

**AGENDA of the
Portfolio Committee : Infrastructure & Planning
22 September 2015
(Also the agenda for the Mayoral Committee Meeting : 30 September 2015)**

**6.
ERF 966, 73 MAIN ROAD, SANDBAAI, OVERSTRAND MUNICIPAL AREA :
PROPOSED REZONING : EAGLE VALLEY PROPERTIES 125 CC**

966 HSB (2775)

H Olivier

14 July 2015

(028) 313 8900

Hermanus Administration

1. Executive Summary

An application has been received from Messrs Overplan & Associates on behalf of Messrs. Eagle Valley Properties 125 CC for the rezoning of Erf 966, Sandbaai from Residential Zone I to Business Zone III.

A Locality Plan is attached as Annexure A, the proposed Site Development Plan is attached as Annexure B, while 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- and Spatial Planning

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Promotion of tourism, economic and social development

4. Delegated Authority

Executive Mayor

5. Legal Requirements

Section 17 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)(LUPO)

6. Background/Discussion/Evaluation/Conclusion

Background

Erf 966, Sandbaai is zoned Residential Zone I, but has temporary departure rights to utilize a portion of the existing dwelling for offices.

The property owner did submit a planning application in 2011/2012, to rezone the property to Business Zone I purposes and to remove some restrictive

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conditions, which was only partially approved in March 2012. The removal of restriction was supported, whilst the rezoning to Business Zone I was not supported. A rezoning to Business Zone II with a consent use for office use only was supported.

The property owner wanted to appeal against the decision, but the appeal was submitted late.

The restrictive conditions in the Title Deed has since been removed, and it is therefore then also considered that the applicant can act on the Business Zone II zoning in terms of the former Section 8 Zoning Scheme Regulations, but limited to office use only.

The new Overstrand Zoning Scheme Regulations was adopted in January 2014.

The applicant has now again submitted a new application for rezoning to Business Zone III in terms of the new Overstrand Zoning Scheme Regulations, to utilize the property for the full extent of primary uses being: shops, offices and flats (above ground floor) and not only for office purpose as approved by Council.

The applicant motivates that Erf 966, Sandbaai is bordered by two existing businesses and indicated as a development node on the “densification” policy plan.

The application was advertised in the local newspaper, the Government Gazette and notices were served to surrounding affected property owners. No objections were received.

The application was sent to all relevant municipal and state departments and institutions and no objections were received.

Discussion/Evaluation

Location and Accessibility

Erf 966, Sandbaai is in Main Road, Sandbaai, approximately 1000m from the R43/Sandbaai, Main Road intersection.

It is shown on the Site Development Plan that access can be provided to the site with one access/egress point of the Sandbaai, Main Road and provision can be made for 10 on-site parking bays.

In terms of the Overstrand Zoning Scheme 6 parking bays must be provided for each 100m² leasable area. This would allow for parking for 166m²

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leasable area, and the existing buildings are 172,1m². For any future planned future extensions sufficient provision will actually have to be made for parking.

Existing planning and character of the area

The area is developed with shops to the south and south-east of the property (next to Sandbaai, Main Road). The 15 offices north and also east of the property and is bordered by a residential area to its west.

Sandbaai, Main Road has been identified as a Local Economic Opportunity Area in terms of the Overstrand Municipal Growth Management Strategy, 2010.

The site is therefore ideal to be rezoned to business purpose, but due to the strong residential character of the surrounding area retail concerns could have a negative effect on the surrounding residential area, and therefore this area should be more limited to office use purposes.

Services

The site is already fully serviced with municipal services.

Policy Plans

As discussed under “existing planning and character of the area”, a portion of the Sandbaai, Main Road is identified for Local Economic Opportunities in terms of the Growth Management Strategy, 2010.

However, the impact on the surrounding residential area must be limited, as retail concerns bring in much more activities and out of hour operations than office use.

Conclusion

The application was advertised and notices send to surrounding property owners. No objections were received.

All relevant municipal and state institutions support the application.

