

**AGENDA of the
Portfolio Committee: Infrastructure and Planning
20 September 2016
(Also the agenda for the Mayoral Committee Meeting: 27 September 2016)**

**3.
PORTION 1 OF THE FARM HOEK VAN DIE BERG NR 572, CALEDON DISTRICT,
OVERSTRAND MUNICIPAL AREA : PROPOSED REZONING, CONSENT USE AND
AMENDMENT OF THE GREATER HERMANUS AND OVERSTRAND MUNICIPAL
WIDE SPATIAL DEVELOPMENT FRAMEWORKS : REGIONAL SHOPPING CENTRE
: WEKITA ONE (PTY) LTD**

**Ptn 1 of Farm 572 (982)
H Olivier
15 March 2016**

(028) 313 8179

Hermanus Administration

1. Executive Summary

A Locality Plan of the property concerned is attached as Annexure A. The proposed Site Development Plan is attached as Annexure B.

An application has been received from Messrs. Plan Active on behalf of Messrs. Wekita One Pty Ltd for the Amendment of the Greater Hermanus Spatial Development Framework (Structure Plan) and the Overstrand Municipal Wide Spatial Development Framework, Rezoning and Consent Uses to accommodate a regional shopping centre on Portion 1 of Farm Hoek van die Berg No. 572, Caledon District.

The Title Deed also contains restrictive conditions with regard to the selling of liquor from the property and also with regard to servitudes registered in favour of the Municipality. These conditions can be dealt with by obtaining consent from the existing land owner of the Remainder and Municipality. Consent was provided from the existing land owner of the Remainder to sell liquor and the Municipality is also requested to allow for the relaxation of the servitudes.

On 25 April 2012 the application was considered by the Executive Mayor and Council, who provided their support for the application (see Minutes attached as Annexure D).

Due to the nature of the application, which included an amendment of a Structure Plan, the aforementioned Resolution included recommendations to the former Department of Environmental Affairs and Development Planning (DEA&DP), who then had to make a final decision on the application.

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

Considering the above, the recommendations made by the Executive Mayor and Council on 25 April 2012 to DEA&DP, therefore have to be amended to finalize the planning application.

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It is to be noted that the application for the amendment of the Overstrand Municipal Wide Spatial Development Framework, 2006 has already been dealt with and will not further be referred to in this report (see Council Minutes attached as Annexure D).

It is to be noted that the Environmental Impact Assessment (EIA) decision was only made available on 6 January 2014. The applicant appealed against the partial approval by DEA&DP, and the decision on the appeal was finalized on 10 December 2015 (see the original EIA Record of Decision (ROD) attached as Annexure F and the Appeal Resolution attached as Annexure G).

Only the additional information received after Council's decision dated 25 April 2012 will be dealt with in this report, to be tabled to the Executive Mayor to make the necessary amendments to their previous resolution.

2. Service Delivery and Budget Implementation - IGNITE

Infrastructure and Planning
Town- and Spatial Planning

3. Compliance with Strategic Priority

Provision of democratic, accountable and ethical governance

4. Delegated Authority

Executive Mayor

5. Legal Requirements

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

6. Background/Introduction/Discussion/Motivation/Proposal/ Evaluation

Background

A detailed planning report was tabled before Council on 25 April 2012, with a recommendation. A copy of the report is attached as Annexure C, which includes Background, Public Participation, Discussion and Recommendation.

For the purpose of this report only additional information received after Council's recommendation on 25 April 2012 will be discussed.

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Discussion/Evaluation

It is to be noted that after the finalization of the abovementioned planning report, the Greater Hermanus Spatial Development Framework, 2000 has since lapsed on 5 July 2012. Any reference to such policy document must be ignored. It is then also for this reason why the application will again have to be tabled to the Executive Mayor Committee to change the decision from a recommendation to a final decision.

It is to be noted that in the letter dated 31 July 2014 from DEA&DP, a technical planning comment was also provided on the application. The DEA&DP Planning Section indicated that they found the application to be undesirable (see attached as Annexure E). They recommended that the floor area of the centre be limited to 10 000m² Gross Leasable Area (GLA).

When the planning application was tabled before the Executive Mayoral Committee and Council in 2012 the EIA was not finalized. There were some negative comments regarding the possible environmental impact of the project in the report.

On 3 January 2014 DEA&DP however issued an Environmental Authorisation for the application with a limitation of the floor area to 10 000m². The applicant however did appeal against the decision, and in a letter dated 10 December 2015, DEA&DP set aside the previous decision of 3 January 2014 (see Annexure F and G).

In the abovementioned decision letter it is indicated that the alternative to develop a regional shopping centre of 30 000m² GLA is supported. DEA&DP therefore consider the application to be desirable in terms of environmental requirements.

It is to be noted that in the EIA ROD it is still indicated that Heritage Western Cape do not support the application, but that DEA&DP consider that the concerns can be mitigated.

The comments in the town planning report of 2012 on roads and infrastructure matters were revisited to see if any amendments had to be made due to the time delay.

The comments on road infrastructure is still unchanged, with only the services contribution levy for roads and storm water that will increase from R790,500.00 to R1,007,500.00.

The comments on water services are unchanged with only the bulk services contribution levy that will increase from R3,022,500.00 to R3,851,905.00.

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Comment on sewerage and waste water works is unchanged, with only the bulk services contribution levy to be paid to the Municipality that will increase from R2,425,750.00 to R3,091,475.00.

The comments on electricity are unchanged meaning that electricity is not immediately available for the development.

Conclusion

The Town Planning Department consider the points in the conclusion as in the Town Planning Report tabled before Council in 2012 to still be relevant, and consider the application not desirable on the grounds as contained in the 25 April 2012 report.

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

Infrastructure & Planning

See amended Services Report attached as Annexure H.

