surrounding area to prevent damage from windblown dust to property;
- ❖ the proposed rezoning will result in an increase in traffic, tourists and activity in a residential area to the detriment of the tranquillity of the residential area;
- ❖ increased activity result in parking and traffic (vehicle and pedestrian) over private property;
- ❖ proper sidewalks both sides of Geelbek Street is required; and
- ❖ concerned that guests and resulting traffic due to the access in close proximity to the objector's property will impact on the peacefulness and character of the area.

Applicant's comments

- comments received indicate the need of proper forward planning for the area and necessary upgrades required and does not specifically relate to the current application;
- the issues surrounding sidewalks have already been addressed in the comments above;
- the applicant is of the opinion that the access to the rear of Erf 121 will not significantly impact on the privacy of the adjoining property since it relates to the rear of the objector's property; and
- two (2) guest rooms will not significantly impact.

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Town Planner's comment

The comments and objections from the various parties overlap. As such, the town planner's comment will be summarised under the relevant generic themes, namely:

Loss of privacy

The current Zoning Scheme Regulations permit guest rooms as primary right on Residential Zone 1 properties up to a maximum of two (2) bedrooms. The application was submitted under the former Gansbaai Zoning Scheme Regulations. The proposed guest rooms therefore form part of the application for consent use.

The guest rooms will be situated at first floor level in an extension to the dwelling unit and will comply with the applicable development parameters (i.e. building lines). The proposed bedrooms could be constructed under the current primary right. The opinion is thus held that the invasion of privacy would not be greater by the proposed utilization as guest rooms in terms of the application, compared to the applicable primary rights. Accordingly an objection on the basis of loss of privacy cannot be sustained.

Parking area encroach building lines

The parking area does not involve the construction of structures over the building line and does not require an application for departure.

Obstruction of sidewalks

Despite the applicant's comments in the past obstruction of the road reserve in front of the application property had been observed (parked mini busses and signage). It is agreed that parking should occur on the premises and that the road reserve may not be obstructed. This will be dealt with in the conditions of approval.

Loss of sea view/property value

The proposed first floor additions could be carried out in accordance with the applicable primary rights. As such, although there will be an impact upon existing views enjoyed by neighbouring properties, the proposed additions, such views are not considered a right as per recent case law. The claim pertaining to loss of property value is considered speculative and not substantiated by supporting evidence and should be dismissed.

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Noise, disturbance and impact on tranquillity of the area

The subject property is situated within an identified tourism node adjoining the main access to the slipway, namely Geelbek Street. There is only one (1) erf, between the subject property and the parking area adjacent to the slipway. Erf 117, opposite the subject property is zoned for local business purposes and contains a curio shop and the offices of another shark cage diving business. Erf 120 adjoining the application site is also illegally being utilised for tourism business purposes (shark cage operator). Geelbek Street also contains various commercial properties that amongst others include a shop, bottle store, service station, restaurant and guest house. It is thus clear that the application property is situated adjacent to an activity corridor that connects the various businesses in Geelbek Street with the slipway. As such, it cannot be argued that the property is situated within a purely single residential and tranquil environment. Conditions are however imposed to ensure that potential noise and disturbance resulting from the operation of the tourism business is mitigated. Furthermore, it should be noted that it will be in the interest of the applicant to ensure that noise and disturbance are well managed since, it will firstly impact on the applicant who resides on the premises as well as guests of the proposed guest rooms.

Parking and traffic, obstruction of pavement

Sufficient on-site parking provision is made in a parking area to the rear of the subject property, in accordance with the provisions of the Scheme Regulations. Two (2) parking bays are available for the dwelling house, two (2) for the proposed guest rooms and eight (8) for the proposed shark cage diving business. The relevant commercial floor area of 108m² requires seven (7) parking bays for the commercial activities.

Should there in future be a shortfall in the amount of on-site parking bays, such shortfall will be addressed with a payment in lieu of on-site parking provision, in accordance with the provisions of the scheme regulations. Such monies due will be ring-fenced for the development of a communal parking facility as identified in the precinct plan. The facility must be situated within convenient walking distance of the subject property.

The applicant also has a permanent parking bay at the slipway and as such, objections pertaining to tractors and boats in Geelbek Street, obstruction of traffic has no relevance to the applicant.

Lack of proper forward planning

It is so that the shark viewing industry was allowed to develop over a number of years due to permits being issued, without the necessary

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discussion/consultation with the municipality as well as ad-hoc decision making.

Although the SDF: 2006 acknowledges the contribution of the shark and whale watching industries no specific proposal was made pertaining to the future planning of Van Dyksbaai. The Overstrand Growth Management Strategy, 2010 (OGMS) identified a tourism node and an area of economic opportunity, that eventually culminated into the Kleinbaai Precinct Plan that was adopted by Council during March 2016. The current application therefore seeks to legalise the existing unauthorised activities in accordance the Kleinbaai Precinct Plan.

The business is situated within a residential area

The subject property is situated in an area that has been earmarked for commercial development, i.e. a tourism node, as per the OGMS and the Kleinbaai Precinct Plan. The subject property is situated adjacent Geelbek Street, the main access from the shop/service station to the slipway and surrounding area. Geelbek Street comprises mixed land uses varying from commercial, i.e. guest house, shop, bottle store, filling station, restaurant and shark cage diving business situated on commercial premises. It should however be acknowledged that one (1) of the adjoining properties, such as Erven 119, 122, 123, as well as Erven 115 and 116 on the opposite side of Geelbek Street remains single residential. The area however cannot be considered purely residential and as such is subject to increased activity due to the location adjoining an activity corridor and proximity to the slipway.

6.3 Evaluation

Erf 121, Van Dyksbaai is zoned for single residential purposes. The ground floor of the dwelling is currently illegally being utilised for tourism business purposes. The current application seeks to legalise the current unauthorised activities as well as permission to conduct two guest rooms.

Existing forward planning

The SDF earmarks the subject property for residential purposes. The SDF acknowledge amongst others a balanced land use mix, economic and tourism development. The SDF does not contain specific proposals but acknowledged the contribution of the shark cage and whale watching industries.

The OGMS identified a development node and earmarked the area between Perlemoen and Geelbek Street, Kusweg and Swart Street as a tourism node and area of economic opportunity.

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Further to the above, the Kleinbaai Nodal Development Study was adopted by Council as a Sectoral Plan, forming part of the SDF on 30 March 2016. The proposed rezoning from Single Residential Zone to Local Business Zone accords with the proposals contained in the aforementioned documents.

The subject property is therefore situated in an area earmarked for tourism business/commercial purposes. The current/proposed development therefore accords with the forward planning vision of the area.

Desirability

The subject property, contrary to the opinion of the objectors, is not situated within a purely single residential area. The surrounding area has a mixed character comprises a guest house, shop, bottle store, filling station, and restaurant and tourism businesses. The aforementioned refers to authorised land uses in terms of the scheme regulations, situated along Geelbek Street. The subject property is situated adjacent to Geelbek Street, the main activity corridor leading to the slipway. The property is also situated in close proximity to the slipway. Having had regard to the aforementioned, the opinion is held that the proposed rezoning to Local Business Zone will not detract from the character and appearance of the surrounding area and does not lack desirability.

The proposed rezoning will not unacceptably detract from the residential amenity from adjoining properties due to the following reasons, namely the area has a mixed character and is not purely single residential. A condition is imposed ensuring that briefing of clients before 8:00 in the morning take place indoors. The applicant is also responsible to manage his business, including noise so that it would not adversely impact the adjoining properties. Given the location of the property on an activity corridor in an area with a mixed character the development is not considered to unacceptably detract from the residential amenity of the adjoining properties.

The applicant stated that all services exist and that no additional services will be required. No objection is raised from an engineering services point of view, subject to conditions.

The application was not accompanied by a Traffic Impact Statement (TIS). The TIS for the adjacent shark cage operators (Erven 12, 72 and 149) indicated that the respective shark cage businesses have a low traffic impact on the surrounding road network and could be supported from a transport perspective, subject to sufficient on-site parking provision.

The development based on the SDP triggers the provision of 11 on-site parking bays in accordance with the provisions of the Scheme Regulations (6 parking bays per 100m² Gross Leasable Area that amounts to 7 parking bays

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for the commercial component, two for the dwelling unit and 2 for the guest rooms. The development provides 12 parking bays that provides for manoeuvring on site.

In case that the development in future will result in a shortfall of on-site parking, the applicant will be required to make a financial contribution in lieu of parking provision in accordance with the requirements of the Scheme Regulations to be paid into a parking fund. Any such contributions to be levied shall be ring-fenced for the planning and development of the communal parking area.

The title deed does not contain any restrictive conditions that prohibit the proposed rezoning.

Conclusion

That the application be supported in the manner as set out in the recommendation of this submission.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Environmental Section

No objection.