The rezoning to business purposes is in line with the Overstrand Growth Management Strategy, 2010. It is however the opinion that retail activities could have a negative effect on surrounding residential properties. A rezoning to Business Zone III limited to office use is considered desirable.

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7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Engineering Services

Attached as Annexure G.

Building Control

If approved, building will have to comply with Part S 10400 – disable facilities.

10. Annexures

Annexure A: Locality Plan

Annexure B: Site Development Plan

Annexure C: Motivation Report

Annexure D: Comments from Western Cape Government : Transport and Public Works

Annexure E: Comments from Telkom

Annexure F: Comments from Eskom

Annexure G: Services Report

RECOMMENDATION:

1. that, in terms of Section 17 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) an application for the rezoning of Erf 966, Sandbaai from Residential Zone I to Business Zone III, **be approved** subject to the following conditions:
 - (a) that the land use be limited to offices only;
 - (b) that at least 6 parking bays be provided for each 100m² Gross Leasable Area;
 - (c) that the facility will have to comply with National Building Regulations Part S 10400 disabled facilities;

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- (d) that all the conditions by the Western Cape Government : Transport and Public Works in their letter dated 24 April 2015 (attached as Annexure D) be complied with);
 - (e) that all the conditions by Telkom in their letter dated 23 March 2015 (attached as Annexure E) be complied with;
 - (f) that all conditions imposed in the Services Report (attached as Annexure G), be complied with;
 - (g) that the premises comply with Fire Regulations SANS 10400 T:2011, Fire protection with regard to occupancy category; and
 - (h) that all other parameters, as prescribed in the relevant Zoning Scheme, be complied with.
2. that the applicant be notified of its right of appeal in terms of Section 62 of the Local Government : Municipal Systems Act No 32 of 2000 with regard to the above decision.

| | |
|------------------------------------------|------------------------|
| RESPONSIBLE OFFICIAL : | H OLIVIER |
| TARGET DATE FOR IMPLEMENTATION : | 14 OCTOBER 2015 |
| TARGET DATE TO INFORM APPLICANT : | 14 OCTOBER 2015 |
| TARGET DATE TO INFORM OBJECTOR : | N/A |

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**6.
ERF 966, 73 MAIN ROAD, SANDBAAI, OVERSTRAND MUNICIPAL AREA :
PROPOSED REZONING : EAGLE VALLEY PROPERTIES 125 CC**

966 HSB (2775)

H Olivier

(028) 313 8900

Hermanus Administration

14 July 2015

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
22 SEPTEMBER 2015, WHICH COMMITTEE SUPPORTED THE
RECOMMENDATION**

RESPONSIBLE OFFICIAL :

H OLIVIER

TARGET DATE FOR IMPLEMENTATION :

14 OCTOBER 2015

TARGET DATE TO INFORM APPLICANT :

14 OCTOBER 2015

TARGET DATE TO INFORM OBJECTOR :

N/A

109

LOCALITY MAP

Scale 1 : 2 500



Piet Retief Crescent

Piet Retief Crescent

Jan van Riebeeck Street

Main Road

THE SITE

Long Street

Long Street

Golden Harvest Retirement Village

| | |
|---------------------------------------------|------|
| PROJECT | Date |
| PLAN No. 02.059 | |
| 1441 HERMANUS 7204 | |
| OVERPLAN ASSOCIATES & MEDEWERKERS | |

ERF 966 SANDBAALI

REALISTIC DEVELOPMENT PROPOSALS

Scale 1:250

110

ERF 963

ERF 965

Garage

ERF 962

Existing offices
/ Residential

ERF 966

EXISTING BUILDING
FLATS

ERF 1738

EXISTING BUILDING
FLATS OVER
EXISTING BUSINESS

Roof
Over

Proposed Parking

Proposed Parking

Property Boundary

Entrance / Exit

GRAVELLED AREA
ROAD RESERVE

ROAD RESERVE

SANDBAALI MAIN ROAD (TARRED)

LONG STREET

Annexure B

Date: 15/07/15

PROJECT: _____

PLAN No. 02-099

1141 HERMANUS 7200

OVERPLAN
ASSOCIATES
& MEDEWERKERS

MOTIVATION REPORT

1 BACKGROUND

An application for the rezoning and removal of the restrictive conditions in respect of the above-mentioned property was approved on 17 September 2003, when council recommended the removal of the restrictive title condition and permitted the use of 40% of the floor area of the dwelling for office purposes. However, the rezoning at that stage was not approved. The eventual removal of the restrictive title condition was confirmed by Provincial Notice No 244 of 4 August 2006.