Electrical Department

It was indicated by the Electrical Department that the comments are unchanged.

10. Annexures

- Annexure A: Locality Plan
- Annexure B: Proposed Site Development Plan
- Annexure C: Previous planning report tabled before the Executive Mayoral Committee and Council on 25 April 2012
- Annexure D: Minutes of meetings of 25 April 2012
- Annexure E: Letter from DEA&DP dated 31 July 2014, with technical planning comment
- Annexure F: EIA ROD dated 6 January 2014
- Annexure G: EIA appeal resolution dated 10 December 2015
- Annexure H: Amended Services Report
- Annexure I: Overstrand Retail Study

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Annexure J: Classification and Hierarchy of Retail Facilities in South Africa Study

RECOMMENDATION:

1. that, in terms of Section 16 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985) application for the rezoning of Portion 1 of the Farm "Hoek van die Berg" No. 572 from Undetermined Zone to Business Zone I, **not be approved;**
2. that, in terms of Clause 4.7 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), application for a consent use to establish a supermarket, bottle store and place of entertainment on the property, **not be approved;** and
3. that Municipal consent be provided that Conditions C(1), (2) and (3) from Title Deed T7630/1999 may be removed.

RESPONSIBLE OFFICIAL :	H OLIVIER
TARGET DATE FOR IMPLEMENTATION :	12 OCTOBER 2016
TARGET DATE TO INFORM APPLICANT :	12 OCTOBER 2016
TARGET DATE TO INFORM OBJECTORS :	N/A

**AGENDA of the
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26 September 2016
(Also the agenda for the Mayoral Committee Meeting : 26 September 2016)**

3.

**PORTION 1 OF THE FARM HOEK VAN DIE BERG NR 572, CALEDON DISTRICT,
OVERSTRAND MUNICIPAL AREA : PROPOSED REZONING, CONSENT USE AND
AMENDMENT OF THE GREATER HERMANUS AND OVERSTRAND MUNICIPAL
WIDE SPATIAL DEVELOPMENT FRAMEWORKS : REGIONAL SHOPPING
CENTRE : WEKITA ONE (PTY) LTD**



**Ptn 1 of Farm 572 (982)
H Olivier
15 March 2016**

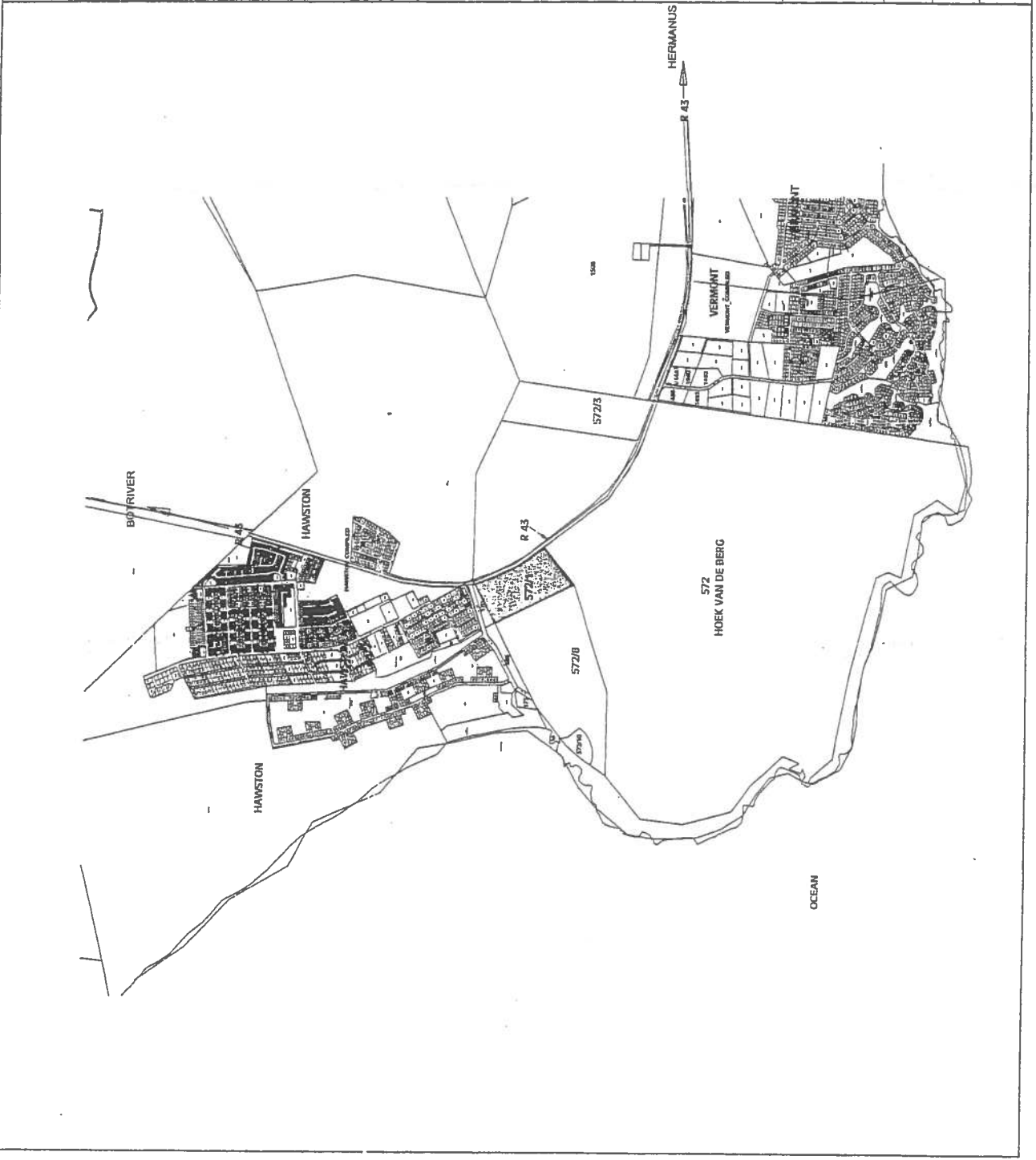
(028) 313 8179

Hermanus Administration

**THIS MATTER SERVED BEFORE THE JOINT PORTFOLIO COMMITTEE ON
26 SEPTEMBER 2016, WHICH COMMITTEE SUPPORTED THE
RECOMMENDATION**