Electro Technical Services

“Daar is nie voorsiening gemaak vir 3 fase aansluiting nie, vir enige 3 fase aansluiting sal daar ondersoek geloods moet word om beskikbare kapasiteit te bepaal. Aansoeker sal verantwoordelik wees vir ondersoekkoste.” *(sic)*

Operational Services

Attached as Annexure G.

Engineering Services

Attached as Annexure H.

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10. Annexures

- Annexure A: Locality Plan
- Annexure B: Layout Plan
- Annexure C: Motivation Report
- Annexure D: Objections
- Annexure E: Comment on objections
- Annexure F: Minutes of the Mayoral Committee Meeting, dated 30 March 2016
- Annexure G: Comment: Operational Services
- Annexure H: Services Report

RECOMMENDATION:

1. that the objections be noted;
2. that, in terms of the provisions of Section 16 of the Land Use Planning, 1985 (Ordinance 15 of 1985) the application for the rezoning of Erf 121, Van Dyksbaai from Single Residential Zone to Local Business for tourism business purposes, **be approved**;
3. that, in terms of Section 5.7 of the Gansbaai Zoning Scheme Regulations the application for consent use (tourism business and tourism accommodation) to accommodate the existing shark viewing business as well as two proposed guests rooms, **be approved**;
4. that the approvals in 1. and 2. above be subject to the following conditions:
 - (a) that a parking layout be submitted within 30 days from the final approval of the application to the satisfaction of the Senior Manager Engineering Services;
 - (b) that the on-site parking bays be permanently demarcated and at all times be available for use by clients/visitors to the premises. No parking on the road reserve will be permitted;
 - (c) that in the event that the parking standard cannot be met on-site, the applicant will be required to make a payment in lieu of onsite parking provision in accordance with the requirements of the scheme regulations;
 - (d) in the event that a payment in lieu of parking provision be applicable, such monies to be ring fenced into a parking fund for the planning and development of a communal parking area in Van Dyksbaai, as per the van Kleinbaai Nodal Framework Report;

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- (e) that the applicable business license in terms of the relevant legislation be obtained;
- (f) that the briefing of clients before 08:00 may only take place indoors;
- (g) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
- (h) that commercial rates and service tariffs, as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
- (i) that the display of advertising shall comply with the Overstrand Signage By-law;
- (j) that the establishment be conducted in such a manner that it is not found to be detrimental to the peacefulness and amenity of the surrounding area;
- (k) that should any justified complaints with regards to noise and disturbance be received, the applicant be responsible for the appointment of a noise specialist at his cost as well as the implementation of the relevant mitigation measures;
- (l) that all the conditions in the Services Report (attached as Annexure H), be complied with;
- (m) that building plans be submitted for approval by the Building Control Department within 60 days of the approval of this application;
- (n) that no encroachments of the road reserve will be permitted without formal approval by the Municipality;
- (o) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
- (p) that Council may impose additional conditions in order to minimise any potential public nuisance; and
- (q) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.

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5. that the applicant be notified of his/her right of appeal in terms of the provisions of Section 62 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) and/or the Municipal Systems Act, 2000 (Section 62) with regard to the above decision.

RESPONSIBLE OFFICIAL :	SW VAN DER MERWE
TARGET DATE FOR IMPLEMENTATION :	14 JUNE 2017
TARGET DATE TO INFORM APPLICANT :	14 JUNE 2017
TARGET DATE TO INFORM OBJECTOR :	14 JUNE 2017

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14.

ERF 121, 16 GEELBEK STREET, VAN DYKSBAAI (KLEINBAAI), OVERSTRAND MUNICIPAL AREA : PROPOSED REZONING AND CONSENT USE : MESSRS PDM CONSULTING ON BEHALF OF THE SCM TRUST

121 GKB (3164)

**SW van der Merwe
20 March 2017**

(028) 313 8900

Hermanus Administration

THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON 22 MAY 2017, WHICH COMMITTEE RECOMMENDED AS FOLLOWS:

RECOMMENDATION:

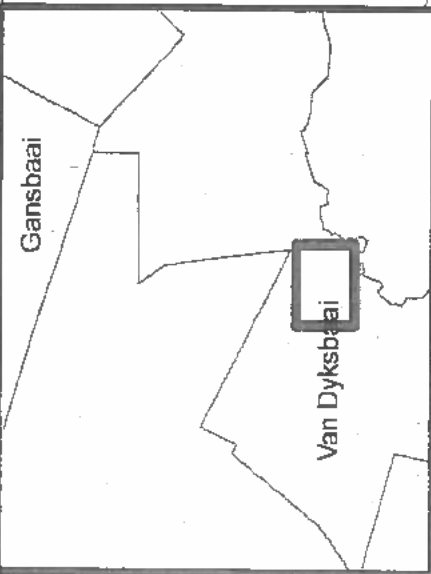
1. that the objections be noted;
2. that, in terms of the provisions of Section 16 of the Land Use Planning, 1985 (Ordinance 15 of 1985) the application for the rezoning of Erf 121, Van Dyksbaai from Single Residential Zone to Local Business for tourism business purposes, **be approved**;
3. that, in terms of Section 5.7 of the Gansbaai Zoning Scheme Regulations the application for consent use (tourism business and tourism accommodation) to accommodate the existing shark viewing business as well as two proposed guests rooms, **be approved**;
4. that the approvals in 1. and 2. above be subject to the following conditions:
 - (a) that a parking layout be submitted within 30 days from the final approval of the application to the satisfaction of the Senior Manager Engineering Services;
 - (b) that the on-site parking bays be permanently demarcated and surfaced to the satisfaction of the Senior Manager : Engineering Services and at all times be available for use by clients/visitors to the premises. No parking on the road reserve will be permitted;
 - (c) that in the event that the parking standard cannot be met on-site, the applicant will be required to make a payment in lieu of onsite parking provision in accordance with the requirements of the scheme regulations;
 - (d) in the event that a payment in lieu of parking provision be applicable, such monies to be ring fenced into a parking fund for the planning and development of a communal parking area in Van Dyksbaai, as per the van Kleinbaai Nodal Framework Report;

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- (e) that the applicable business license in terms of the relevant legislation be obtained;
 - (f) that the briefing of clients may only take place indoors;
 - (g) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
 - (h) that commercial rates and service tariffs, as determined by the annual budget, be made applicable, which tariffs are automatically adjusted in terms of the annual budget;
 - (i) that the display of advertising shall comply with the Overstrand Signage By-law;
 - (j) that the establishment be conducted in such a manner that it is not found to be detrimental to the peacefulness and amenity of the surrounding area;
 - (k) that should any justified complaints with regards to noise and disturbance be received, the applicant be responsible for the appointment of a noise specialist at his cost as well as the implementation of the relevant mitigation measures;
 - (l) that all the conditions in the Services Report be complied with;
 - (m) that building plans be submitted for approval by the Building Control Department within 60 days of the approval of this application;
 - (n) that no encroachments of the road reserve will be permitted without formal approval by the Municipality;
 - (o) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
 - (p) that Council may impose additional conditions in order to minimise any potential public nuisance; and
 - (q) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.
5. that the applicant be notified of his/her right of appeal in terms of the provisions of Section 62 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) and/or the Municipal Systems Act, 2000 (Section 62) with regard to the above decision.