Since the original approval of the use of portion of the premises, a number of other applications were submitted mainly regarding the extent of use of the dwelling for professional offices. An approval, dated 20 February 2009 for the amendment of conditions of approval, permitted the total area of the dwelling to be used as offices for a period of 5 years.

In response to the registered letter dated 3 April 2014 received from the Overstrand municipality, we lodged an appeal on behalf of the owners in terms of section 44(3) (a) or 44(3)(b) of the Land Use Planning Ordinance No 15 of 1985 as amended against the Council's Resolution / Decision dated 28 March 2012 as conveyed in correspondence dated 3 April 2014.

On the same date (15 April 2014) we also lodged an appeal to council in terms of section 62 of the Act on Local Government: Municipal Systems Act, 2000 (Act 32 of 2000). Whilst we were of

the opinion that we had lodged the appeal within the prescribed 21 days, the Section 62 Appeal Committee ruled that the application for appeal not be considered by the Appeal Committee and that the full deposit be refunded. We were also advised that we were at liberty to submit an application for rezoning in terms of the new Zoning Scheme Regulations

2 **LOCATION** (See Locality Plan)

The property is located on Sandbaai Main Road, approximately 1km south of the R43 Main Road interchange just before the intersection of Sandbaai Main Road and Long Street.

This property lies between an existing local business complex and a property to the north zoned as Business Zone 1, however, the zoned business area is fully developed, with the result that there is no further opportunity for expansion. The site is almost opposite the Sandbaai Superette, which is on the north-eastern corner of Main Road and Long Street.

3 **LAND USE AND ZONING**

3.1 Land Use

From the land use plan on the following page it can be seen that the existing dwelling, currently used as offices, on the site under consideration adjoins a small shopping center with flats above on the corner of Main Road and Long Street, Sandbaai. The property adjacent Erf 966 comprises a dwelling

(Erf 962) owned by Mr. Jan Sauerma, which is used as residential/offices (Restricted to estate agent). The plan also shows the development of the block of flats (Watsonia Park) adjoining the shopping center, and the Golden Harvest Retirement Village across the road to the south. The properties opposite the site are used as a superette with a nursery school / crèche developed along the Long Street frontage. On Main Road frontage adjoining the superette, professional offices have been established together with a wellness centre on the corner with Jan van Riebeeck Street. This serves to illustrate how the corner of the Main Road and Long Street is becoming a local business / activity node with a mixture of land uses.

3.2 Existing Zoning

The site under consideration is zoned as Residential Zone 1 with a departure from the zoning provisions for the utilization of the building as offices for a period of 5 years. It is however, interesting to note that the adjoining erf 962 is in fact zoned Business Zone 1 with a restriction that the building be used as single residential and / or an estate agency office. The Chief Directorate Local Government approved this zoning on 10 March 1988 (Copy enclosed). The effect of the existing zoning of the adjoining Erf 962 (Business Zone 1) on the northern boundary is that the erf 966 is sandwiched between the two business zoned properties i.e. erven 1739 and 962 Sandbaai. The existing zoning of the site and adjoining areas are indicated on the "Existing Zoning" plan; see plan on the following page

4 **GROWTH MANAGEMENT STRATEGY** (See copy of portion)

In terms of the densification policy document of council dated May 2010, Planning Unit 7, the site under consideration is located in the heart of Sandbaai along the collector road, Main Road, giving access to Sandbaai.

The site has been indicated on the growth management strategy as existing within an area of "Local Economic Opportunity". The site also falls within an area indicated as a "Development Node" on the densification proposals, see diagram / plan.