RESPONSIBLE OFFICIAL :	H OLIVIER
TARGET DATE FOR IMPLEMENTATION :	12 OCTOBER 2016
TARGET DATE TO INFORM APPLICANT :	12 OCTOBER 2016
TARGET DATE TO INFORM OBJECTORS :	N/A

<p>PORTION 1 OF FARM NO 572</p>	<p>LOCALITY PLAN</p> <p>Skaal NTS Scale</p> 	<p>PTN 1 / 572</p> 	<p>Town and Regional Planners Stads- en Streekplanners</p> <p><i>PLW</i> <i>Active</i></p>	<p>NOTES:</p> <p>COPYRIGHT RESERVED</p> <p>ALL DISTANCES APPROXIMATE AND SUBJECT TO SURVEY</p>	<p>DRAWN</p>	<p>P.A</p>	<p>PLAN NR./NO. FARM 572 L. DRW</p> <p>DATE: MAY 2009</p>
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ATCI 2004-06
 Ground
 2004/06/06
 1:200
 REVISION:
 02



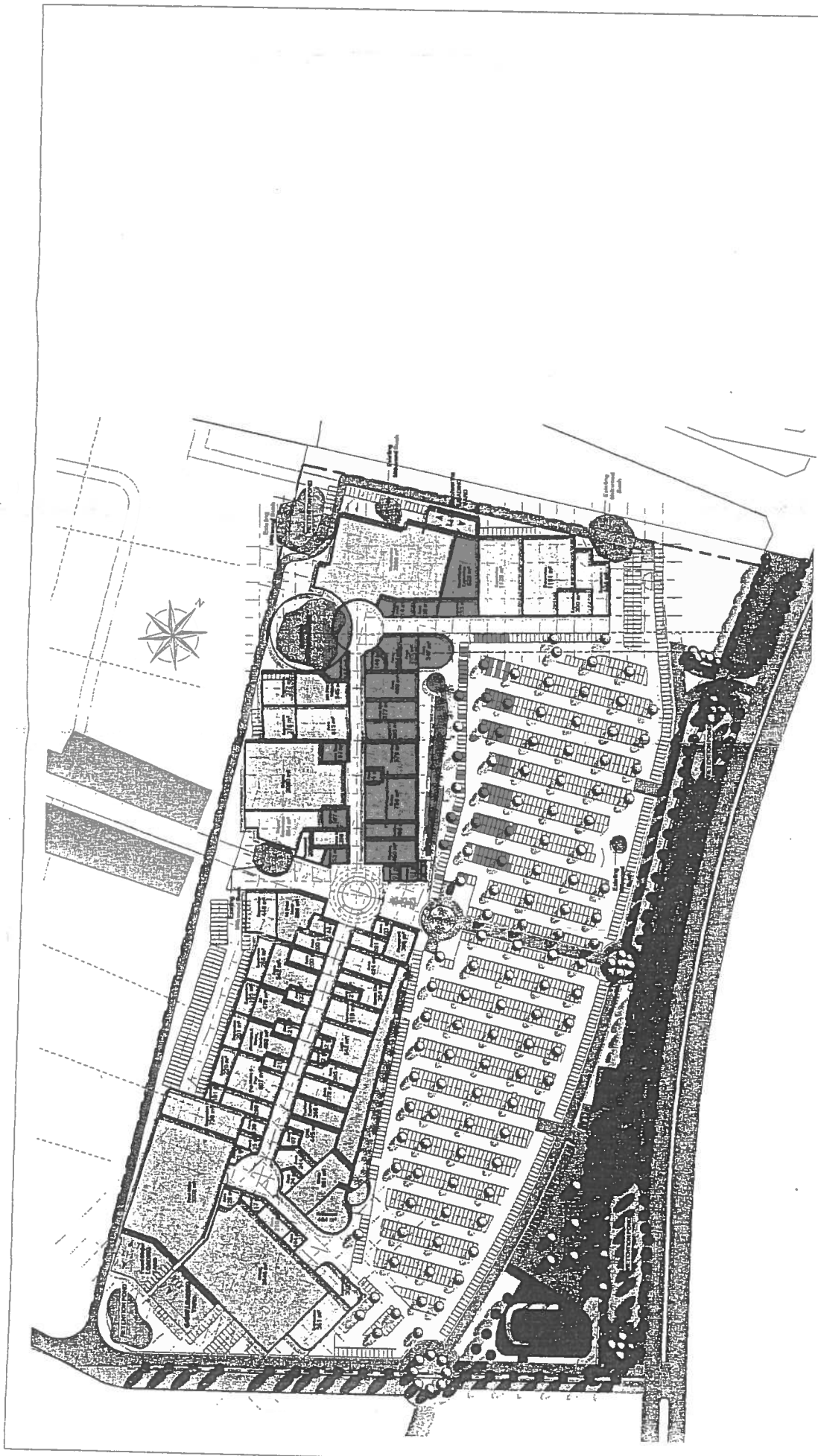
Location: **Milkwood Mall**
 design proposal - Commercial

Project: **Milkwood Mall**
 Location: **Milkwood Mall**
 design proposal - Commercial

Milkwood Mall



Project: **Milkwood Mall**
 Location: **Milkwood Mall**
 design proposal - Commercial