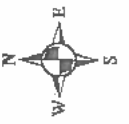
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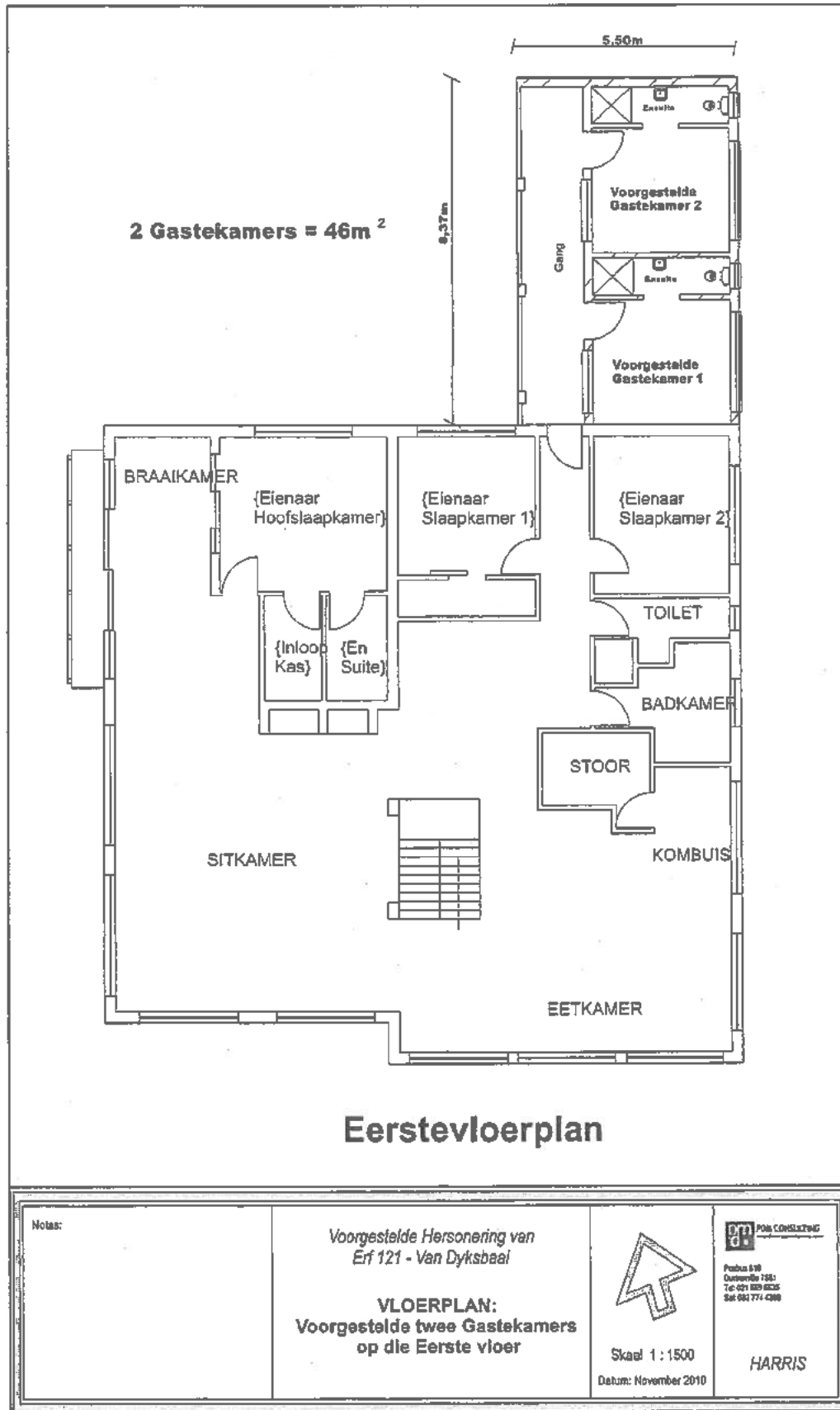
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TARGET DATE FOR IMPLEMENTATION :	17 MAY 2017
TARGET DATE TO INFORM APPLICANT :	17 MAY 2017
TARGET DATE TO INFORM OBJECTOR :	17 MAY 2017



LOCALITY MAP

ERF 121:Kleinbaai



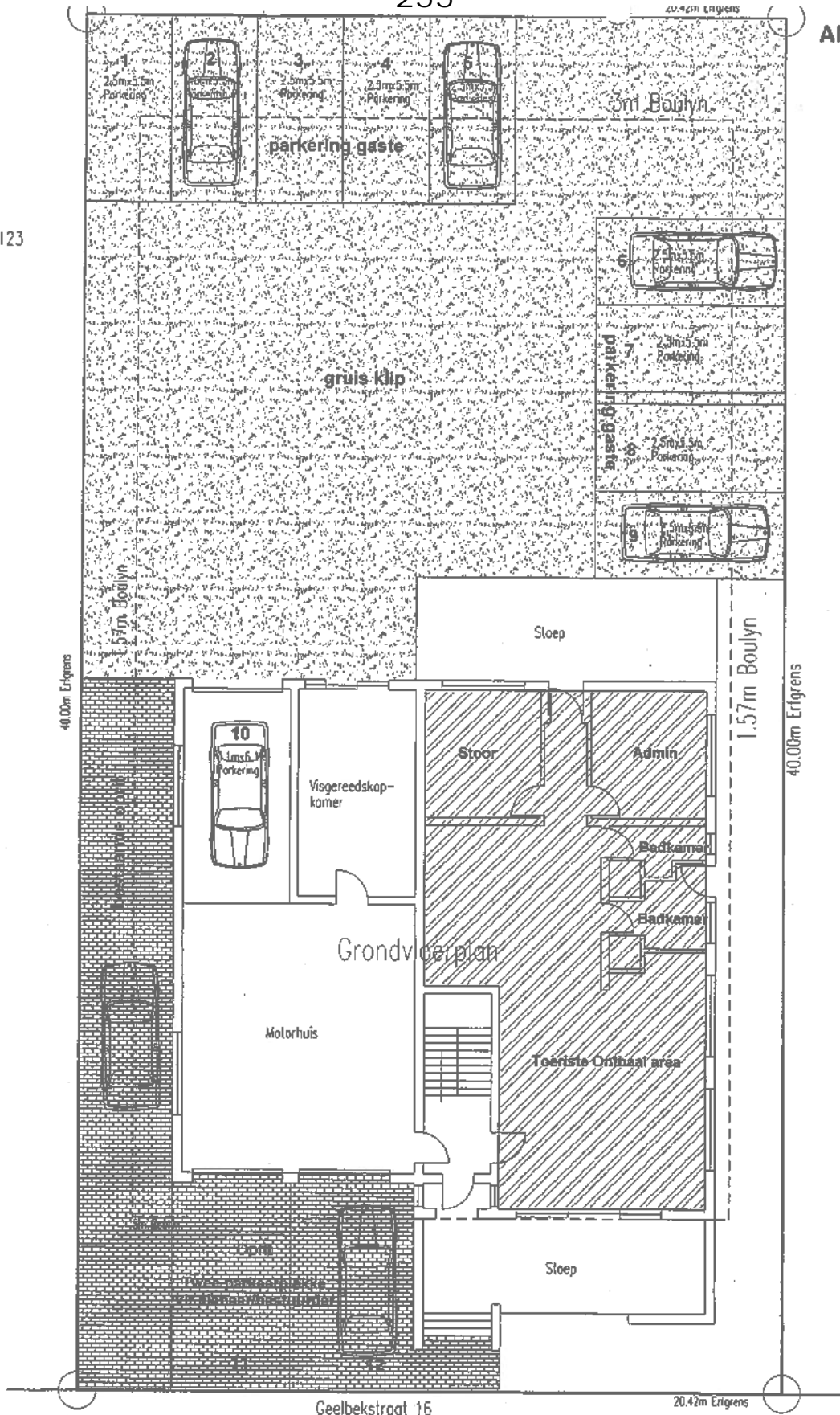


Erf 123

Erf 119

Erf 122

Erf 120



Notas:

Toerisme Sake: 108 vierkante meter
Aantal gastekamers: 2

Vereiste parkeering: Gastekamers - 2 parkeering
Toerisme Sake - 5 parkeering

Parkeering voorsien: 10
Addisioneel vir Eienaar: 2
Totale aantal Parkeerplekke: 12

Voorgestelde Hersonering van
Erf 121 - Van Dyksbaai

**PLAN 772/1
TERREINPLAN
(met parkeeruitleg)**



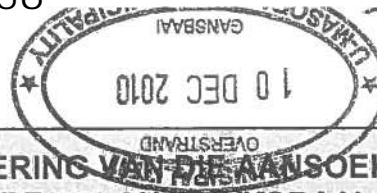
Skaal 1 : 1250

Datum: November 2010

pdm PDM CONSULTING

Proes 610
Durbanville 7551
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Me. J. Beukes



**MEMORANDUM TER MOTIVERING VAN DIE AANSOEK OM
HERSONERING VAN ERF 121, VAN DYKSBAAI**

1. INLEIDING

1.1 Die Aansoek

Hiermee word ingevolge Artikel 4(7) en Artikel 16 van die Ordonnansie op Grondgebruikbeplanning 1985, (Wet 15 van 1985), aansoek gedoen vir die Hersonering van Erf 121, asook die wysiging van die Groter Gansbaai Ruimtelike plan van 2004. Hierdie konsep word vervolgens in meer detail bespreek.

Daar word derhalwe aansoek gedoen vir die volgende:

- Die hersonering van Erf 121 vanaf Enkelresidensiele Sone na Plaaslike Sakesone;
- die goedkeuring van 'n vergunningsgebruik onder Plaaslike Sakesone vir Toerisme Sake
- die bedryf van 'n verblysondermeming (2 gastekamers)
- die wysiging van die Overstrand Munisipale Ruimtelike Ontwikkelingsraamwerk, asook die Groter Gansbaai Ruimtelike Plan (2004) om die benutting van Erf 121 vir die voorgestelde grondgebruik te akkomodeer;
- Die goedkeuring van die voorgestelde parkeeruitleg;
- die goedkeuring van die aangehegte terreinontwikkelingsplan en vloerplan

1.2 Die Opdrag

Hierdie firma is deur die eienaar van bg. perseel, SCM Trust, opdrag gegee om die aansoek vir die goedkeuring van 'n hersonering voor te berei en by die plaaslike owerheid vir goedkeuring in te dien. Vind die volmag van die eienaar aangeheg by hierdie memorandum.