5 **PROPOSED DEVELOPMENT** (See plan of Erf 966)

5.1 Introduction

Whilst the existing dwelling may (as approved) be used as professional offices for a limited period (5years), the property is not ideally suitable for occupation as a dwelling house on a permanent basis. The reason for this is the close proximity of the shopping centre building on the boundary. Other vehicles often park in front of and sometimes on the erf, which causes problems and obstructs easy access to the property.

The previous application for rezoning from Residential Zone I to Business Zone II was approved, however the use was restricted to only offices and this is a severe restriction, not only in terms of the optimum use of the property but also on the potential value of the property.

Under the new regulations (Overstrand Zoning Scheme) promulgated by the Western Cape Provincial Government on 1 January 2014, Business Zone 3 includes a number of primary uses which includes "shops, flats (above ground floor), offices". Shop is described in the definitions as "a property or part of a property used for the retail sale of goods, items and services to the public, including a retail concern where goods which are sold are manufactured and repaired.

The Consent uses in Business Zone 3 are "bottle store, business premises, clinic, conference facility, flats(on ground floor), town housing, guest house, hotel, informal trading, institution, place of assembly, place of entertainment, place of instruction, place of worship, recreational faculties, residential building, restaurant, rooftop base station, sale of alcoholic beverages, service station, service trade, and transmission tower".

From the extent of the above uses, it is obviously the intention of Council to introduce more flexibility in the town planning regulations and to provide for a wider range of uses and mixed uses available in respect of the development of property.

5.2 Positive Considerations

The site is located in an area which is designated as a "Development Node" and as such should not be restricted to only one use of land i.e. offices but to allow the node to develop with a mixed use character and not only offices. The existing occupant would welcome the opportunity of being

able to operate a "retail shop" and sell goods and produce from the property. The property under consideration lies between two even zoned as Business Zone I and the concept of restricting uses in a business zone to offices is surely outdated. It is a logical step to consider the rezoning of Erf 966 between the above-mentioned erven to establish further business opportunities. The rezoning merely confirms the potential use of the land.

The site has excellent accessibility and visibility by reason of its location on Sandbaai Main Road and being ± 1.0 km from the R43 Main Road that serves the wider region. The proposed business development would also be compatible with the character of the surrounding area.

The Watsonia Park flat complex exists on the south-westerly boundary of the business zone, and the only alternative available is to consider the erf (erf 966) to the north. The suggested proposal for the use of the erf indicates a business development accommodating mainly shops and related offices with limited parking for 10 vehicles. The proposal would entail the extension of the building up to the boundary of the adjoining business erf and an extension to the rear of the building, adhering to the existing street building line (see plan – Realistic Development Proposals)

In the light of the above, the surrounding land uses and the recent developments in the immediate area, the owner of erf 966 has instructed us to apply to the council for the rezoning of the Erf 966.

The title deed in respect of Erf 966 Sandbaai has already been amended, which will allow for business development as shown on the "Realistic Development Plan" proposals.

6 Conclusion

In conclusion the property to be rezoned and developed is located between two erven zoned as Business Zone 1 (now 3), within an urban area designated on the "Densification" policy plan as a development node. The property is currently used as offices in terms of a departure approved by council. The site has excellent accessibility and visibility by reason of its location on Sandbaai Main Road and being ± 1.0 km from the R43 Main Road that serves the wider region. The proposed development is also compatible with the character of the surrounding area with its mix of uses and densities.

The proposed use and development of this site is desirable and consistent with the growth management strategy for Hermanus that emphasises a policy of densification. The recent promulgation of the Overstrand Zoning Scheme also allows a wider range of uses within business zones and even in residential areas where "house shops" are permitted by special consent. In the light of the above the proposal for rezoning should be supported by council.



