



**MEETING OF THE
MUNICIPAL PLANNING TRIBUNAL
(MPT)**

A G E N D A

**THIS MEETING WAS POSTPONED UNTIL
27 FEBRUARY 2023 AT 10:00**

DATE:	23 FEBRUARY 2023
VENUE:	TOWN PLANNING COMMITTEE ROOM
TIME:	10:00

OVERSTRAND MUNICIPALITY

Office of the Chairperson: MPT
Civic Centre
HERMANUS
7200

15 February 2023

TO : THE MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL

CONVENING NOTICE : SESSION OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)

NOTICE IS HEREBY GIVEN that the **Municipal Planning Tribunal (MPT)** will go into session on **Thursday, 23 February 2023 at 10:00** in the **Town Planning Committee Room**, to consider the attached agenda.

H JANSER (MS)
CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL

Distribution:

1. Ms H Janser (Chairperson)
2. Mr S Müller (Vice Chairperson)
3. Mr S Madikane (Member)
4. Mr H Blignaut (Member)
5. Ms R Louw (Member)
6. Mr R Kuchar (Authorised Official)
7. Mr S van der Merwe (Senior Town Planner)
8. Ms H van der Stoep (Senior Town Planner)
9. Mr P Roux (Town Planner)
10. Secretariat

**MUNICIPAL PLANNING TRIBUNAL
(MPT)**

23 February 2023

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1. OPENING

2. APPLICATIONS FOR LEAVE OF ABSENCE

3. CONFIRMATION OF MINUTES

3.1 Minutes of a Municipal Planning Tribunal Meeting held on 8 December 2022

4. ITEMS FOR CONSIDERATION

4.1 ERF 425, PRINGLE BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: INTERACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF HM JOAO

Report attached

4.2 ERF 5473, 13 17TH AVENUE, VOËLKLIP, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION, REZONING, CONSENT USE AND DEPARTURE: MESSRS WRAP PROJECT OFFICE ON BEHALF OF DE BROEDER INVESTMENTS (PTY) LTD

Report attached

4.3 ERF 726, 72 BUFFELS ROAD, PRINGLE BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR SUBDIVISION AND REZONING: PLAN ACTIVE TOWN & REGIONAL PLANNERS ON BEHALF OF ENTK FAMILY TRUST

Report attached

4.1

ERF 425, PRINGLE BAY, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE: INTERACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF HM JOAO**425 KPRB (4183/2022)****H van der Stoep
5 January 2023****(028) 313 8900****Hermanus Administration**

1. EXECUTIVE SUMMARY

An application has been received on 17 June 2022 from Interactive Town and Regional Planners on behalf of HM Joao on Erf 425, Pringle Bay for a consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2020 to operate a place of instruction from an existing building on the property.

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

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The erf is located along Central Road at the southern edge of Pringle Bay business node and measures 494m² in extent. The application is for a pre-school childcare centre. In 2010 a consent use was granted by Council for a Place of Instruction namely a primary school on the erf.

4. SUMMARY OF APPLICANT'S MOTIVATION

The proposed consent is motivated as follows:

The last few years the urban landscape has changed and is continuing to change. These changes can be attributed to growth, development of technology and migration of people. The impact of these changes has a direct impact on the functioning of towns and the land uses required to accommodate the changes. The need for a pre-school child centre in Pringle Bay is a result of such changes.

The development proposal is as follows:

- consent use application on a Business Zone 3 erf with the required 1 bay per 10 children and a stop-and-drop facility;
- the centre will cater for 12 children between the ages of 4 months and 4-years old, and
- the centre must provide two (2) parking bays, but provision is made for three (3) on-site.

The property is surrounded by various types of business ranging from retail to restaurants.

The proposed centre is predominantly for children of working parents in Pringle Bay. The location is within the business node and therefore conveniently located.

The proposal will create employment and allow parents of young children to work, thus contributing positively to the economy of Pringle Bay.

Pringle Bay does not have schools of a dedicated community facility node. The proposal for a centre, which is a community facility, is compatible with the land uses of a business node.

The Overstrand Municipality Growth Management Strategy (GMS) identified the application area for Education Pre-primary. The proposal is consistent with the Strategy.

The Western Cape Noise Control Regulations, 2013, the unamplified human voice is not considered as a disturbing noise. Due to its location within the business node, the school will have likely less of a noise impact than the normal business hour traffic and operations of the businesses. The scale of the application is approximately 12 children therefore limiting the scale and potential impact. The application does not include any structural changes.

SERVICES

The property has municipal services. Access is obtained via Central Road.

TITLE DEED

There are no restrictive conditions restricting the proposed consent use.

FORWARD PLANNING

Spatial Development Framework, 2020 (SDF)

The property is located in the business zone and is compatible with the SDF.

Overstrand Growth management Strategy, 2010

The application area is within the Pringle Bay business node (Planning Unit3) and has a density of 10-20 dwelling units per hectares and is an area of local economic opportunity. The application area is indicated to be pre-primary education. The proposal is consistent with the Growth management Strategy, 2010.

PLANNING PRINCIPLES

Spatial Justice:	The application will not contribute to the perpetuation of past apartheid spatial imbalances.
Spatial Sustainability:	The application will have no impact on agricultural land, environmentally sensitive areas of biodiversity rich areas, since it is located in an existing building.
Efficiency:	The proposed development is located conveniently close to those that require the service.
Spatial Resilience:	The proposed development will serve the needs of the community and contribute to the economy of Pringle Bay

Good Administration: The Municipality is consulted in the process and a public participation process will be followed.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Registered notices	Yes	29 June 2022	5 August 2022
Internal departments	Yes	29 June 2022	5 August 2022
Ward councillor	Yes	29 June 2022	5 August 2022
Total comments	TWO (2)		
Total letters of support	NONE		
Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly (if no, elaborate below):			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			Yes

6. SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS

Name	Date received	Summary of comments
Engineering Services	12/08/2022	See Annexure F.
District Health	28/07/2022	See Annexure G.
Building Control	30/06/2022	No objection. Building plan application to comply with all applicable law.
Fire Department	05/07/2022	No objection subject to compliance with the provisions of SANS 10400-A, 10400-T:2020 and the By-Law relating to Community Fire Safety.