1.3 Doel van die Memorandum

Die doel van hierdie memorandum is om al die nodige inligting en motivering aan te bied wat die plaaslike owerheid sal benodig om 'n ingeligte besluit te neem aangaande die aansoek. Dit is dan ook, ingevolge regulasies tot Ordonnansie Nr. 15 van 1985, die Munisipaliteit se prerogatief om binne twee weke bykomende inligting aan te vra indien hy van mening is dat die aansoeker nie voldoende inligting verskaf het om 'n behoorlik ingeligte besluit moontlik te maak nie.

2. DIE EIENDOM

2.1 Eienaar

Die perseel is geregistreer in die naam van SCM Trust. Sien aangehegte volmag van die grondeienaar asook die betrokke titelakte.

2.2 Titelbeskrywing en Grootte

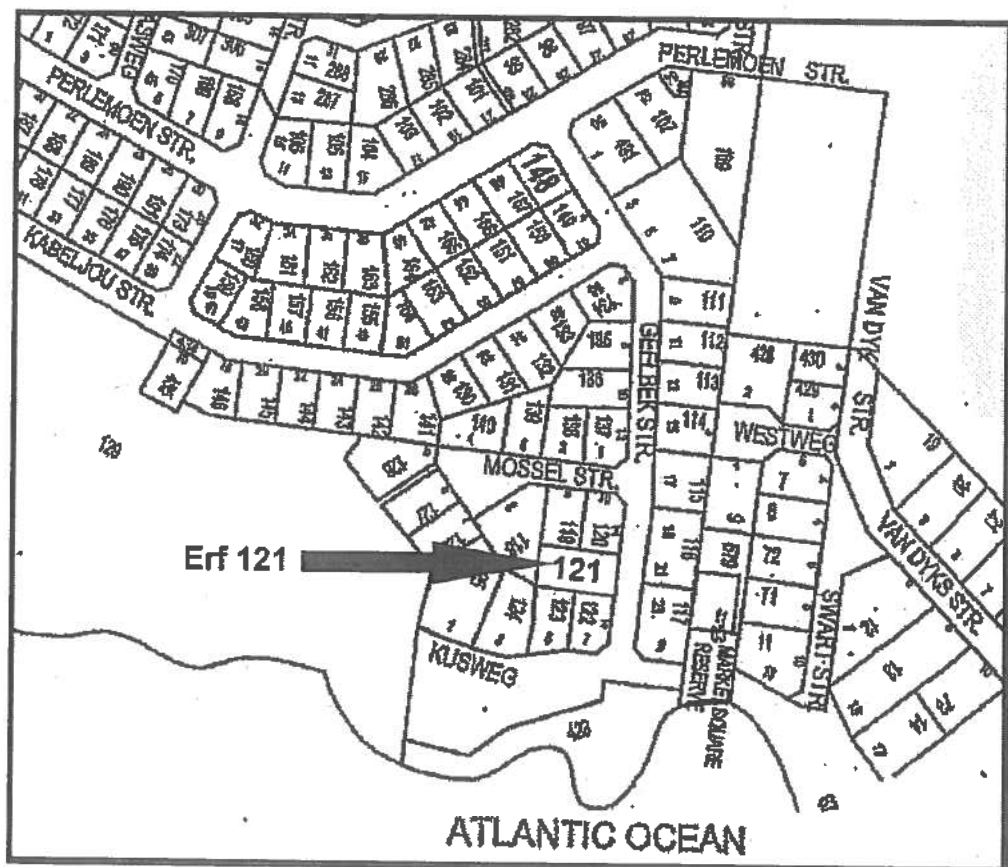
Die perseel word as volg omskryf in die akte T7958/96, soos aangeheg.

"Erf 121 Van Dyksbaai, Gansbaai Municipality
Division Caledon, Province of Western Cape
In extent: 817 square metres"

Die titelakte vir die perseel, sowel as 'n aktebesorgersertifikaat, is by hierdie aansoek aangeheg. Geen beperkende voorwaardes op die titelakte verhoed die aansoek om 'n vergunningsgebruik vir 'n verblyfonderneming nie.

2.3 Ligging

Die ligging van die eiendom in sy plaaslike konteks word op die meegaande figuur in aangetoon. Die perseel is in Kleinbaai aan die suidelike gedeelte van Geelbekstraat waar dit skakel met Kusweg.



2.4 Bestaande grondgebruik

Slegs 'n enkele woonhuis oor twee vlakke kom op die aansoekperseel voor.

Die woonhuis word huidiglik vir enkelwoon doeleindes, ingevolge die betrokke sonering van die perseel, benut.

'n Klein gedeelte van die woonhuis (op grondvloer) word ook benut vir die onthaal van toeriste wat wag om te vertrek op haai besigtigingstoere vanuit Kleinbaai hawe.

2.5 Bestaande Sonering

Die perseel is huidiglik slegs vir Enkelresidensiele doeleindes gesoneer, soos vervat en omskryf in die Groter Gansbaai Skemaregulasies.

2.6 Omliggende Grondgebruike

Die aansoekperseel vorm deel van 'n opgeboude gebied en word omring deur woonhuise. Die erwe direk ten suide en weste van erf 121 word slegs vir enkelwoon doeleindes benut. Let egter daarop dat die aanliggende erf 120 ook vir die onthaal van toeriste benut word.

Dit is ook belangrik om te let op die sonering en grondgebruik van Erf 117 aan die oorkant van Geelbekstraat wat betreklik onlangs gehersoneer is vir Sakedoeleindes en wat huidiglik benut word vir 'n winkel (grondvloer) en restaurant (eerste vloer).

Aan die noordekant van Geelbekstraat, op die kruising met Perlemoenstraat, is verdere sakegebruike in die vorm van 'n kafee, vulstasie en drankwinkel, en parkering word op die betrokke perseel sowel as parallel aan Geelbekstraat voorsien.

2.7 Natuurlike Omgewing

Die aansoekperseel is grootliks ontwikkel en die woonhuis, met bestaande parkeerarea aan die agterkant, beslaan die hele perseel en geen natuurlike plantegroei kom dus voor nie.

3. DIENSTE

Aangesien die aansoekperseel aanliggend tot Geelbekstraat is en die gepaardgaande residensiele ontwikkelings ten weste daarvan geleë is, is munisipale dienste, om die voorgestelde ontwikkeling te bedien, geredelik beskikbaar.

Dit kan kortliks genoem word dat alle dienste beskikbaar is en hierdie voorgestelde ontwikkeling daarby kan aansluit. Sien die aangehegte diensteverslag van Mnr. Thys van Rooyen Consulting.

3.1 Verkeersimpak

Daar is geen verkeersstudie onderneem vir hierdie aansoek nie. Die vereiste nege ekstra parkeerplekke behoort 'n minimale verhoging in ritopwekking op die aanliggende Geelbekstraat teweeg te bring. Let daarop dat die persone wat op 'n haaiduik toer gaan, gewoonlik vanaf Kaapstad vervoer word in 'n minibus. Enkele persone gebruik soms gehuurde motors, maar dit is die uitsondering. Op die meeste sal daar dus twee minibusse en ongeveer twee motors gebruik maak van die bestaande parkering agter die woonhuis, soos aangetoon op die aangehegte terreinplan. In die meeste gevalle sal die minibusse nie vir die volle duur van die haaiduik toer hier parkeer nie, maar gewoonlik vetrek na Gansbaai om later terug te keer en die toeriste op te laai.

Let daarop dat die toegang na erf 121 se parkeerarea basies reg oorkant die toegang na die parkeerarea van die sakekompleks (erf 117) in Geelbekstraat, is. Dit is dus heel waarskynlik dat 'n studie destyds onderneem is om die invloed van hierdie toegang vanaf Erf 117 op Geelbekstraat te toets.

Dit bly egter die plaaslike owerheid se prerogatief om verdere studies aan te vra indien nodig.

4. VOORGESTELDE VERBLYFSONDERNEMING

Die aansoek behels onder andere 'n hersonering vanaf die bestaande Enkelresidensiele Sonering na Plaaslike Sakesone om sodoende 'n verblyfsonderneming, bestaande uit maksimum twee (2) gastekamers, te bedryf.

Die twee voorgestelde gastekamers is 'n uitbreiding van die eerste vloer van die bestaande woonhuis, soos aangetoon op die aangehegte vloerplan.

Die gastekamers het elk 'n ensuite badkamer en die totale oppervlakte van die voorgestelde aanbouing op die eerste vloer beloop 46 vierkante meter.

4.1 Relevante Omgewingswetgewing

Die aansoepersseel val binne 'n afstand van 100 meter van die hoogwatermerk en is dus onderhewig aan regulasie 544 van die betrokke NEMA wetgewing, wat spesifiek verwys na gelyste aktiwiteite.

In terme van hierdie regulasies (listing notice 1 – activity 16) word 'n aanbouing van minder as 50 vierkante meter nie gesien as gelyste aktiwiteit nie en hoef geen verdere omgewingsstudies onderneem te word nie.

Die opinie van GNEC (Environmental Consultants) is ook ingewin en hul was van mening dat in hierdie geval (aanbouing < 50 vierkante meter) geen verdere studies benodig word, aangesien geen gelyste aktiwiteite "ge-trigger" word.