ROAD NETWORK MANAGEMENT

Email: Grace.Swanepoel@westerncape.gov.za
 tel: +27 21 483 4669 fax: +27 21 483 2166
 Rm 335, 9 Dorp Street, Cape Town, 8001
 PO Box 2603, Cape Town, 8000

REFERENCE: 16/9/6/1-21/39 (Job 22968)

ENQUIRIES: Ms GD Swanepoel

DATE: 24 April 2015

The Municipal Manager
 Overstrand Municipality
 Hermanus Administration
 PO Box 20
HERMANUS
 7200

| | |
|------------------|---------|
| FILE NO: | 62.966 |
| SCAN NO: | |
| COLLABORATOR NO: | 77.9214 |

Attention: Mr H Olivier

Dear Sir

ERF 966, 73 MAIN ROAD SANDBAAI, OVERSTRAND MUNICIPAL AREA: PROPOSED REZONING: OVERPLAN AND ASSOCIATES ON BEHALF OF EAGLE VALLEY PROPERTIES 125 CC

1. Your letter 966HSB (2775) dated 24 February 2015 refers.
2. Erf 966 is located in Sandbaai (Hermanus) and takes access off Minor Road 4008.
3. This application is for the rezoning of the property from Residential Zone I: Single Residential to Business Zone III: Local Business (B3).
4. It is noted that the site development plan shows a hard-surfaced driveway of approximately 6.8 m width and 10 on-site parking bays.
5. A site visit showed that adjacent properties do not have defined driveways and access is taken over the full frontage of the property.
6. This Branch offers no objection to the rezoning application in terms of the Land Use Planning Ordinance No 15 of 1985, provided the driveway is hard-surfaced and measures taken to prevent parking in the road reserve.

7. The municipality should consider drafting and implementing an access management plan for Minor Road 4008 as it would result in a safer and more efficient street environment for all users.

Yours faithfully



ML WATTERS
For **CHIEF DIRECTOR: ROAD NETWORK MANAGEMENT**

Telkom

Network Engineering and Build

Telkom SA SOC Limited

10 Jan Smuts Drive
Pinelands
7404

Tel : 021 414 5614
Fax : 088 021 414 5614
Email : Petersi2@telkom.co.za

Enquiries : Ihlaam Peters
Our Ref. : WWIP_WHMN0687_15
Your ref. : 966 HSB (2775)

23 March 2015

Attention : S Muller

Overstrand Municipality
PO Box 20
HERMANUS
7200

| | |
|------------------|-----------|
| FILE NO: | EL 966-SB |
| SCAN NO: | 18 |
| COLLABORATOR NO: | 768049 |

Dear Sir/Madam

TELKOM SERVICES: PROPOSED REZONING: ERF 966, 73 MAIN ROAD, SANDBAAI – OVERSTRAND MUNICIPAL AREA

With reference to your letter dated 24 February 2015.

I hereby inform you that Telkom approves the proposed work indicated on your drawing in principle. This approval is valid for 12 months only, after which reapplication must be made if the work has not been completed.

Any changes or deviations from the original planning during or prior to construction must immediately be communicated to this office.

Approval is granted, subject to the following conditions:

As per the drawing supplied, Telkom SA LTD infrastructure will be affected, consequently the conditions below and on the attached legend will apply.

Telecommunication services position is shown as accurately as possible but should be regarded as approximate only.

Should alterations or relocation of existing infrastructure be required, such work will be done at the request and cost of the applicant.



TP A Theart
(H Olivier)

TP

24 MAR 2015

Please notify this office within 21 working days from this letter of acceptance and if any alternative proposal is available or if a recoverable work should commence.

As important cables are affected, please contact our representative Frederik Swart at telephone number (028) 514 1199 / 081 363 7815 least 48 hours prior of commencement on construction work.

It would be appreciated if this office can be notified within 30 days of completion of the construction work. Confirmation is required on completion of construction as per agreed requirements.

Should Telkom SA infrastructure be damaged while work is undertaken, kindly contact our representative immediately.

All Telkom SA LTD rights remain reserved.

Yours faithfully



Marius Zangenhoven
Operations Manager
Wayleave Management: Western Region

Telkom

Wayleave
Telkom S.A Ltd

Telkom

This wayleave, Ref **WWIP_WHMN0687_15** is valid for 12 months from date hereof and is subject to the following conditions.