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION, THE APPLICANT'S RESPONSE AND THE MUNICIPAL TOWN PLANNER'S RESPONSE THEREON

Two (2) letters of objections were received from the following parties:

- Messrs. J Smitsman & M Peacock
- Pringle Bay Ratepayers Association

The objections are attached as Annexure D. The applicant was provided an opportunity to comment on the objections received, and their comments are attached as Annexure E.

➤ **J SMITSMAN & M PEACOCK**

OBJECTION 1

Due to the locality of the application adjacent to the restaurant there is concern that the Western Cape Liquor Authority will not renew their liquor license of there is a school adjacent to the restaurant.

Applicant's response

In consultation with Sergeant Thomas (SAPS Hermanus) he indicated that each application is dealt with on merit, irrespective of the surrounding land uses. The same response has been received from the Western Cape Liquor Authority. The essence is that the liquor holder permit is subject to conditions and the onus rests on the licence holder in terms of compliance.

Town Planner's response

In South Africa various businesses selling liquor is located next to school, churches and or other community facilities. The land uses will have no impact on the liquor license holder as long as he complies with the conditions of the license. In this case, there is not any transgression of the license holder of the restaurant, The Cork Wine Bar, to the municipality's knowledge.

➤ **PRINGLE BAY RATEPAYERS ASSOCIATION**

OBJECTION 1

An educational facility in close proximity to the existing community hall has been identified and it makes sound planning principles to co-locate a pre-school facility with a primary school.

Applicant's response

The comment is vague and lacks context. The educational facility (Eco School) is located outside of Pringle Bay and for the purpose of a pre-school is inappropriate and undesirable. Working parents prefer to be within easy reach of their children, especially young pre-school children.

Town Planner's response

The applicant's response is based on the present scenario; however, the Municipality did enter into an agreement with the Eco School to relocate to Erf 1660, next to the community hall. This information would however not have been available to the applicant.

Although there is an agreement with the Eco School to relocate, the school had a previous agreement with the Municipality within the Business node on a community zoned erf (Erf 396). This has not realised due to the lack of funds and that the erf is extremely wet. Thus, makes it an expensive development. The present erf

(Erf 1660), a consent use application still needs to be lodged, a building be erected and in terms of time frame, it can still be years, especially if funding is a problem.

The agreement is with the Eco School and no subletting is allowed, thus making the co-existence of different owners impossible.

OBJECTION 2

The applicant conveniently only highlights the church to be in close proximity to the application area but dismally fails to properly describe the rest of the businesses in the area.

Applicant's response

The comment is factually incorrect, and the Ratepayers appear to discredit the application by this statement. The motivation report described the surrounding land uses and supported with a map whereby it is clearly shown and described that the adjacent properties consist of business uses.

Town Planner's response

The motivation report clearly indicates that the surrounding erven is business and only one community facility e.g., the church. The Ratepayers are not correct in the interpretation of the report - Page 5, Paragraph (c) Land Use.

OBJECTION 3

The objector highlights a number of alcohol selling/serving businesses from the application site within a 150m radius.

Applicant's response

The applicant is fully aware of the location of restaurants, pubs and places selling in Pringle Bay. The proposed school will be fenced and secured in order not to expose the school and vice versa. Apart from the school being fenced and secured, the operating hours of the school is unlikely to co-inside with the peak hours of the restaurants, which is after 6pm, that does not co-inside with the operating hours of the proposed day care centre.

Sergeant Thomas from the South African Police Services (Hermanus) indicated when considering a liquor license, the nature of the business is taken into account to ensure that the business will not have a negative effect on the nearby community facilities and is considered on merit.

The Western Cape Liquor Authority indicated that the licence holder must ensure that his business operates within the conditions of the license and can only be affected negatively should complaints be received and found that the conditions have not been complied with.

Town Planner's response

The proposed application will not be to the detriment of the land uses which have a liquor license as per correspondence of the Western Cape Liquor Authority. The License holder remains responsible to adhere to the conditions as stipulated in the license.

OBJECTION 4

The liquor act states that the proximity of a school to any premises applying for a liquor license, is the determining factor granting such license. The objector is of the opinion that the reverse should be applicable, especially if it constitutes a pre-primary school or creche it should be separated 100m or 500m.

Applicant's response

There is no restriction within the Liquor Act, 2003 or the Western Cape Liquor Act, 2008 that limits the sale of liquor within 500m of a school.

The Western Cape Liquor Act, 2008 states the following:

"34. The Liquor Licensing Tribunal may not grant a license, unless it is satisfied on a balance of probabilities that –

(e) the granting of the application does not prejudice –

(iii) the learners of an educational institute who are under the age of eighteen (18) years;"

It is clear that the objector interprets the Regulations in their own way and is without facts. When a liquor license is considered by the relevant parties, consideration is given to circumstances. The onus is on the business to conduct their business in a responsible way that complies with the Liquor Act and does not prejudice learners of an educational institution who are under the age of 18.

Town Planner's response

The applicant's response is agreed with in terms of proximity of the land uses of each other and the evaluation of a liquor license application. Although the Act stipulates the concern of learners under the age of 18, it should be noted that the pre-school has the age restriction of 4-months-old babies to 4-year-old children. Thus, highly unlikely that that the pre-school will be subject to possible abuse of liquor.

OBJECTION 5

Irrespective of any strict legal requirements, it would be out of order to allow a pre-primary school on Erf 425, neighbouring a licensed establishment serving alcohol which is located 75m from at least two more licensed establishments selling liquor.

Applicant's response

The comment of objection is a thoughtless opinion without any legal status. The implementation of such general requirement would contribute to ill-functioning towns and business areas. In contrast to the comments, initiatives are currently underway for a formal play park directly opposite the application site by volunteers to enhance Pringle Bay as a child friendly village.

Town Planner's response

Irrespective of any legal requirements, the management of establishments selling liquor have a moral and social responsibility not to sell alcohol to children under the age of 18 years and respect each other's business to make a living whilst still provide a service to the general public. There is no reason why the pre-school and the restaurant cannot be located adjacent and or in the vicinity of each other, as long as both parties adhere to the rules and regulations governing their establishments.

If a radius of non-selling liquor establishments for community services are made applicable, various churches, clinics and other facilities can close its doors in South Africa. Therefore, such radius cannot be implemented, especially in the Central Business Districts of towns and cities.