4.2 Parkering

In terme van die Groter Gansbaai Skemaregulasies word een parkeerplek per gastekamer vereis by 'n aansoek van drie gastekamers en minder. In die

voorgestelde terreinuitleg word tien (10) parkeerplekke agter die woonhuis voorsien (sien terreinplan) In totaal sien die parkeeruitleg as volg daaruit vir die voorgestelde twee gastekamers:

- Parkering vereis (gastekamers): 2
- Parkering voorsien: 2 (Parking 1 – 2)
- Parkering vereis – Eienaar / bestuurder: 2
- Parkering voorsien: 2 (Parking 11-12)

Soos aangedui op die betrokke terreinplan word die tien parkeerplekke ten volle op die aansoekperseel voorsien. Die afmetings van die parkeerplekke is ingevolge die munisipale voorskrifte, nl. 5,50 meter lank by 2,50 meter breed. Daar is genoegsame ruimte vir voertuie om te draai en met hul neus na voor toegang tot Geelbekstraat te bekom. Geen vertraging van verkeer in Geelbekstraat word dus verwag nie. Sien aangehegte terreinplan.

5. TOERISME SAKEGEBRUIK

Daar word ook aansoek gedoen vir 'n vergunningsgebruik onder die voorgestelde Plaaslike Sakegebruik om Toerisme Sake te bedryf.

Toerisme Sake word ingevolge die Gansbaai Skemaregulasies omskryf as sakegebruike wat direk verband hou met die toerisme bedryf en dit positief bevorder, en sluit o.a. in restaurante, gastehuse, "souvenir" winkels, toer operateurs, ens.

In hierdie geval word 'n gedeelte van 108 vierkante meter van die woonhuis (sien terreinplan) op grondvlak benut vir die onthaal van toeriste wat op haaibesigtigingstoere gaan. Die toeriste word vooraf hier ontvang en 'n ligte ontbyt word aan hul voorsien en administratiewe take verrig, alvorens hul na die hawe vertrek. Die groepe bestaan uit maksimum 18 persone en hul vertoef gemiddeld 'n uur op die perseel voor hulle op hul toer vertrek.

Die gemiddelde haaibesigtigingstoer beloop 3 ure waarna die toeriste terugkeer na die perseel vir die vertoning van hul betrokke DVD. Hulle vertoef gemiddeld hier vir 'n verdere uur voor hul finaal vertrek.

Daar word soms twee toere per dag aangebied en dit word so geskeduleer dat die twee groepe nie dieselfde tyd op die perseel is nie. Die eerste groep word gewoonlik ontvang vanaf sewe uur die oggend en verlaat Kleinbaai na hul toer teen ongeveer 12h30. Die tweede groep se toer word dan geskeduleer vir die middag. Daar word dus altyd verseker dat twee toergroepe nooit dieselfde tyd by die perseel aankom of vertoef nie.

Toere word sewe dae 'n week en regdeur die jaar aangebied, onderheweig natuurlik aan weersomstandighede. In die wintermaande is daar egter heelwat dae wat toere afgestel word a.g.v. gure weersomstandighede.

5.1 Parkering

Soos aangetoon op die betrokke terreinplan word 10 parkeerplekke agter die woonhuis op die bestaande parkeerarea voorsien.

Twee van die parkeerplekke word benodig vir die twee voorgestelde gastekamers, wat dus 'n verdere 8 parkeerplekke laat vir toeriste wat haaibesigtigingstoere onderneem.

In terme van die Gansbaai Skemaregulasies word slegs 5 parkeerplekke benodig vir die voorgestelde 108 vierkante meter ruimte wat as Toerisme Sake bedryf word. Daar is dus 'n redelike oorvoorsiening van parkering op die aansoekperseel.

5.2 Wysiging van Overstrand Munisipale Ruimtelike Ontwikkelingsraamwerk & Groter Gansbaai Ruimtelike Plan

Die bestaande ruimtelike beplanning dui die gebied aanliggend tot Geelbekstraat aan vir suiwer residensiele gebruike, maar daar is reeds groot vordering gemaak met nuwe ruimtelike beplanning vir hierdie as.

In terme van die konsep "Overstrand Municipal Growth Management Strategy" (Mei 2010), word die as aanliggend tot Geelbekstraat geormerk vir toekomstige kommersiele en gemengde gebruike. Hierdie ruimtelike plan het egter nog geen amptelike status nie en daar word dus aansoek gedoen vir die wysiging van die bestaande Overstrand Munisipale Ruimtelike Ontwikkelingsraamwerk asook die Groter Gansbaai Ruimtelike Plan (2004) om die voorgestelde sakegebruik op die aansoekperseel te kan akkomodeer.

6. MOTIVERING

Die ontwikkeling van hierdie aansoekperseel as verblyfsondememing (gastekamers) en onthaal area vir toeriste in die haaibesigtigingsbedryf, vorm deel van die natuurlike ontwikkeling van die Kleinbaai area oor die afgelope tien jaar. Dit steun die snelle groei in die voorsiening van akommodasie en toerisme ge-oriënteerde bedrywe, wat 'n direkte gevolg is van die geweldige groei in die toerisme bedryf in die groter Overstrand gebied.

Dit is dan ook 'n aanvaarbare tipe grondgebruik wat binne bestaande residensiele gebiede ondersteun word tot op Provinsiale beplanningsvlak, nie net oor die toerisme potensiaal daarvan nie, maar ook as gevolg van die werkskeppings potensiaal daarvan.

Dit is ook belangrik om te let op die moontlike toekomstige ontwikkeling van spesifiek Geelbekstraat en dus die gunstige ligging van die aansoekperseel in terme van vooruitbeplanning vir die Kleinbaai gebied.

In terme van die konsep "Overstrand Municipal Growth Management Strategy" word Geelbekstraat, vanaf Kusweg noordwaarts tot by Perlemoenstraat, aangetoon as die toekomstige kommersiele nodus vir die Kleinbaai gebied. Die voorgestelde

grondgebruik sal dus goed inskakel en toekomstige kommersiele en gemengde gebruike komplimenteer.

In ag genome die lae intensiteit van die voorgestelde grondgebruik is daar geen noemenswaardige negatiewe impakte uitgelig ten opsigte van die voorgestelde gebruike van die aansoekperseel nie. Die aanwending daarvan vir 'n verblyfsonderneming met twee gastekamers, asook 'n onthaalarea vir toeriste, kan dus vir goedkeuring aanbeveel word sonder die benadeling van enige bestaande regte van aanliggende eienaars.

Verder navrae en voorstelle ten opsigte van die voorgestelde ontwikkeling van die perseel sal verwelkom word.

VIR AANDAG: MNR S. VAN DER MERWE
Die Areabestuurder
Gansbaai Administrasie



Mev G.B. Kapp
Mosselstraat 9
Kleinbaai
(Van Dyksbaai)
11 Februarie 2011

U VERWYSING: ERF 121, VAN DYKSBAAI (1632)

Verwys u skrywe van 14 Januarie 2011, rakende die hersonering en ontwikkeling van bogenoemde erf.

My eggenoot, Mnr C.G. Kapp het my ontval op 21 Augustus 2010. As sy weduwee en enigste erfgenaam in die onafgehandelde boedel, teken ek beswaar aan teen die voorgename ontwikkeling en hersonering van Erf 121, Van Dyksbaai, Kleinbaai, en wel om die volgende redes:

1. Genoemde erf is direk aangrensend aan my erf (erfnr 119, te wete Mosselstraat 9), en die hele voorgestelde ontwikkeling geskied reg voor my eiendom, wat my privaatheid skend deur toeriste wat kom en gaan. Volgens die bouplan is daar groot vensters wat direk op my erf en sit- en slaapkamers uitkyk.
2. Ek maak beswaar teen die oorskryding van die boulyne (parkeerarea – grondvlak) wat deur die Munisipale regulasies daargestel is, en verleen nie toestemming daartoe nie.
3. Die hele voorgestelde ontwikkeling vir die gaste-area blokkeer my see-uitsig totaal en verlaag dus die waarde van my eiendom, daar die verkoopswaarde grotendeels berus op die see-uitsig.
4. Ek teken beswaar aan teen die hersonering, daar ons juis die eiendom aangekoop het omdat dit in 'n rustige, enkelresidensiële area geleë is en dus voorsien het in ons aftreebehoefte.

Genoemde eiendom is 22 jaar gelede aangekoop om 2 redes:

1. Die rustigheid van die omgewing, daar dit ons aftree-eiendom is
2. Die lieflike see-uitsig vanaf my eiendom, wat spesifiek so gebou is om 'n see-uitsig te hê.