APCH 260-00
 Retail Plan
 2009/04/03
 SCALE: 1 : 1000
 REVISION: 02



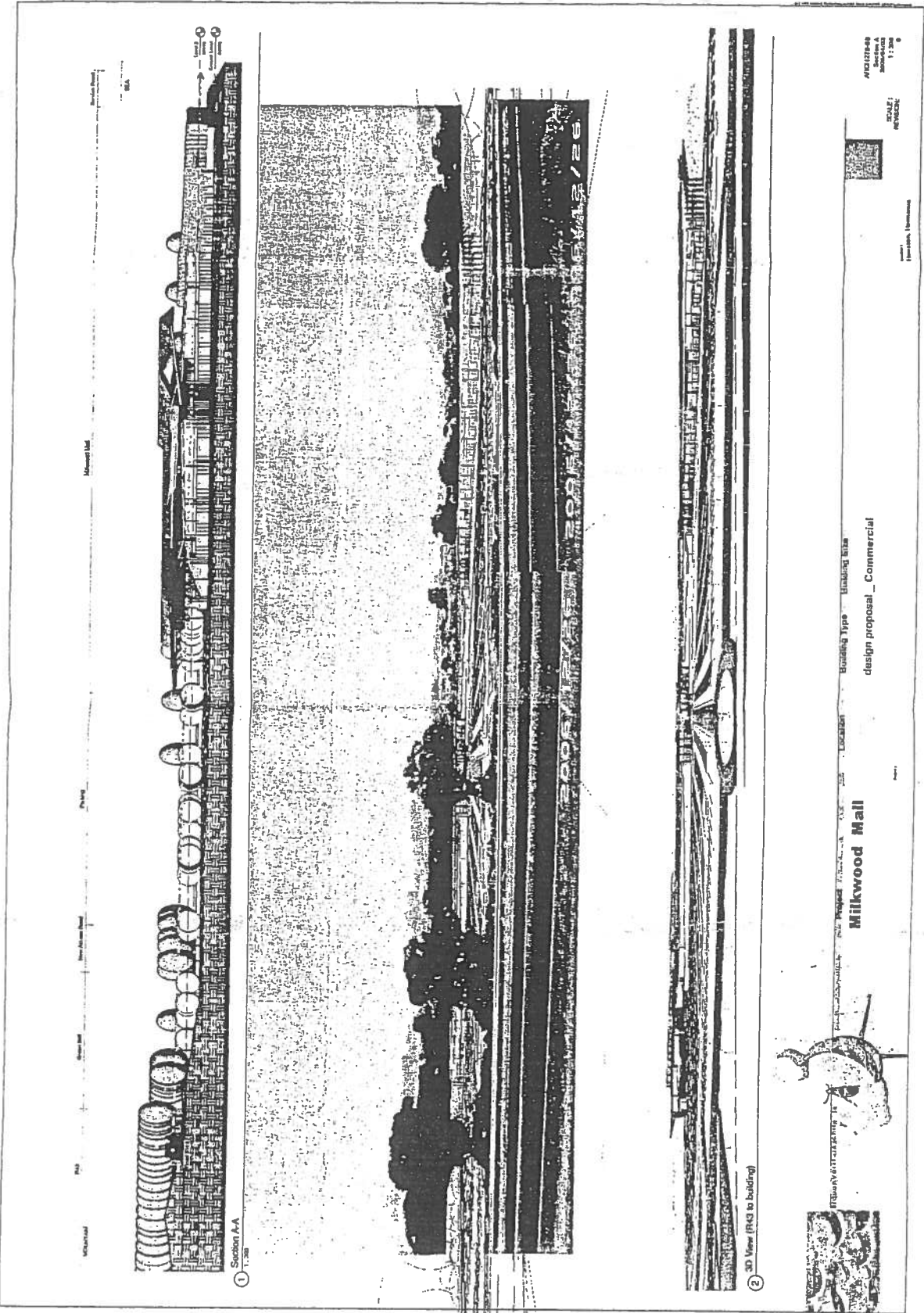
Prepared by:
 Hewston, Hermanus

Location Building Type Building Size
 design proposal Commercial

Milkwood Mall

Project
 HatchVerisAtchips





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PORTION 1 OF THE FARM HOEK VAN DIE BERG NR 572, CALEDON DISTRICT,
OVERSTRAND MUNICIPAL AREA : PROPOSED REZONING, CONSENT USE AND
AMENDMENT OF THE GREATER HERMANUS AND OVERSTRAND MUNICIPAL
WIDE SPATIAL DEVELOPMENT FRAMEWORKS : WEKITA ONE (PTY) LTD

GEDEELTE 1 VAN DIE PLAAS HOEK VAN DIE BERG NO. 572, DISTRIK
CALEDON, OVERSTRAND MUNISIPALE AREA : VOORGESTELDE
HERSONERING, VERGUNNINGSGEBRUIK EN WYSIGING VAN DIE GROTER
HERMANUS EN OVERSTRAND WYE RUIMTELIKE ONTWIKKELINGS-
RAAMWERKE : WEKITA ONE (EDMS) BPK

Ptn 1 of Farm 572 (982)
H Olivier
16 January 2012

(028) 313 8179

Hermanus Administration

1. Executive Summary/Bestuursopsomming

An application has been received from Messrs. Plan Active on behalf of Messrs. Wekita One (Pty) Ltd for the Amendment of the Greater Hermanus Spatial Development Framework (Structure Plan) and the Overstrand Municipal Wide Spatial Development Framework, Rezoning and Consent Uses to accommodate a regional shopping centre on Portion 1 of Farm Hoek van die Berg No. 572, Caledon District.