OBJECTION 6

Objectors' major concern is the renewing of their liquor licenses in the business zone.

Applicant's response

When considering liquor licenses, a holistic and objective evaluation are made by the Liquor and related authorities. It is further evident that the objector subjectively only considers the view of alcohol selling businesses and does not consider the need for all and by implication discriminating against facilities for children.

Town Planner's response

Businesses in the CBD of Pringle Bay should only have a concern should the license holder not adhere to the license conditions and transgressing the Land Use Scheme and National Building Regulations.

The CBD of Pringle Bay has a wide variety of land uses to cater for the community, which includes primary, and consent uses applicable to the erven and is not restricted to liquor license holders only.

OBJECTION 7

The business area should be reserved for appropriate business activities rather than school/creche/day care centre which will inherently hamper or even prohibit future business developments.

Applicant's response

It is seriously concerning that a Ratepayers Association deter/discourage children facility within the business area of the town. By implication, the objective/aim of Pringle Bay Ratepayers Association "*to preserve and protect the rights and interests of all ratepayers and residents as a whole of the area*" is subsequently not adhered to given that they do not protect the rights of parents who wish to have their kids in an easily accessible day care centre close to their homes or workplace.

The objector ignores the latest educational trends of home school centres due to more and more parents working from home due to technological evolution and growth and circumstances. It is also seriously concerning that a ratepayers association discourages much needed investments and subsequent employment opportunities by objecting to such augmenting and complementing agglomerating land uses resulting in investors to rather invest elsewhere or completely abandon/omitting their initiatives. Ratepayers should rather assist potential investors in a positive manner by inter alia assisting potential investors.

Town Planner's response

Pringle Bay Business node makes provision for the primary rights of shops and offices and related and associated activities as per the consent uses. The application erf was utilised as a business premises, which was not acceptable to the community of Pringle Bay due to the management thereof. Thus, the exclusionary objection of primarily business will not safeguard future business developments.

The only alternative is to have a pre-school on the one vacant community zoned erf, which is waterlogged. It should be noted that the available correctly zoned erf where a Place of Instruction is a primary right is located within a 100m to a 500m radius of all the businesses in the CBD of Pringle Bay.

The other alternative is that such a pre-school be located in the residential areas of Pringle Bay, which will not address the need of parents working within the CBD and generate additional traffic on streets within a residential neighbourhood. The CBD has vacant business erven, thus future business developments can still be accommodated.

OBJECTION 8

The need and desirability of a pre-school is outside of Planning Unit 3, preferably in Planning Units 1 and 2.

Applicant's response

The reason is incorrect since the proposals for community infrastructure was based on Provincial Standards for the provision of community infrastructure. In the Overstrand Growth Management Strategy, 2010, the allocation of community facilities was based on representative distribution and accessibility as well as the calculation per planning unit. The comments made by the Ratepayers have taken the information out of context to justify their point of objection without considering the actual need of the community.

Town Planner's comment

The determination of community facilities is correct as per the response from the applicant. The objector did indicate that the facility rather be located in Planning Units 1 and 2 but did not indicate the actual locality, implication of surrounding erven, residents of the area and or restriction in the Tile Deed. The other question remains if there was a need within the other Planning Units, why has it not materialised? Thus, the proposal that such a facility rather be located in other Planning Units is based on assumption.

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

See Paragraph 7 above.

9. MUNICIPAL ASSESSMENT OF COMMENTS (Town Planner's comment on objections/and response thereon)

See Paragraph 7 above.

Internal and External Departments

The application was supported by all internal municipal departments.

10. MUNICIPAL PLANNING EVALUATION (REFER TO RELEVANT CONSIDERATIONS GUIDELINE)**10.1 Background**

N/A

10.2 (In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

The application is in line with the planning objectives applicable to this application.

The objectives relating to:

Spatial Justice

N/A

Spatial Sustainability

The application is within the urban edge and will not impact on agricultural land or environmental areas. The application is in line with the promoting of compaction and mixed-use urban environments.

Efficiency

The landowner wants to use the property to its full potential and make optimal use of municipal services available to the erf that in return contribute economic well-being.

Spatial Resilience

The application is in line with local policies and legislation applicable to the built environment and land use. The proposed use will be located in an existing building approved in terms of the National Building Regulations.

Good Administration

Administrative procedure was followed as prescribed by the Municipality.

10.3 (In)consistency with the principles referred to in Chapter VI of the Land Use Planning Act, 2014 (Act 3 of 2014)

Same as Point 10.2 above.

10.4 (In)consistency with the IDP/Various levels of SDF's/Applicable policies

The IDP (2021-2022) identifies the need for primary and high schools due to the demand. The implication thereof is the need for ECD centres to have the children school ready.

10.5 (In)consistency with guidelines prepared by the Provincial Minister

N/A

10.6 Impact on Municipal Engineering Services

Existing services will be used.

10.7 Outcomes of investigations/applications i.t.o other legislation

N/A

10.8 Existing and proposed zoning comparisons and considerations

The Overstrand Municipality Zoning Scheme Regulations is applicable to this area. The application is consistent with the possibility of a consent use.

11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS

N/A

12. THE NEED AND DESIRABILITY OF THE PROPOSAL

In terms of desirability the following aspects need to be considered namely:

Pringle Bay has two community zone erven as per the Township establishment in 1940 namely Erven 396 and 397. Erf 397 has been developed as a church and Erf 396 is still vacant. The Eco School has had a lease agreement on Erf 396, but due to the erf being waterlogged and financial constraints, the school has not been built.

Subsequently the school has requested and entered into a lease agreement with the Municipality on Erf 1660, the latter the Pringle Ratepayers recommended that the proposed application be accommodated. However, the agreement was with the Eco School and no subletting is allowed. Therefore, this proposal is not viable. The locality of the erf is not easily accessible for parents employed in the CBD in terms of walkability and is not developed yet.

The actual objection relates to the existing liquor license holders' fear that a school may impact in their option of renewing their liquor licenses. This aspect has been dealt with extensively in the objection and reply section (Paragraph 7 of this report). There is no legislative restriction of the distance between liquor holding establishments and community facilities, in this case the pre-school. It remains the responsibility of these businesses to comply with the conditions of the licenses, which is the determining factor in applying with the renewal procedure at the Western Cape Liquor Authority.