Daar word reeds vir 'n geruime tydperk 'n besigheid bedryf vanaf erf 121 (ons bure,) en ons het herhaaldelik daarteen beswaar aangeteken (omdat ons in 'n residensiële area

FILE NO:	121
SCAN NO:	19
COLLABORATOR NO:	221046

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Mev. G.B. Kapp

woon) by die Munisipaliteit, maar geen reaksie vanaf die Munisipaliteit verkry om hulle eie reëls toe te pas nie.

Groot deel van Kleinbaai (Van Dyksbaai) se permanente inwoners is pensioenarisse, wat reeds daar gevestig het omdat dit n leeflike rustige, stil area is.

Ek aanvaar dat die aansoek voorsiening maak vir n tweevlakwoning vir die toeriste, om n see-uitsig te voorsien vanaf gasteslaapkamers. MAAR indien dit toegelaat word, word ek ontnem van my reg (van die afgelope 22 jaar) omself vanaf my totale woning n seeuitsig te geniet, daar my algehele seeuitsig deur hierdie ontwikkeling geblokkeer word.

SIEN VERDERE BESWARE:

Ek staan hersoenering heeltemal tee.

Parkering op sypaadjies.

Bote en trekkers op en af in Geelbekstraat hou groot gevaar en oponthoud in en steurnis.

U kan ook verwys na besware oor jare van my oorlede man Mnr. C.G. Kapp in die verband.



MEV. G.B. KAPP

Tel: 0283840922

Sel: 078 2470952

Gansbaai Administrasie
Posbus 26
GANSBAAI


Vredeloofweg 98
Vredeloof
BRACKENFELL
7560
11 Februarie 2011

Geagte Mnr/Me

MEESTERVERW. 12845/2010 – BOEDEL WYLE C.G. KAPP

Hiermee bevestig ek as eksekuteur van bogenoemde boedel, dat Mev.G.B. Kapp die enigste erfgenaam is van Mnr C.G. Kapp se (onafgehandelde) boedel.

Indien enige stawende dokumentasie benodig word, kontak my gerus.



Me E. BEDEKER
Selnr: 084 513 5071
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Mosselstraat 5
 Posbus 674
 GANSBAAI
 7220

(S vld merwe)
 I le Roux

Die Direkteur: Infrastruktuur en Beplanning
 Posbus 26
 GANSBAAI
 7220

12 Februarie 2011

Geagte Meneer/Mevrou,

FILE NO:	EZ 121 Van Dyksbaai
SCAN NO:	12
COLLABORATOR NO:	211300

Lêerverwysing: Erf 121 VanDyksbaai[1632]

Ek is die geregistreerde grondeienaar van erf 139 Mosselstraat, Kleinbaai.

Ek wil ten sterkste beswaar aanteken teen die voorgenome hersonering van erf 121 Van Dyksbaai van enkel residensiële sone na plaaslike sakesone. Dit verminder die waarde van ons eiendomme om aanliggend tot 'n sakesone geleë te wees.

Die meerderheid van die grondeienaars aangrensend tot hierdie betrokke erf is totaal gekant teen die hersoneringsaansoek, juis omdat dit 'n toename in verkeer en toerisme tot gevolg sal hê. Dit skend die rustigheid en uniekheid van die plekkie, die grootste rede waarom die meeste van ons hier grond aangekoop het.

Benewens die gastehuis aansoek word daar tans ook nog die haaiboot-besigheid van hierdie perseel bedryf. Dit beteken ekstra parkeerplek vir die personeel wat daar werk, bv. die ontvangdame en administratiewe personeel sowel as die skoonmaakpersoneel, die duikinstrukteur, die skipper, ens. Voeg daarby nog die diensvoertuig wat heen en weer beweeg om die toerusting, versnaperinge, ens. aan te ry. Dan is daar ook die toerbussies van die onderskeie maatskappye wat hul toeriste aanry. En dan probeer die maatskappye sover moontlik gebruik maak van direkte bemarking, dus toeriste wat met hul eie vervoer opdaag, want dit beteken dat hulle die

Onw. eke
 erf 121.

tussenganger-agente nie kommissie hoef te betaal nie. Daarom lyk dit soms soos 'n slagveld van motors rondom die persele. Al hierdie parkeerprobleme moet in ag geneem word.

Verder word daar dikwels ook advertensieborde voor die besighede uitgeplaas op die sypaadjies wat dan vir voetgangers geen ander keuse laat as om die besige pad te beweeg nie. Dit lei tot baie frustrasie. Ook word die sypaadjies gebruik vir parkering vir die ekstra verkeer en voertuie wat op en af laai. Maar die grootste probleem is wanneer die sypaadjies nie beskikbaar is nie omdat dit afgesper word met klippe. Nou gebeur dit dat 'n groot vragmotor of haaiboot in die pad op beweeg en dan word jou voertuig outomaties van die pad gedwing en beskadig deur hierdie klippe. Verseker asseblief vir ons voetgangervriendelike sypaadjies!!!!

Ook sal die oprigting van die voorgestelde twee gastekamers die klein stukkie uitsig wat ek nog op die hawetjie het, wat die middelpunt van al die bedrywighede in Kleinbaai is, totaal wegneem. Die res van die uitsig word reeds deur melkhoutbome toegegroeï. Indien hierdie stukkie uitsig weggeneem word, sal dit teweegbring dat my eiendom, wat my duurste en grootste belegging is wat ek tot dusver gedoen het, baie van sy waarde verloor.

Die uwe,



G. J. van Heerden

Eienaar

Tel. 028 384 1356

- 5 Parkering bly 'n groot probleem en dit moet aangespreek word in al die aansoeke vir hersonerings en haibesigtigingsbesighede. Daar moet in gedagte gehou word dat hierdie besighede parkering moet voorsien vir 'n aansienlike personeel, bv. die ontvangsdame, die admin. personeel, die diensvoertuig, die duikinstrukteur, die skipper, ens. en die bussies wat die toeriste vanaf Kaapstad vervoer. Dan moet daar ook nog voorsiening gemaak word vir die toeriste wat per motor in beweeg, want dit bly die besigheid se hoofdoel om hierdie "direktebemarkingtoeriste" te bekom omdat hulle dan meer geld in hulle sak steek as hulle nie deur agente hoof te werk nie. Dus heelwat ekstra motors wat om hierdie besighede vergader, soms tot soveel as tien en meer. Dit is duidelik dat ander parkeervereistes hier sal geld.

Ons versoek is dus dat hierdie gastehuis en haibesigtigingsbesigheid aan dieselfde regulasies moet voldoen as al die ander bedrywe en dat daar ook wetstoepassings ten opsigte van hierdie regulasies sal geskied.

Dit bly 'n prioriteit dat waar hierdie regulasies bestaan, dit afgewing moet word anders was hierdie hele oefening futiel.

Ons dank u by voorbaat.

Die uwe


VOORSITTER
Annelie Potgieter
Sel 076 677 8906

NMS

Mr. S. Muller
 Director: Infrastructure and Planning
 Gansbaai Administration
 Overstrand Municipality
 P.O.Box 26
 Gansbaai
 7220

FILE NO:	EL 121 Kleinbaai
SCAN NO:	13
COLLABORATOR NO:	210563



(S. J. de Merve)
 I le Roux

P.O.Box 1116
 Gansbaai
 7220

14th February 2011

Sir,

Erf 121, 16 Geelbek Street, Van Dyksbaai: Application for rezoning, consent use, amendment of the Greater Gansbaai Spatial Plan and the Overstrand Municipal Wide Spatial Development Framework

I am the owner of Erf 125, Van Dyksbaai and have been served with notice of the above application.

A. Objection to the above applications.

1. Location and Accessibility

The focal point of Van Dyksbaai is the Kleinbaai slipway. It is widely utilized by fishermen, both recreational and commercial, kelp harvesters, abalone divers, recreational boaters, whale watchers and shark cage operators. It is dominated by 8 shark cage operators, 7 of whom have the right to permanent parking at the slipway. The eighth operator parks his boat at his premises in Geelbek Street and tows it to the slipway on a daily basis. A single whale watching operator is also parked permanently at the slipway.

The boats used by the shark cage operators have increased substantially in size in the last five years and the total capacity more than doubled. The applicant operates a boat with a capacity of 20 passengers and 3 crew. Subject to weather conditions the boats do at least one trip a day, often two and sometimes three.

This has had a dramatic impact on traffic in the area with concomitant problems of parking, dust pollution, pedestrian safety and noise. The situation is exacerbated by the fact that the slipway is situated in a residential area and, with one exception, all the adjacent properties are zoned for single residential use. In the immediate area surrounding the applicant property 4 other residential premises are illegally used for business purposes by shark cage operators. Each operator receives clients on their business premises and then transfers them to the slipway and then reverses the

Owner of
 Erf 121

operation on departure. Use is made of a variety of service vehicles such as tractors, mini-busses and bakkies. The footprint of each of these businesses is therefore larger than that of a business conducted solely on the premises themselves.

Additional business premises are located at the intersection of Geelbek and Perlemoen Streets.