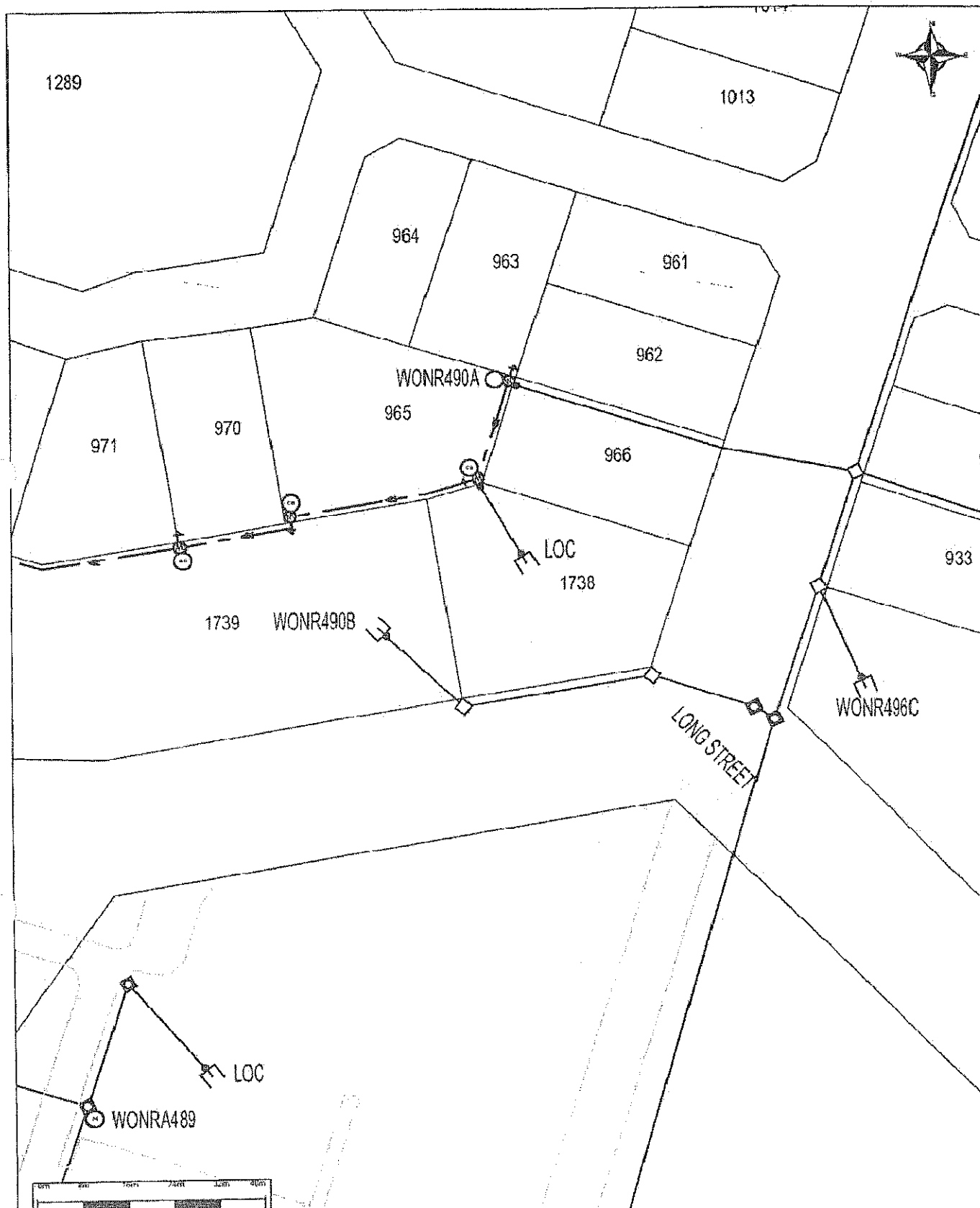
1. No mechanical plant or vibrator type compactors may be used within three meters of any Telkom plant (i.e. any Telecommunications equipment above or below ground level).
2. The position of our plant affected by the proposal is indicated as approximate and our **FREDERIK SWART** TEL: (028) 514 1199 must be contacted at least 48 hours prior to commencement of the work, upon which the actual location of Telkom Plant will be indicated on-site.
3. A written request must be submitted to Telkom for consideration should the applicant require our plant to be relocated. The cost of such relocation will be recoverable from the applicant.
4. It is the responsibility of the applicant to verify the existence of the indicated plant and to notify Telkom immediately should the applicant locate any Telkom plant which is not indicated on the plans.
5. Should the applicant expose any Telkom plant, the safeguard thereof will be the applicants full responsibility.
6. Failing to comply with the above conditions or any special conditions addendum hereto will be regarded as gross negligence and the applicant will be held responsible for and damage or loss as a result thereof.