The preschool will cater for 4-month-old babies to 4-year-old children up to a maximum 12 children in total. The activities of the adjacent restaurant will have no bearing on the school and vice versa if both parties remain within the rules and regulation of their respective land uses. Having said that, it should also be clear that the restaurant is a primary use and the school a consent use, thus should there be a dispute of any kind pertaining the operation of the uses, the restaurant will be given preferential treatment in this regard. This is to ensure that the school cannot lodge frivolous complaints at the Western Cape Liquor Authority that will impact on the license holder.

The proposed application is located in the CBD which has higher noise levels than a residential area and it is the school's responsibility to ensure that the babies' room is located away from the business activities and or soundproof the room should noise become an issue.

CONCLUSION:

The property is ideally located for parents with young children employed by businesses within the CBD in terms of walkability and security. It is also recognised by commenting parties that there is a need for such a facility.

13. RECOMMENDATION

1. that the application in terms of Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 on Erf 425, Pringle Bay for a consent use in order to operate a place of instruction from the existing building on the property, **be approved** in terms of the provisions of Section 61, subject to the following conditions:
 - (a) that the place of instruction be limited to a pre-school and accommodate a maximum of twelve (12) children;
 - (b) that the place of instruction be limited to the existing building as per Plan Number A101 dated 7 June 2022;
 - (c) that the following operating hours be applicable as indicated in the motivation - Monday to Friday from 08h00 to 17h00;

- (d) that the drop-and-go facility be on the western side (in front) of the place of instruction and signage be erected to inform parents of the facility;
 - (e) that the access gates to the property remain open for the duration of dropping off and collecting of children;
 - (f) that only one un-illuminated sign, that complies with the Municipal By-Law on Signage, may be displayed on the premises;
 - (g) that no parking of vehicles be allowed on the adjacent business premises; and that pre-school employees park on-site;
 - (h) that the rights to operate a place of instruction is not transferable;
 - (i) that the Overstrand Municipality retains the right to enforce any relevant legislation and or By-Laws;
 - (j) that a Health Certificate – Child Care be obtained from the Health Department of the Overberg District Municipality and a Fire Prevention Certificate from the Municipal Fire Department;
 - (k) 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;
 - (l) that building plans be submitted to the Municipality showing all building changes, partitioning and correct names of rooms to the satisfaction of the Fire Department and Building Control Department;
 - (m) that a fire protection plan be submitted to the Building Control Department;
 - (n) that no accumulation of refuse may occur on the premises;
 - (o) that this approval does not absolve the owner/applicant from compliance with any other relevant legislation;
 - (p) that all other development parameters as prescribed in the relevant Zoning Scheme be complied with, and
 - (q) that all the conditions in the Services Report (attached as Annexure F), be complied with.
2. that the applicant and objectors be notified of their right of appeal in terms of Section 78 of the Overstrand Municipality Amendment By-Law on Land Use Planning, 2020 with regard to the above decision.

14. REASONS FOR RECOMMENDATION

- ❖ The application is in line with forward planning documents.
- ❖ The place of instruction provides a much-needed community facility.
- ❖ Objectors acknowledge the need for a pre-school but have a few provisos, which can be mitigated.

15. ANNEXURES

- Annexure A: Locality Plan
Annexure B: Motivation Report
Annexure C: Site Development Plan
Annexure D: Objections received
Annexure E: Applicant's response to the objection received
Annexure F: Services Report
Annexure G: Comment: Overberg District Municipality Health Department