The applicant suggests that the identification of Geelbek Street as a possible nodus of commercial development in Kleinbaai is justification for approval of the application. Before this can become a reality a comprehensive impact study will have to be undertaken. The industry bears many of the signs of a parasitic enterprise, monopolizing public resources at a nominal rate. The evidence to date suggests that the shark cage industry will face problems of sustainability once further permits are granted and possible collusion on pricing is addressed. The competitive advantage of Gansbaai harbour with its ability to launch larger vessels and better facilities will have to be considered. In any event the way in which the shark cage business is currently conducted precludes wider participation. Two anchor tenants in the new business premises at the bottom of Geelbek Street have closed their doors in the last two years in the face of commercial reality. Anecdotal evidence suggests that guest houses in the area are generally struggling to become financially viable.

2. Compatibility with character of the surrounding area and impact on existing use rights.

The cumulative impact of the shark cage operations on residential properties adjacent to the slipway has been negative. During the recent general property valuation in Overstrand the valuation of Erf 125 Van Dyksbaai was reduced primarily on the basis of the impact of the shark cage operations at Kleinbaai slipway.

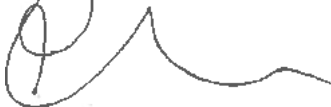
The applicant justifies his application with reference to other similar businesses that have been established in the area surrounding the slipway. Five of the seven premises used by shark cage operators are doing so illegally from residential premises. These are unregulated and the cumulative impact of the increased traffic has been detrimental to surrounding properties. A proper traffic planning study is urgently required in order to reconcile the interests of the various users and not just the shark cage industry.

B. Conclusion

Since 2002 I have repeatedly attempted to obtain the co-operation of the relevant authorities in the proper long term planning of the Kleinbaai slipway and surrounds. This has not been successful and the management of the area has been characterized by ad hoc decisions, almost exclusive preference for the interests of the shark cage operators and a failure to implement undertakings or to consult other legitimate interests.

1. Any amendment of the relevant spatial development framework or plan is opposed subject to proper planning of the development of the Kleinbaai slipway site and surrounds, including impact studies, feasibility studies, public participation and implementation plan.
2. The rezoning of Erf 121 is opposed subject to the same conditions above.
3. The consent use of Erf 121 is opposed subject to the same conditions above.

Yours faithfully



A G Steyn

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Professional Accountant (SA)

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15 Februarie 2011

Die Area Bestuurder
Overstrand Munisipaliteit
Posbus 26
Gansbaai
7220

Geagte Meneer,

*(S veld mense)
I le Roux***INSAKE: AANSOEK OM HERSONERING : ERF 121, VAN DYKSBAAI**

U kennisgewing Erf 121, Van Dyksbaai (1632) dateer 14 Januarie 2011 aangaande bogenoemde aangeleentheid verwys.

As eienaar van erf 122, Geelbekstraat 18, Van Dyksbaai, wens ek soos volg te reageer op hierdie versoek :

1. Vorige korrespondensie met u kantoor oor die toestand van die hawe en die deurpad voor ons huis te Geelbekstraat 18, het ook betrekking op bogenoemde aansoek. Alhoewel daar reeds vordering gemaak is deur die Munisipaliteit met die teer van die gedeelte van Kusweg voor my eiendom, is daar nog niks konstruktiefs aan die hawe gedoen tov die skade wat wind en stof aan ons huise veroorsaak nie.
2. Ongeag die verduidelikings in die aansoek vermeld aangaande skynbare "minimale" impak wat verkeer en mense gaan meebring met hersonering, is dit tog gegewe dat waar enige sakebedrywighede plaasvind, van watter aard ookal, in 'n oorwegend residensiële gebied, dit onafwendbaar lei tot meer verkeer, mense en ander bedrywighede wat die rustigheid van sodanige residensiële gebied negatief beïnvloed.
3. Daar is reeds erge verkeer van mense en voertuie in Geelbekstraat agv die hawe- en haabedrywighede wat daartoe lei dat Geelbekstraat oorbenut word en dat die gevolg hiervan is dat daar oor privateiendom geloop en gery/parkeer word. Dit is dus noodsaaklik dat beter en ordentlike sypaadjiegeriewe aan weerskante van Geelbekstraat aangebring word om toeriste/mense uit die pad te hou. 'n Alternatief sal wees om van Geelbekstraat 'n "promenade" te maak met geen voertuigtoegang (behalwe vir grondeienaars se privatevoertuie) en dat dit dan net as wandelhal gebruik word.

H.J. Fourie

FILE NO:	EL 121 van Dyksbaai
SCAN NO:	18
COLLABORATOR NO:	211675

*Onw. erke
Erf 121*

4. Ek is ook bekommerd oor die geraasvlakke wat voertuie en mense gaan veroorsaak wat bedags en snags die gastekamers en parkeerareas agter erf 121 gaan betree. My eiendom is teenaan die oprit na hierdie nuwe ontwikkeling geleë en synde dat mens die rustigheid en unieke karakter van Kleinbaai wil behou (ook die rede waarom aanvanklik hier eiendom bekom is), kan geraasvlakke baie steurend word.

5. Gesien in die lig van al bogenoemde punte, en voordat daar nie 'n behoorlike infrastruktuur gevestig is om mense en verkeer te beheer nie, het ek geen ander keuse as om beswaar teen bogenoemde aansoek aan te teken nie, en sal dit slegs heroorweeg as voertuig- en mensbeheer behoorlik toegepas word en die hawe infrastruktuur aangespreek word.

Die uwe,



H.J. Fourie

Eksekuteur : Bdl wyle GJJ Fourie

Geelbekstraat 18

Kleinbaai

7220

H.J. Fourie

S. van der Merwe
(I. Le Roux)



11 April 2011

Die Hoof Stadsbeplanner
Overberg Munisipaliteit: Gansbaai
Posbus 26 Gansbaai 7220

Aandag: Schalk van der Merwe

ERF 121, KLEINBAAI – KOMMENTAAR OP BESWARE

U skrywe gedateer 24/02/2011, verwysing 1632, het betrekking.

Hiermee kortliks kommentaar op die besware deur u ontvang ten opsigte van die relevante aansoek. Let daarop dat van die kommentaar geensins betrekking het op die spesifieke aansoek nie, maar meereendeels verwys na die plaaslike owerheid se vooruitbeplanningsprosesse en relevante kwessies. Daar word dus in sulke gevalle nie kommentaar gelewer hierop nie.

GB Kapp:

Mev Kapp verwys na die skending van haar privaatheid. Die voorgestelde terreinplan toon wel vensters aan die noordekant van die twee gastekamers, maar 'n mens kan seker aanvaar dat toeriste wat hierdie kamers huur relatief min tyd in die kamers sal deurbring en dus nie heeldag voor die venster sal staan en afkyk oor die aanliggende eiendom nie.

Daar word ook verwys na die oorskryding van boulyne. Slegs vier parkeerplekke val deels binne die betrokke boulyn, en aangesien dit geen permanente stukture impliseer nie word nie aansoek gedoen vir enige boulyn verslappings nie.

Die voorgestelde aanbouing mag wel 'n gedeelte van die aanliggende perseel se uitsig ontnem, maar die beginsel van uitsig is reeds breedvoerig in die howe bespreek. Dit is dan ook bevind dat 'n uitsig nie 'n reg is nie en dat die reg van 'n grondeienaar om binne sy boulyne en die betrokke skemaregulasies se vereistes te ontwikkel, nie ontnem mag word nie.

Verder word verwys na die steurnisse veroorsaak deur trekkers en bote in Geelbekstraat asook voertuie wat op sypaadjies parkeer. Let daarop dat my klient se boot permanent by Kleinbaai hawegebied geparkeer is en nooit gesleep

FILE NO:	E2 121 KB
SCAN NO:	12
LABORATOR NO:	222094

word verder as die hawegebied nie. Daar is ook meer as genoeg parkering agter die betrokke woning en dit is dus nie nodig dat enige voertuie voor sy huis of op die betrokke sygaardjie parkeer nie. Ons glo hier word verwys na ander persele en het nie betrekking op Erf 121 nie. Let daarop dat Mev. Kapp se perseel toegang verkry vanaf Mosselstraat en dus nie geraak word deur verkeer in Geelbekstraat nie.

GJ van Heerden

Mnr van Heerden verwys ook na die rustige omgewing en die toename in verkeer en toeriste. Soos Mev. Kapp verkry Mnr. Van Heerden se perseel ook toegang vanaf Mosselstraat en nie Geelbekstraat wat na bewering geraak word deur verhoogde verkeer en toeriste nie.

Hierdie perseel is nie aanliggend tot " 'n sakesone" nie en daar is 'n pad (Mosselstraat) en 'n erf/huis tussen Mnr. Van Heerden se perseel en die aansoekperseel.