The Title Deed also contains restrictive conditions with regard to the selling of liquor from the property and also with regard to servitudes registered in favour of the Municipality. These conditions can be dealt with by obtaining consent from the existing land owner of the Remainder and Municipality. Consent was provided from the existing land owner of the Remainder to sell liquor and the Municipality is also requested to allow for the relaxation of the servitudes.

A Locality Plan of the property concerned 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.

(It is to be noted that a copy of the Full Planning Application and Traffic Impact Assessment can be viewed at the Town Planning and Secretariat offices.)

'n Aansoek is ontvang vanaf Mnre. Plan Active namens Mnre. Wekita One (Edms) Bpk vir die Wysiging van die Groter Hermanus Ruimtelike Ontwikkelingsraamwerk (Strukturplan) en die Overstrand Municipale Ruimtelikeontwikkelingsraamwerk, Hersonerings en Vergunningsgebruike om 'n Streekswinkelentrum op Gedeelte 1 van Plaas Hoek van die Berg Nr. 572, Caledon Streek, te akkommodeer.

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Daar is beperkende voorwaardes in die Titelakte met betrekking tot die verkope van drank vanaf die eiendom en ook serwitute wat in die Munisipaliteit se guns geregistreer is. Daar kan van die voorwaardes afgewyk word met die toestemming van die grondeienaar van die moedererf en die Munisipaliteit. Die grondeienaar van die moedererf het vergunning gegee met betrekking tot die voorwaarde oor die verkoop van drank van die eiendom. Hierdie aansoek sluit ook 'n versoek in aan die Munisipaliteit om die serwitute te verslap.

'n Liggingsplan van die betrokke eiendom is aangeheg as Aanhangsel A. Die voorgestelde Terreinontwikkelingsplan is aangeheg as Aanhangsel B, terwyl die Motiveringsverslag van die aansoeker ter ondersteuning van die aansoek is aangeheg as Aanhangsel C.

(Daar moet kennis geneem word dat die volledige Beplanningsverslag en Verkeersimpakstudie besigtig kan word by die Stadsbeplanning en Sekretariaat kantore.)

2. Service Delivery and Budget Implementation - IGNITE

Infrastructure and Planning
Town Planning

3. Compliance with Strategic Priority

Provision of democratic and accountable governance

4. Delegated Authority

Executive Mayor

5. Legal Requirements

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

6. Background/Introduction/Discussion/Motivation/Proposal/Evaluation

Background

An application has been received from Messrs. Plan Active on behalf of Messrs. Wekita One (Pty) Ltd for the Amendment of the Greater Hermanus

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Spatial Development Framework (Structure Plan) and the Overstrand Municipal Wide Spatial Development Framework, Rezoning and Consent Uses to accommodate a regional shopping centre on Portion 1 of Farm Hoek van die Berg No. 572, Caledon District.

The development consists of the following development parameters:

Business Zone I : 13,2ha

A centre of 48 000m² (39 000m² leasable area) which includes the following:

- 4 x major anchor shops;
- 2 food courts, outside restaurant and drive thru restaurant;
- Approximately 54 line shops;
- Expansion opportunity for 4 major anchors, 8 line shops and 5 new line shops;
- Parking : surface parking to the number of 2032 bays;
- Consent Uses : place of entertainment, bottle store and supermarket.

The Title Deed also contains restrictive conditions with regard to the selling of liquor from the property and also with regard to servitudes registered in favour of the Municipality. These conditions can be dealt with by obtaining consent from the existing land owner of the Remainder and Municipality. Consent was provided from the existing land owner of the Remainder to sell liquor and the Municipality is also requested to allow for the relaxation of the servitudes.

A Locality Plan of the property concerned 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.

(It is to be noted that a copy of the Full Planning Application and Traffic Impact Assessment can be viewed at the Town Planning and Secretariat offices.)

6.1 Application process

6.1.1 Compliance

Overstrand Spatial Development Framework	No
Structure Plan (Greater Hermanus)	No
Scheme Regulations	No

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6.1.2 Advertisement / Notification

The proposal was advertised in the local newspaper and the Government Gazette and registered notices were sent to all the potentially affected property owners.

6.1.3 Objections

OBJECTIONS		ATTACHMENTS
Number of objections	5	Annexure D
Applicant's comment on objections	Yes	Annexure E

The objections can be summarized as follows:

- The application was advertised prematurely and the following documentation were not provided at submission of the application:
 - full and complete Traffic Impact Assessment (TIA);
 - a fully completed botanical report;
 - an indication of availability of electricity.
- It is not clear if any red data species exist on the property.
- The location of the proposed retail centre is undesirable due to its position next to a Nature Reserve ("Hoek van die Berg").
- Its positioning 10km outside the Central Business District (CBD) of Hermanus, which would require that shoppers would have to travel lengthy distances via the only main road in the area, the R43 District Road.
- Extra distance between the mall and the Hermanus CBD will not contribute to preserve the Hermanus CBD and no substantial research is provided to support this argument.
- Leapfrog node creation will create urban sprawl.
- Compaction and densification should be promoted as opposed to low-density urban sprawl.
- The Hawston commercial node will drain existing commercial activity out of the Hermanus CBD as well as the Sandbaai node.
- No evidence is provided that Hawston residents would gain job opportunities at the Hawston Shopping Centre or the shopping centre would lead to economic benefit of such residents.
- Milkwood trees are not clearly indicated and protection measures stipulated. The trees should be surveyed.
- The fynbos buffer must be surveyed and registered as a green servitude over the applicant's property.

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- The revision of the policy documents to change the site from natural open space to commercial is a significant departure and unlikely to be justified.
- A visual impact study should be provided.
- There are sufficient business sites in the Vermont/Hawston area to cater for the community's needs.