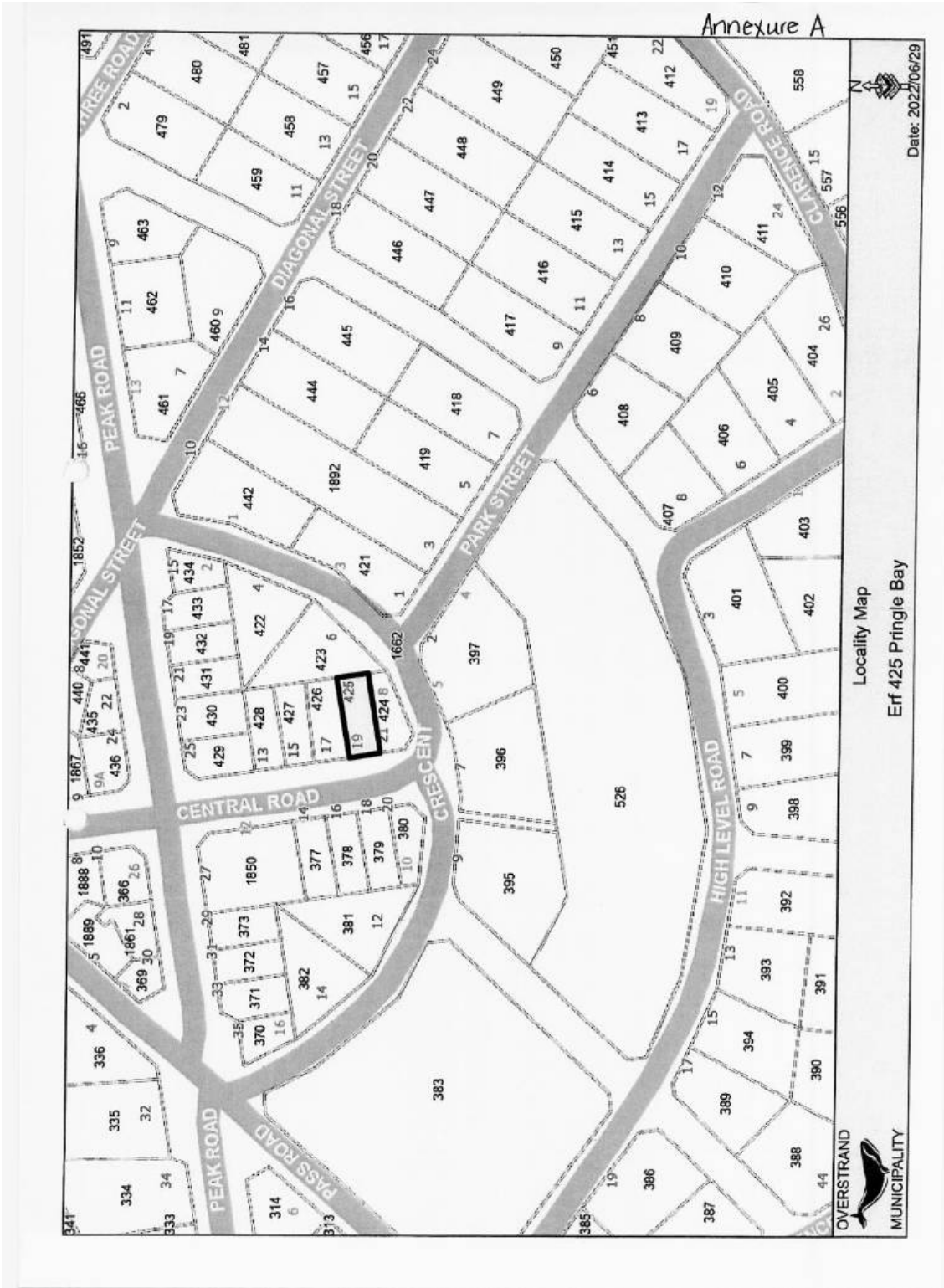
SIGNATURE**REGISTERED PLANNER**

Name: **H VAN DER STOEP**

SACPLAN registration number: **A/1708/2013**

Signature: _____

Date: _____



Annexure B i||

1. Introduction	
<p>a. Brief Refer to Annexure B for the Power of Attorney.</p>	<p>Interactive Town and Regional Planning was appointed by the owners of the property Harriet Mary Joao to prepare and submit a consent use application for a for a Place of Instruction on Erf 425, Pringle Bay in terms of the relevant legislation.</p>
<p>b. Background and Application Objective</p>	<p>Over the last few years the urban landscape of many towns has changed and is continuing to change. These changes can be attributed to inter alia the growth and development of technology, migration of people, the pandemic situation and socio-political situations. The impact of these changes has a direct impact on the functioning of towns and subsequently on land-uses.</p> <p>The need for a pre-school child centre in Pringle Bay is considered to be the result of such changed urban landscape.</p> <p>The proposal is for the pre-school childcare centre and after care service is intended to accommodate children within normal business hours between the ages of 4 months and 4 years for approximately 12 children.</p> <p>In terms of the Overstrand Municipal Planning By-Law, 2020 Zoning Scheme a consent use application for a "Place of Instruction" from the Overstrand Municipality will be required to accommodate the proposed pre-school childcare centre and aftercare service.</p> <p>A pre-school childcare centre is generally defined as a place where early childhood programs are offered in which children combine learning with play in a program run by professionally trained adults. Children are most commonly enrolled in pre-school between the ages of three and five, though those as young as two can attend some schools.</p> <p>In terms of the Overstrand Municipal Planning By-Law, 2020 a "place of instruction" means a place for education at pre-school, school or post-school levels (including day care centre, a crèche, a farm school, a nursery school, a primary school, a secondary school, a college, a lecture hall, a university, a research institute, an environmental research or other educational centre) and associated uses such as a convent, a monastery, a public library, a public art gallery or museum or a place of instruction in sport or other physical discipline where the main objective is instruction (as opposed to participation by the public sector as competitions or spectators) but excludes a reformatory, industrial school, commercial conference facility, institution, health centre or in-house business training centre;"</p> <p>and a "day care centre" means a facility for the day care of young children in the absence of their parents and may provide care for more children than are permitted in a creche subject to any applicable legislation, provided that the primary use of the property shall prevail;"</p> <p>The property was previously used as a pre-school.</p> <p>The application objective is thus to obtain the consent from the Overstrand Municipality to operate a "Place of Instruction".</p>

2. The Application					
<p>a. Analysis: Title Deed Refer to Annexure D for the Conveyancer Certificate.</p>	<p>The Conveyancer Monica Korf issued a certificate confirming that <u>no</u> restrictive title deed conditions exist against the proposal on Erf 425 Overstrand to accommodate a "Place of Instruction"</p>				
<p>b. Analysis: Development Criteria:</p> <p>The development parameters for Erf 425 Overstrand as per the Overstrand Municipality Land Use Scheme, 2020 are summarised as follows:</p>	Parameters	Existing Zoning:	Proposal:	Comments	
	Zoning	Business Zone 3: Local Business	Business Zone 3: Local Business	Consistent	
	Primary Use	Shops, dwelling unit (above ground floor) in accordance with 6.3.2, flats (above ground floor), offices, restaurant, caretaker's accommodation and self-catering.	Offices	Consistent	
	Consent Uses	Place of Instruction, business premises, clinic, conference facility, dwelling unit (on ground floor) in accordance with 6.3.2, flats (on ground floor), town housing in accordance with 6.3.2, tourist accommodation, hotel, institution, place of assembly, place of entertainment, place of instruction, place of worship, recreational facilities, residential building, sale of alcoholic beverages, service station, service trade and transmission apparatus	Place of Instruction	Application is for a consent use.	
	Coverage	75%	27%	Consistent	
	Floor Factor	1.5	0.27	Consistent	
	Height	8.5m & 2 storeys	1 storey	Consistent	
	Building Lines	Street	0m	5m	Consistent
		Side	0m	±1.8m	Consistent
		Rear	3m	±7.4m	Consistent
Parking	One bay per 10 children plus stop-and-drop facility where a day care centre makes provision for more than 30 children or determined by the Municipality	Approximately 12 children proposed. 2 bays required and 3 bays provided.	Consistent		
<p>c. Application:</p> <p>The application form is attached as Annexure A.</p>	<p>Application is subsequently made in terms of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020.</p> <ul style="list-style-type: none"> a <u>consent use</u> for a Place of Instruction in terms of Chapter IV, Section 16(2)(c) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020. 				

3. Contextual Site Information

a. Property Description	Property	Extent	Title Deed	Registered Owner
	Erf 425 Pringle Bay	494m ²	T49192/2019	Harriet Mary Joao

Refer to Annexure E for the SG Diagrams, Annexure C for the Title Deed of Erf 425 Pringle Bay.