Daar word verder verwys na die parkeersituasie op Erf 121. Hier kan slegs verwys word na die voorgestelde parkeeruitleg soos aangeheg by die oorspronklike aansoek. Daarin word die parkervoorsiening duidelik aangetoon. Let daarop dat 'n total van 12 parkeerplekke voorsien word, alhoewel slegs 9 vereis word. Daar is dus reeds 'n oorvoorsiening van parkering. Die verwysing na "persele" toon dat die beswaarmakers nie spesifiek verwys na hierdie aansoek nie maar dalk na probleemareas elders. Daar is genoegsame parkering op erf 121 en dit is nooit nodig vir voertuie om in die pad of op sygaardjies te parkeer nie.

Daar word ook gereeld verwys na die toeganklikheid van sygaardjies al dan nie. Let asb. daarop dat daar geen formele sygaardjie voor Erf 121 is nie. Die Raad het wel 'n formele sygaardjie aan die oorkant van Geelbekstraat ontwikkel juis om voetganger verkeer te akommodeer. Die padreserwe voor Erf 12 is wel met gras beplant deur die eienaar om dit te verfraai. Dit is egter ten volle toeganklik vir voetganger verkeer.

Die kwessie rondom uitsig is reeds bespreek.

Kleinbaai Belastingbetalersvereniging

Die betrokke kommentaar word nie gesien as 'n beswaar nie, maar bloot 'n verwysing na punte van belang wat in die aansoek aangespreek moet word.

Die kwessie rondom kennisgewing borde en sygaardjies is reeds aangespreek en ek glo ook in hierdie geval is die bord reeds verwyder. Die bordjie was bloot om

verkeer nog beter te reguleer en te verseker dat alle besoekers die betrokke parkeerarea benut en dus geen verkeersprobleme in Geelbekstraat veroorsaak nie. Ek glo die bord was ook op die eienaar se erf en nie in die padreserwe nie. Dit is egter reeds verwyder.

Die kwessie rondom parkeervoorsiening is ook reeds aangespreek en ons glo die plaaslike owerheid sal die betrokke parkeervereistes toepas op alle aansoeke binne hierdie gebied. So sal alle ander toepaslike regulasies sekerlik ook van toepassing gemaak word op hierdie aansoek.

AG Steyn

Mnr Steyn bespreek breedvoerig die impakte van die Haaibedryf en spesifiek die impak daarvan op die Kleinbaai hawegebied en aanliggende omgewing. Ook spekuleer hy oor die langtermyn lewensvatbaarheid van die bedryf.

Mnr. Steyn se kommentaar het in wese te make met die vooruitbeplanning van spesifiek Kleinbaai hawegebied en die omliggende infrastruktuur, om sodoende te verseker dat die huidige gebruike en verdere uitbreiding van die gebied mekaar komplimenteer. Ons wil nie kommentaar lewer hierop nie en voel dit verwys nie spesifiek na die aansoek ter tafel nie, maar eerder na 'n groter proses wat in oorleg met die plaaslike owerheid aangepak moet word.

Mnr Steyn se kommentaar verwys dus spesifiek na die hawegebied en die huidige benutting daarvan, aangesien sy huis oorkant die hawegebied is. Die hawe was egter nog altyd 'n werkende hawe vir beroepsvissermanne en onstpannings vissermanne. Dit is ook duidelik dat oor die afgelope paar jaar daar naweke en vakansietye 'n groot toename in bootverkeer was. Die vooruitbeplanning van die hawegebied is dus wel belangrik, soos deur Mnr. Steyn genoem, maar dit moet in oorleg met die plaaslike owerheid plaasvind. Die kwessie rondom die bestaansreg van die haaibedryf is egter nie 'n kwessie waaroor ons wil kommentaar lewer nie. Die feit dat hul wel die afgelope twaalf jaar gebruik maak van hierdie hawe is 'n gegewe en ons glo die infrastruktuur is voldoende om die bedryf te akommodeer, soos reeds gesien oor die afgelope paar jaar. Indien verdere beplanning rondom die hawegebied benodig word om spesifiek die uitbreiding van die hawe te ondersoek, moet dit in oorleg met die plaaslike owerheid plaasvind.

Die kwessie rondom die identifisering van Geelbekstraat as toekomstige nodus en die motivering van die aansoek in terme hiervan is mynsinsiens ook 'n kwessie wat met die plaaslike owerheid bespreek moet word. Die huidige vooruitbeplanning stel wel Geelbekstraat as 'n nodus vir hierdie gebied en die kwessie rondom hoeveel verdere studies benodig word om hierdie voorstel te motiveer is in die hande van die plaaslike owerheid. Dit is dan ook die plaaslike

owerheid se prerogatief om verdere studies aan te vra ten opsigte van die aansoek, indien hul dink dit is nodig gegewe die konteks van die perseel ten opsigte van die hawegebied.

HJ Fourie

Mnr. Fourie, wie se huis ook aanliggend tot die hawegebied is, se kommentaar handel ook grootliks oor die huidige stand van die hawegebied en die noodigheid van vooruitbeplanning van die area met moontlike opgradering van toegangspaaie ens. Dit verwys dus nie spesifiek na die aansoek ter tafel nie.

Die kwessie rondom sypaadjies is reeds aangespreek.

Hy verwys wel kortliks na die toegangspad na Erf 121 se voorgestelde parkeerarea en die impak van besoekers aan die gastehuis. Aangesien daar aansoek gedoen word vir slegs twee gastekamers, is dit onwaarskynlik dat twee motorvoertuie 'n wesenlike impak op sy privaatheid impliseer, gegewe dat dit die agterkant van sy huis is.

Uit bogenoemde kommentare van aanliggende grondeienaars is geen wesenlike besware ge-opper wat dui op 'n grootskaalse negatiewe impak wat die voorgestelde grondgebruik op aanliggende eindom sal impliseer nie. Heelwat van die kommentare het eerder verwys na die ontwikkeling van die hawegebied asook ander kwessies rondom infrastruktuur wat nie direk verband hou, of beïnvloed word, deur hierdie aansoek nie.

Kontak ons gerus indien u verdere inligting verlang.

Die uwe

CH Stander
vir PDM Consulting cc

22.**KLEINBAAI NODAL DEVELOPMENT FRAMEWORK : MESSRS DECA & CSM ON BEHALF OF OVERSTRAND MUNICIPALITY****Kleinbaai Development Node****SW van der Merwe****(028) 313 8900****Hermanus Administration****19 January 2016****(Updated 26 February 2016)****EXECUTIVE SUMMARY**

The purpose of this report is to table the Kleinbaai Nodal Development Framework for adoption and inclusion as part of the Overstrand Spatial Development Framework (OSDF).

RECOMMENDATION TO THE COUNCIL:

that Council adopts the Kleinbaai Nodal Development Study as part of the Overstrand Spatial Development Framework, subject to the following conditions:

- (a) that parking at the Kleinbaai slipway for shark/whale watching boats be restricted to a maximum of 10 parking bays in accordance with the recommendations of the Engineering Report; and
- (b) that any future permits over and above the 10 referred to in (a) above, be issued by Western Cape and/or National Government be subject thereto that such enterprises operates from Gansbaai Harbour.

RESPONSIBLE OFFICIAL :**SW VAN DER MERWE****TARGET DATE FOR IMPLEMENTATION :****13 APRIL 2016****TARGET DATE TO INFORM APPLICANT :****13 APRIL 2016****TARGET DATE TO INFORM OBJECTOR :****N/A**

Stadsbeplanningsaansoek

Datum	19 Januarie 2011	Erf	121
Gebied	Kleinbaai / Van Dyksbaai	Omgewing	Sleephelling
Tipe Aansoek	Hersonering		

Beskrywing tipe aansoek

Haaiboot Operateur
Sake doeleindes (Toerisme)

Kommentaar

Bestaande perseel word reeds gebruik as haaibootoperateur basis en daar is reeds normale huishoudelike dienste.

Wateraansluiting sal net so behoue bly. Indien groter aansluiting benodig word sal daar 'n nuwe aansoek ingedien moet word.

Vullisverwydering sal teen normale tariewe gedoen word.

Stormwater kan volgens verslag hanteer word en aanpassings sal gemaak kan word indien nodig.

Riooltenk en sypelriool kan behou word. Indien die gebou in die toekoms verander word en veral indien daar aan badkamers of kombuis verander word moet daar 'n rioolopgaartenk voorsien word en die sypelriool afgesluit word.

Die straat is gevestig en moet so behou word, geen veranderings aan die toegang of padreserwe mag sonder toestemming geskied nie.

DIR

19/01/2011

2De Datum

Tipe aansoek verander ?

Verdere Kommentaar

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REZONING & CONSENT USE: ERF 121, KLEINBAAI**

Stormwater (SW) : In order
Electricity : In order
Water : In order
Sewer : In order
Roads and traffic : In order

1. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the developer's cost;
2. that only the standard water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the developer's cost;
3. that stormwater be allowed to discharge through Erf 121, Kleinbaai, unobstructed.



DENNIS HENDRIKS
MANAGER: PROJECT MANAGEMENT
& DEVELOPMENT CONTROL

8 / 04 / 2011

DATE