Applicant's response on the objections received:

- The application was advertised within the time frame requirements of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), and further information was provided to the Municipality on request.
- A full TIA was provided to the Municipality on 17 June 2009, and copies were provided to the Municipal Services Department and District Roads Engineer.
- Botanist already conducted a survey of red data species that was submitted with the Environmental Impact Assessment (EIA) to the Department of Environmental Affairs and Development Planning (DEA&DP).
- The reserve is a private nature reserve and not proclaimed in terms of Nature Conservation legislation, and this development is also in character with proposals on the Remainder of the Farm Hoek van die Berg.
- The travel distance of 10km from the Hermanus CBD is not lengthy compared to distances of 80km residents drive to Somerset West Mall.
- The distance from the Hermanus CBD would ensure retailers in the CBD can operate a second branch without closing down in the CBD, and the mall will focus on national and line shops and will not draw existing smaller business from the CBD.
- The proposed mall will be situated inside the Urban Edge, whereas urban sprawls are outward growth beyond the urban edge.
- The area between Vermont and Hawston is due to develop in future and thus compaction will still occur within the existing Urban Edge of the Greater Hermanus.
- The Mall will attract new and second retailers focusing on the Overberg Region, the character of the CBD with tourist related activities will contribute to its sustainable future, and the Sandbaai Node is not considered a host for national and line retailers.
- Job opportunities will be secured to disadvantaged individuals through contracts with contractors to employ 70% local people in the construction phase and 80% during operation of the centre.
- The trees have been surveyed and are indicated on the site development plan.

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- The botanical survey revealed there is only fynbos in the road reserve, but none on the subject property, therefore the surveying of a buffer is not necessary.
- No environmental, botanical or wetland research was done prior to the determination of the natural open space status in policy documents, but the relevance should be viewed of concrete evidence and the EIA decision.
- A visual impact study has been conducted and will be submitted to Heritage Western Cape.

6.1.4 External Circulation

DEPARTMENTS	ATTACHMENTS
Department of Economic Development & Tourism	Annexure F
Heritage Western Cape	Annexure G
Eskom	Annexure H
Cape Nature	Annexure I
Department of Water Affairs and Forestry	Annexure J
Department of Agriculture : Western Cape	Annexure K
Department of Agriculture : National	Annexure L
Telkom	Annexure M
District Health	Annexure N
Department of Transport and Public Works	Annexure O

It is to be noted that DEA&DP is in the process of considering an EIA for this development, but that it can only be finalized once Council provides its recommendation on the amendment of the Policy Plans for this area.

Applicant's Motivation

The niche of the proposed mall will be to operate as a regional retail centre attracting people from the Greater Hermanus area as well as the larger Overberg region.

When considering the development of a regional centre it is of extreme importance to recognize the sustainable future existence of the Hermanus CBD. A shopping centre too close to the Hermanus CBD might be considered as a threat to the vibrant character of the CBD. The proposed regional shopping centre on Portion 1 of the Farm Hoek van die Berg No. 572, situated at Hawston will be considered ideally located in order to prevent the deterioration of the CBD of Hermanus. It will also be developed in different phases in order to maintain the economical sustainability of the Hermanus CBD.

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Portion 1 of the Farm Hoek van die Berg No. 572 is situated within the core urban area of Greater Hermanus and is therefore close to existing residential areas. The policy documents indicate the property as a natural open space being part of the green corridor. However, the site has no natural noteworthy vegetation, apart from the Milkwood trees that are being incorporated in the development and it therefore does not validate to conserve the entire area as an open space.

The application is in line with the goals and objectives determined in the Policy Documents in that the proposed mall will develop and stimulate economic activity in a responsible and appropriate manner, it will market the area, it will improve the standard of amenities and infrastructure that the area has to offer, will address social needs and expectations of all sections of the community, it will promote compaction and oppose urban sprawl, will establish an economically sustainable facility and infrastructure and enhance equal accessibility and optimal communal benefits.

The property will have to be rezoned to Business Zone I purposes to accommodate a regional shopping centre. The proposed retail centre will provide a total floor area of 48 000m², with a gross leasable area of 39 000m². It will be developed in phases, as the demand and popularity of the facility increases. A total of 2032 parking bays will be provided in the form of street level parking.

The application also includes consent uses for a supermarket, bottle store and place of entertainment.

Council's consent is also requested to remove certain service related servitudes, as stipulated in the Title Deed of the property, which is registered in favour of Council. The Title Deed also contains a restriction that stipulate that liquor may only be sold from the property with the consent of the owner of the Remainder of the Farm Hoek van die Berg No. 572. Such approval was obtained.

Town Planning Evaluation

The evaluation is done in terms of Planning Legislation (Land Use Planning Ordinance, 1985), Environmental Legislation, the Removal of Restrictions Act, 1967, the applicable Zoning Scheme Regulations, the existing Policy Documents, Overstrand Retail Study by Douglas Parker Associates (Business Development and Research Consultants) and Classification and Hierarchy of Retail Facilities in South Africa by Dr. Dirk A Prinsloo:

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

In terms of the Zoning Scheme Regulations for the area, Portion 1 of the Farm Hoek van die Berg No. 572 is zoned Undetermined.

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

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

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

It is to be noted that one of the access / egress points will have to be over municipal land to the site. This would require an additional planning process in terms of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985).

Environmental Legislation (NEMA)

The application does trigger listed activities in terms of the Environmental Conservation Act. The applicant did submit an EIA to DEA&DP. The aforementioned department can only make a final decision (Record of Decision) on the application after Council has indicated if it supports the amendment of relevant Policy Plans for the area.

The policy plans for the area shows the property earmarked for Natural Open Space with a green corridor over the property linking the mountain and the sea.

In the planning report the following findings from the Botanical Study were quoted:

"The site is heavily disturbed and largely invaded by woody aliens, such as Sweet Halcea, Blue Gum, Port Jackson, Rooikrans, Australian Murtle, Prickly Pear, Pines and Manitolca."