The following Surveyor General Plans reflect the application site:

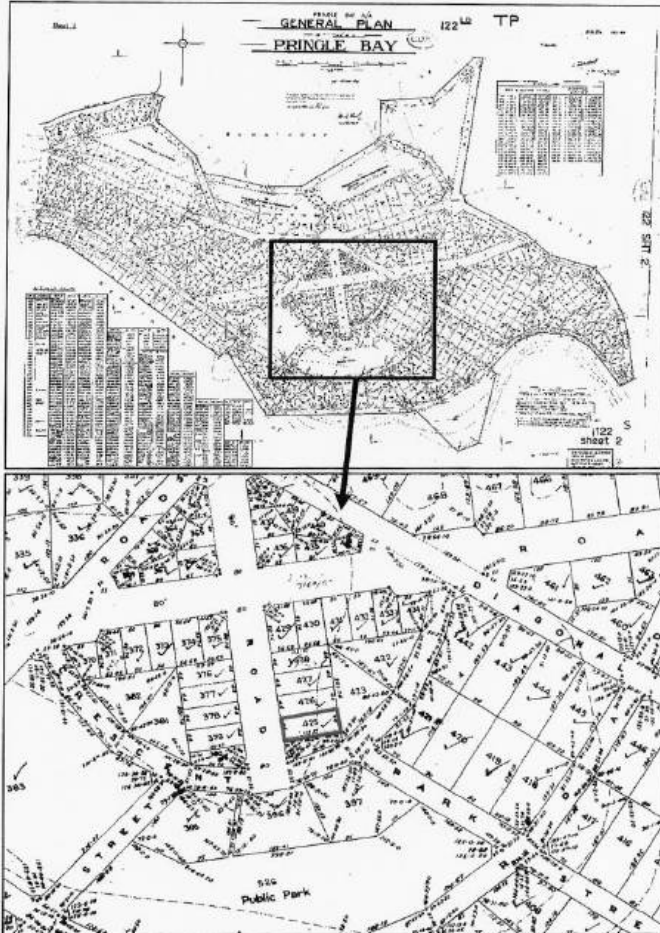


Figure 1: Extracts of the Surveyor General Plans of the application site

b. Location:

For the Locality Plans refer to Annexure F

Regional Context:

Within the regional context, the application area is located within the Pringle Bay. Pringle Bay is a coastal town located approximately 3km west of Betty's Bay and 30km west of Hermanus. Pringle Bay predominantly functions as a dormitory residential and holiday village with approximately 20% of the developed residential erven permanently occupied.

Application Area



Figure 2: Locality Plan – Regional Context

Local Context:

Within the local context the application area consists of a business erf within the Pringle Bay business node. The application area is located at number 19 Central Road almost on the southern edge of the Pringle Bay business node

Application Area

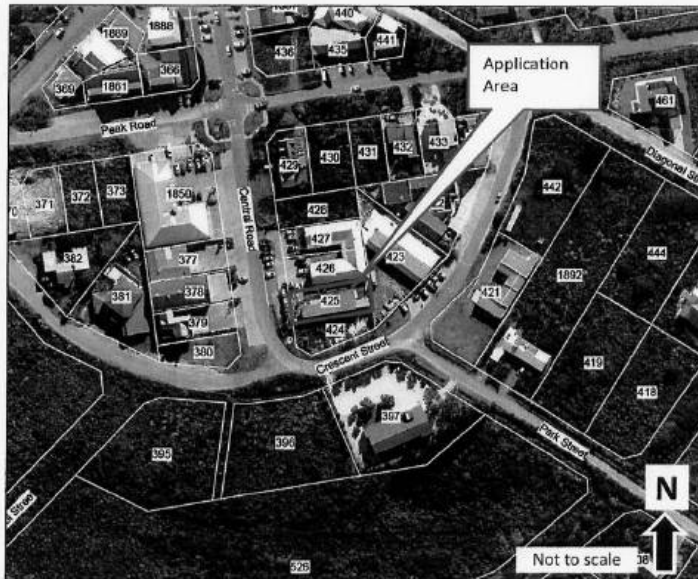


Figure 3: Locality Plan – Local Context

c. Land Use:
 Refer to the Extract of Overstrand Zoning plan attached as Annexure G.

The application area currently accommodates a business on the property. The immediate surrounding land-uses are business. Within the general area, the land uses include community facilities (a church) and single residential. The application is for a consent use for a Place of Instruction. The application proposal is considered **compatible** with the land-uses of the area.



Figure 4: Google Image illustrating the residential land-use activities of the application area and surrounding properties

d. Zoning:
 Refer to the Extract of Overstrand Zoning plan attached as Annexure H.

The application area, Erf 425, Pringle Bay is zoned Business Zone 3: Local Business. The surrounding erven are zoned Business Zone 3 as well. No change in zoning is proposed. The application proposal is **consistent** with the zoning of the area.

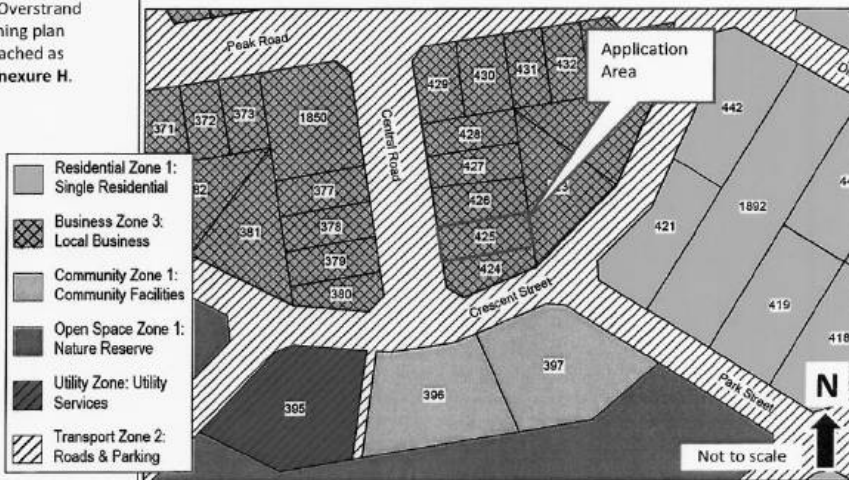


Figure 5: Extract from the Overstrand Municipality: Online zoning viewer

e. Laws and policies relevant to the consideration of the application and forward planning and land use documents

The following policy is applicable to the application area.

i. **Overstrand Municipal Spatial Development Framework, 2020**

The application area is within a developed business zone.