Date: 3/17/2015

For Regional General Manager
Western Cape

| Telkom Symbol Legend | |
|--------------------------------------|--|
| 1. Underground Pipe Route | |
| 2. Underground Buried cable | |
| 3. Pipe Junction Boxes | |
| 4. Street Distribution Cabinet (SDC) | |
| 5. Jointing Pillar (PJ) Above Ground | |
| 6. Pole | |
| 7. Robot Control | |
| 8. Aerial Route | |
| 9. Stay | |
| 10. Strut | |
| 11. Call Office | |

WHMN0687_15



Legend

| | | | | | |
|-----------------------|---------------------|-----------------------|---------------------|-------------------------|------------------------|
| Existing Manhole | Existing PJB | Existing DLC | Existing Indoor DP | Existing Pole | Planned Overhead Route |
| Planned Manhole | Planned PJB | Planned DLC | Planned Indoor DP | Planned Pole | |
| To Be Recovered PJB | To Be Recovered PJB | To Be Recovered DLC | To Be Recovered SDC | To Be Recovered Pole | |
| Existing Jointing Pit | Existing SDC | Existing Pillar Joint | Existing DP | Strut | Scale: 1:1007 |
| Planned Jointing Pit | Planned SDC | Planned Pillar Joint | Planned DP | Stay | Date: 17/03/2015 |
| To Be Recovered SDC | To Be Recovered SDC | To Be Recovered DP | To Be Recovered DP | Existing Overhead Route | Created By: Burgej |



TP- A Theart
(Holivier)

OVERSTRAND MUNICIPALITY
P.O. Box 20
HERMANUS
7200

Date:
11.03.2015

Enquiries:
Mr Esack Daware
Tel: 021 980 3404
Fax: 021 980 3053

Attention: S. Müller

ERF 966, 73 MAIN ROAD, SANDBAAI, OVERSTRAND MUNICIPAL AREA: PROPOSED REZONING: OVERPLAN & ASSOCIATES ON BEHALF OF EAGLE VALLEY PROPERTIES 125CC

YOUR REF: 966 HSB (2775)

OUR REF: 00528/15

Your email received 10 March 2015 refers.

1. Eskom has no objection to the proposal and would like to comment as follows:

(i) No Eskom services affected.

Yours faithfully

ESACK DAWARE
LAND DEVELOPMENT - BRACKENFELL

| | |
|------------------|-----------|
| FILE NO: | EL 966 SB |
| SCAN NO: | |
| COLLABORATOR NO: | 768618 |

Western Region
Eskom Road Brackenfell 7560 PO Box 222 Brackenfell 7561 SA

Eskom Holdings SOC Limited Reg No 2002/015527/06

11 MAR 2015



12 MAR 2015

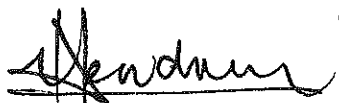
TP

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REZONING: ERF 966, SANDBAAI**

Electricity : In order
Water : In order
Sewer : In order
Stormwater : In order
Roads and traffic : In order

Conditions:

1. that only the existing 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;
2. 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;
3. that stormwater be allowed to discharge through Erf 966, Sandbaai, unobstructed.



**DENNIS HENDRIKS
SENIOR MANAGER:
ENGINEERING SERVICES**

15 | 01 | 2015
DATE