"No red data species or local endemics were recorded on site."

"If all large Milkwood trees are accommodated in the development layout and protected, the impact on biodiversity will be of low significance."

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The planning consultant indicated that the Milkwood trees will be protected and the smaller trees moved to a green buffer within the development. It is also his opinion that the specialist studies (botanical study and wetlands investigation) highlighted that the property has no natural noteworthy vegetation other than the Milkwood trees, and that development could proceed with the necessary mitigation measures. He is also of the opinion that the amendments of the Policy Plans allocating the property as Natural Open Space, can be supported.

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

"On inspection it was confirmed that the site is heavily degraded and unlikely to contribute to biodiversity pattern targets. Rehabilitation would require substantial inputs above and beyond simple management of invasive alien plants. The site's ecological value lies primarily in maintaining connectivity between the Onrus Mountains and the coast as well as between Paddavlei and Vermont Soutpan. The loss of this is considered to be of medium negative significance and can be mitigated to some degree by the allowing for ecological corridors and landscaping with indigenous species. The adjacent Hoek van die Berg Nature Reserve reduces the potential for cumulative negative impacts as this protects the mountain to sea corridor."

Considering the above it appears that the site's value in terms of biodiversity is not of concern, but it has some value as an ecological corridor.

It is to be noted that an EIA application is in progress for a development on the adjacent property (Remainder Farm Hoek van die Berg No. 572), which is referred to in Cape Nature's Comment as "the nature reserve". The creation of a mountain to sea corridor could therefore also have an impact on the development proposed on Portion 1 of the Farm Hoek van die Berg No. 572.

Heritage Western Cape indicated in their comments that "the proposed development is not supported in terms of the high negative impact on a scenic route and landscape of high heritage significance". The applicant indicated that further studies were done to address Heritage Western Cape's concerns. This will also be addressed as part of the EIA process.

Considering the above, it is therefore imperative that a positive EIA Record or Decision (RoD) must be obtained from DEA&DP, to be able to see to what extent the policy plans can be amended and if the site can accommodate the development proposal.

Restrictive Title Deed conditions

The Title Deed for the property T7630/2009 (first transferred by Deed of Transfer No. T1801/1949 with Diagram No. 7383/1947) contained restrictive

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conditions (as indicated in the conveyancer's certificate attached as Annexure S).

Condition B2 reads as follows:

- "B. Subject to the following special conditions contained in the said Deed of Transfer No. T1801/1949, imposed by John McFarlane for the benefit of himself and his successors in title as owners of the remaining extent of the farm Hoek van die Berg held by Deed of Transfer No. 10230 dated 1st July 1946, namely:
2. The Transferor reserves to himself and his successors in title of the remaining extent of such farm the sole right to all Hotel and Liquor Licences and the Transferee and his successors in title shall not erect any hotel nor hold any liquor licence on the property hereby transferred nor on any portion thereof without the written consent of the Transferor or his successors in title."

The applicant obtained consent to allow the sale of liquor on the property from UVA Properties (Pty) Ltd, who is the existing land owner of the Remainder of the Farm Hoek van die Berg, No. 572. (See consent attached as Annexure T.)

Condition C(1), (2) and (3) in the Title Deed reads as follows:

- "C. Subject further to the terms of a servitude endorsed on 24 October 1973 on Deed of Transfer No. T24163/1969:

By Not Deed No. 533/1973 dd 22/09/1973, Portion 1 of the Farm Hoek van die Berg No. 572 measures 13,1629 ha held hereunder is subject to the following conditions:

- (1) an area 224m² in extent represented by the figure ABCD a servitude diagram 9732/71 annexed thereto;
- (2) a road 5m wide the North Western boundary of which is represented by the line AJ on said Diagram and
- (3) a pipe- and power line 2m wide, the North Western boundary of which is represented by the line EF, FG and GF on said diagram in favour of the Divisional Council of Caledon. With ancillary rights as will more fully appear from said Not. Deed."

The above-mentioned servitudes relate to service related servitudes written into the Title Deed in favour of the erstwhile Divisional Council of Caledon. The area now falls in the area of jurisdiction of the Overstrand Municipality and is therefore in favour of this Municipality.

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The application to cancel such servitudes was forwarded to the Area Manager and the Engineering Branch, who indicated their support for the cancellation of the above-mentioned servitudes.

Direct Impact on Overstrand

Road Infrastructure

It is to be noted that in the Land Use Planning application it was indicated that two access / egress points would be provided onto the site, directly off the R43 District Road. In the Traffic Impact Assessment (TIA) it was indicated that the one access / egress point could be moved in future to an access point off Harbour Road (Hawston), over existing municipal land and that Harbour Road will then have to be extended to obtain direct access off the R43 District Road.

In the letter of the Department of Transport it was indicated that the following upgrades would be required:

- The provision of a right turn lane at the R43 / R44 (Kleinmond) District Road intersection;
- The provision of separate right turn lanes at the R43 District Road / China Marais Road (Fisherhaven) and the R43 District Road / George Viljoen Street (Hawston) intersection from Cape Town, and the signaling of the R43 District Road / George Viljoen Street (Hawston) intersection;
- The provision of a primary access 1km east of Disa Street (Hawston) with traffic signals, a separate right turn lane and an auxiliary through lane to the western approach, a separate left turn lane on the westbound approach of the R43 District Road, an acceleration lane with a double right turn towards Hermanus and a left turn towards Cape Town;
- A 2m wide pedestrian walkway and cycle way along the southern side of the R43 District Road between George Viljoen Street (Hawston) and the main access to the shopping centre;
- A secondary access into Harbour Road (Hawston) providing a left and right turn on the approach on the R43 District Road, but with only a left-out onto the R43 District Road from Harbour Road (Hawston). (Permission must be obtained from the Municipality to access the site over the existing municipal land between the property and Harbour Road (Hawston));
- The provision of a functional public transport facility in the parking area in collaboration with public transport stakeholders;
- The provision of a separate right turn lane on Lynx Avenue (Vermont) at the intersection with the R43 District Road;

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- Upgrade of the R43 District Road / Vermont Avenue (Vermont) intersection to a signalised intersection with the necessary turning lanes, and
- Provision of a left turn lane on the eastern approach to the R43 District Road / Onrus Main Road intersection.