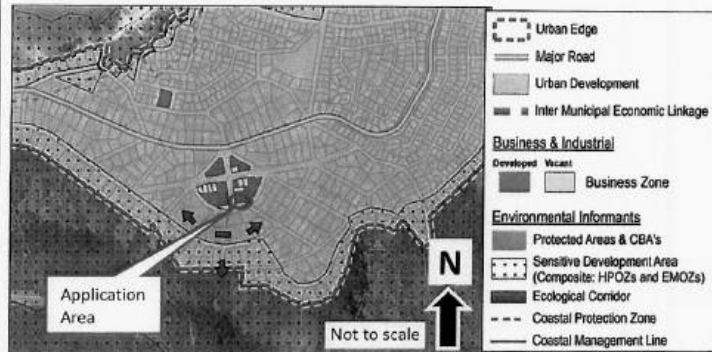


Figure 6: Spatial Development Framework 2020 Spatial Proposals Plan

The application is compatible with the Overstrand Municipal Spatial Development Framework, 2020.

ii. **Overstrand Municipality Growth Management Strategy, 2010**

The application area is within the Pringle Bay business node which has a densification of 10-20 dwelling units per hectare and is an area of local economic opportunity. The application area is within an area that requires urban design guidelines. The application area is indicated to be pre-primary education.

The application area is within Planning Unit 3. In terms of the Overstrand Municipality Growth Management Strategy, 2010 one Pre-primary school is proposed within planning unit 3.

The proposal is for a day care / pre-primary. The application is thus consistent with the Overstrand Municipality Growth Management Strategy, 2010.

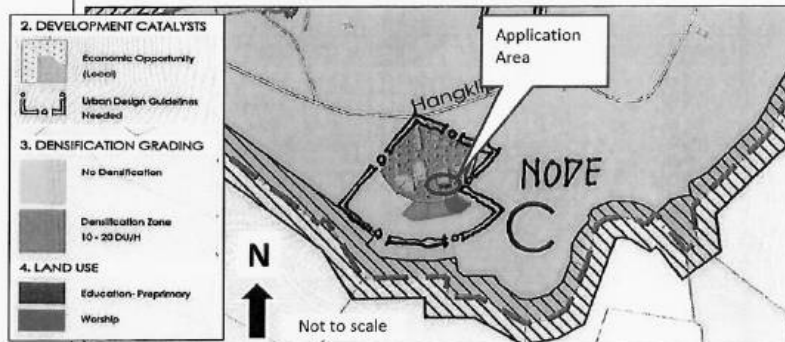


Figure 7: Extract from the Overstrand Municipality Growth Management Strategy, 2010

4. Motivation

Motivation for the application:

Refer to **Annexure I** for the Building Plan

a. Introduction and Background

The proposal is for a pre-school childcare centre and after care service in the Pringle Bay business node.

The provision of such a facility forms an integrated part of the functioning of a town. Over the last 5 years it is experienced that working environments have changed substantially with working from home becoming more common phenomenon resulting to changed urban landscapes in towns. These changed urban landscapes are the result of inter alia the development of technology, migration of people, the pandemic situation and socio-political situations. These changes has a direct impact on the functioning of towns and subsequently on land-uses including Pringle Bay.

The need for a pre-school child centre in Pringle Bay is considered to be the result of such changed urban landscape.

The property was previously used as a pre-school.

b. Proposal

The specific proposal is for a childcare centre where care for children is proposed within normal business hours between the ages of 4 months and 4 years which is the ages before pre-school. It is proposed to accommodate approximately 12 children.

The proposal has been confirmed by a market study to serve an important need of the community.

Application is therefore made for a consent use for a "Place of Instruction".

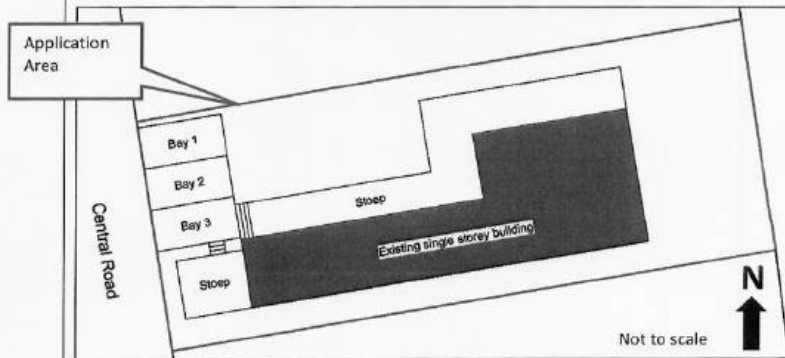
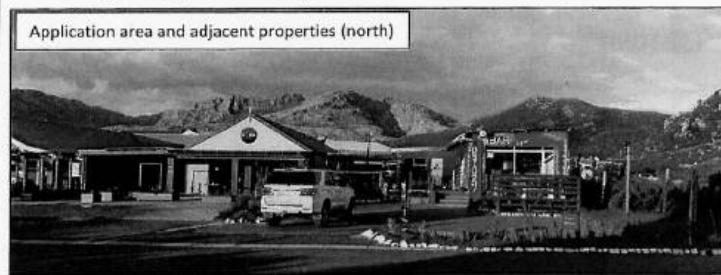


Figure 8: Building plan extract overlays

The following photographs show the application site and surrounding properties.



Properties opposite the road from the application area (western side)



Property behind (east) of the application area (hardware store)



Figure 9: Photographs of the application area and surrounding properties

c. Impact on the area

The application site is located on the southern edge of the business node with a hardware store on the property's eastern side, and vacant stands on its southern and south-western side. South and opposite the road (Crescent Road) from the application site on 19 Central Road, the United Church is located.

On the western side of the application area more businesses are located, consisting of service provision type of businesses.

Directly north and adjacent to the application site a business erf is located where a restaurant is operated from. The restaurant, "The Cork Wine Bar" is described on the web as a restaurant serving breakfasts, lunch, and dinner as well as coffee & cocktails. The operating hours of the adjacent restaurant is from 4pm to 9pm on Mondays and Thursdays, and from 8am to 9pm from Fridays to Sundays. On Tuesdays and Thursdays the restaurant is closed (Source: The Cork Wine Bar's website dated 15 June 2022). The latter restaurant's kitchen area is facing the application site as shown in the following photographs:



Figure 10: Photographs of the application area and adjacent property

The proposed day care centre is proposed to accommodate approximately 12 children within normal business hours between the ages of 4 months and 4 years which is the ages before pre-school.