The Municipal Engineering Branch does not support the construction of a secondary access road to provide direct access off the R43 District Road into Harbour Road. This would have an impact on the existing municipal road linking Church Street with Harbour Road. It is the Engineering Branch's recommendation that access must still be obtained at the Disa Street crossing.

The proposed development would require the upgrade of all intersections with the R43 District Road from Kleinmond up to the Onrus River / Kidbrook turnoff.

Although the upgrade of the above-mentioned intersections will enhance traffic flow on the R43 District Road, the impact of the additional traffic on the R43 District Road and increased congestion at the access/egress points providing access to the site off the R43 District Road is of concern, as no alternative routes can be created to carry the traffic from the highest populated areas in Hermanus situated to the east of the site.

The Department of Transport and Public Works is in the process of upgrading the R43 District Road from Sandbaai turnoff to the Gateway Shopping Centre into a dual carriageway. They are also in the process of upgrading the Onrus / Kidbrooke turn-off and Vermont / Onrus turnoff, which will already alleviate congestion and traffic flow into and out of Hermanus quite significantly.

Should the application be approved, bulk services contribution levy of R790 500-00 will have to be paid to the Municipality for roads and stormwater.

Considering the above, it could be safely stated that traffic congestion on the R43 District Road will increase, and the development will also not contribute to any secondary relief of traffic. The proposed development would lead to increased pressure on the existing road infrastructure, which is not desirable. The secondary access road off the R43 District Road is also not supported by the Municipal Engineering Branch, whilst the Department of Transport made it an requirement. This places uncertainty with regard to the viability of the application with regards to accessibility.

Water

The existing Hawston Reservoir has sufficient capacity to accommodate the proposed shopping centre. The water reticulation system will have to be

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upgraded and the developers will have to make a proportional financial contribution.

A bulk services contribution levy of R 3 022 500-00 will have to be paid to the Municipality for water.

Sewerage and waste water works

There is capacity in the existing sewer network to accommodate the development. There is capacity in the waste water treatment works to accommodate the development.

A bulk services contribution levy of R 2 425 750-00 will have to be paid to the Municipality for sewerage services.

Electricity

The property falls in an area that can either be supplied by Eskom or the Municipality. Under the current licence conditions the Municipality has first option to supply the area.

At this stage only 2 to 3 MVA power is available at the Eskom's step-down, and Eskom will only upgrade the substation in 3 to 5 years. This factor is applicable whether Eskom or the Municipality supplies the development.

It is indicated in the electrical services report that Phase 1 of the development (25 000m² GLA) would only use 2,8 MVA. The selection of equipment and plant of the anchor will have to be energy efficient in order to meet the requirements.

At this stage a major development (light industrial development) is also planned to the north of Hawston and also a large housing development. The light industrial development would already utilize all additional capacity that exists at the Eskom substation. Eskom does not have a secure electricity supply for any increased demands for developments in this area and would only provide electricity on application to link into their electrical network at current capacity. This could mean that sufficient electricity might only be available for this development of a regional mall in 3 to 5 years. The provisions of electricity to the site are therefore not guaranteed, and should the application be approved, it could mean that the development will only be finalized at a much later stage. This would mean a loss of revenue for Council in terms of other services it will provide to such a development.

Should it be decided that Eskom supply power direct to this development, cognisance should also be taken that the developer will purchase electricity directly from Eskom. The Municipality will therefore not receive any revenue from the provision of electricity to the proposed mall in such an event. Should

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the Municipality, however, supply the development direct, the Municipality would have to cater, in addition to a once off cost, for all circuitry and securing of supply from the main substation mentioned above to the areas to be supplied.

Socio Economic

At this stage the Overberg area does not have a regional mall and local residents travel large distances to Somerset Mall for certain services. The Retail Study shows that 89% of the respondents in the retail survey indicated their support for a regional shopping centre in Hermanus, which indicate that such facility will be supported.

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

The proposed mall is in the western section of the primary catchment area and is walking distance from Hawston. This will make the mall accessible to a workforce and also very accessible to residents of Hawston. However, the largest population (and density) is at Zwelihle, Mount Pleasant, Hermanus proper and Hermanus CBD, which is between 8 -10km from the property. The location of the site is not ideal considering, the location in relation to the primary catchment area and the highest populated areas in the Hermanus area.

This also means the proposed mall will be located away from the highest concentration of jobless people, which would mean that these people, if employed, would have to make use of transport to get to work.

The Municipality would benefit from the additional income it receives from the mall from rates and taxes. Such additional income can be utilized to upgrade services and also for social upliftment of the residents of Overstrand.

Overstrand Retail Study

The Overstrand municipal area has a total of some 161000m² of retail space at the present time, generating retail sales of R2,3 billion per annum. With population projected to grow at 4,7% per annum over the next ten years, the supply of retail space could be expected to increase at a similar pace, representing some 7500m² per year or about 67000m² net area the next ten years after allowing for 20000m² that is presently vacant. (Parker – 2011)

The study was extended to include the Theewaterskloof and Agulhas areas where the amount of retail space is 209 000m² with a 9% vacancy. The study did indicate that most of the retail space is for consumer goods and very little space is taken by clothing, footwear, furniture and appliances. Hermanus is