The impact; given the layout of the adjacent buildings and its operating hours of the adjacent restaurant, the nature of the businesses and the distances from the adjacent properties; will be limited.

d. Contribution towards Pringle Bay

The provision of a day care centre in Pringle Bay provides the opportunity for people working from home with small children to accommodate and educate their children from a legal facility with professional staff. Such facility enhances the function of the town and the businesses in the town.

Furthermore, based on the Overstrand Municipality Growth Management Strategy, 2010 that at least three Pre-Primary Schools can be justified within Pringle Bay. This figure is based on the Western Cape Provincial standards for the provision of community facilities.

e. Desirability

The application proposal is considered desirable for the following reasons:

- Market researched has confirmed that there is a need for a childcare centre within Pringle Bay since no such facility currently exists. The proposal therefore serves an important need of the community.
- The proposed childcare centre is predominantly for children of working parents of Pringle Bay. The location of the application area within the Pringle Bay business node is therefore conveniently located.
- The proposal will create employment and will allow for parents of young children to work, thus contributing positively to the economy of Pringle Bay.
- The application area was previously a pre-school. The proposal is for a childcare centre for children of 4 months to 4 years (before pre-school). The proposal is similar to a previous land use on the property.
- Pringle Bay does not have schools of a dedicated community facility node. The proposal is for a childcare centre which is a community facility which is compatible with the land uses of a business node.
- The Growth Management Strategy identified the application area for Education Pre-primary. The proposal is for a childcare centre which is consistent with the Growth Management Strategy.
- The proposal is in accordance with the relevant spatial planning legislation for the area.
- According to the Western Cape Noise Control Regulations, 2013, the unamplified human voice is not considered as a 'disturbing noise'. Any potential noise will therefore not be considered a disturbing noise.
- The proposal is located within the Pringle Bay business node. Noise allowances are higher in business districts than urban districts without business in terms of Table 2 of SANS 10103:2008. A childcare centre will therefore have less of a potential noise impact within the business node than within a residential area. The proposal is therefore optimally located.
- Approximately 12 children are proposed to be accommodated on the application area, therefore limiting the scale and potential impact of the proposal.
- Parking requirements will be complied with. Two bays are provided and three bays will be provided.
- Health and safety requirements will be complied with and appropriate health safety measures will be implemented.
- This application does not include any structural changes and is limited to a consent use for a place of instruction.

f. Planning Principles

In terms of Chapter VI of the Spatial Planning and Land Use Management Act, 2013 the following Planning Principles have been applied to the application site:

- 1) **Spatial Justice** which refers to the need for redressing the past apartheid spatial development imbalances and aims for equity in the provision of access opportunities, facilities, services and land.

Possible results of the development

The proposal will not have a direct effect on the perpetuation of past apartheid spatial development imbalances as the proposal is for a consent use for a Place of Instruction. The services proposed will be equally available.

The application proposal is **consistent with spatial justice**.

- 2) **Spatial Sustainability** which refers to the fact that a spatially sustainable settlement will be one which has an equitable land market, while ensuring the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas, as well as scenic and cultural landscapes and ultimately limits urban sprawl.

Possible results of the development

The proposal is for a place of instruction within an existing building within the urban edge. Therefore, no impact on agricultural land, environmentally sensitive areas and biodiversity rich areas will occur.

The application proposal can thus be deemed to be **spatially sustainable**.

- 3) **Efficiency** which refers to the manner in which settlements themselves are designed to function in such a way that there will be a minimum need to travel long distances to access services, facilities and opportunities.

Possible results of the development

The proposal is within the Pringle Bay business node which is central within Pringle Bay and conveniently located to those that require the proposed services.

The application proposal is **consistent with the efficiency principle**.

- 4) **Spatial Resilience** which, in the context of land use planning, refers to spatial plans, policies and land use management systems which should enable communities to be able to resist, absorb and accommodate any economic and environmental shocks which might occur in a timely and efficient manner.

Possible results of the development

In order for communities to be spatially resilient, they must be able to serve the needs of the communities. The application for the consent use for the place of instruction will serve the needs of the community and contribute to the economy of Pringle Bay and is therefore considered spatially resilient.

The application proposal is **consistent with the principle of spatial resilience**.

- 5) **Good Administration** which, in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure that a joint planning approach is pursued.

Possible results of the development

Consultative practices are being followed in this application as it is done in consultation with the Planning Department of the Municipality who will also advertise the application in such a manner as to enable the Government and the general public to participate in the eventual decision-making process.

The application proposal is **consistent with the principle of good administration**.



5. Conclusion

The application as motivated in this report is regarded **desirable** within its local context and well-integrated within the existing community land-use activities. Furthermore, the application proposal is considered to be the optimal use of the application area and caters for the needs of the community.

It is therefore recommended that the application **be approved**:

- a consent use for a Place of Instruction in terms of Chapter IV, Section 16(2)(o) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning 2020.

Annexure C



TP O. Sheal
(11. ud Stoop)

Annexure D



L Gillion

From: Margie Peacock <margie@thecorkwinebar.co.za>
Sent: Friday, 05 August 2022 12:46
To: L Gillion
Subject: ERF 425, 19 CENTRAL ROAD, PRINGLE BAY : APPLICATION FOR CONSENT USE : INTERACTIVE TOWN & REGIONAL PLANNING (OBO HM JOAO)

THIS EMAIL IS FROM:
SMITSMAN J & PEACOCK MI
t/a THE CORK
ERF 426, 17 Central Road
PRINGLE BAY

FILE NO.	Er 425
	Pringle Bay ✓
SCAN NO.	
	KPRB 425
COLLABORATOR NO.	
	172-7489

Dear Sir / Madam

When we were initially approached by Mrs Joao, we did not anticipate any problems with a children's day care / school being next door to our business. Upon further investigation and discussions with the WCLA, we are seriously objecting on the following grounds:

There is no guarantee that the Western Cape Liquor Authority will renew our license if there is a children's day care / school next door to our premises. In fact it is highly unlikely. This is one of their most serious problems when it comes to issuing a liquor license! When we applied we went through a stringent inspection to obtain our license and it is necessary to have this in order to run a restaurant. We have invested a large amount of money in our building to ensure that we comply with all the necessary rules and regulations regarding operating our business to the highest standards of safety and meeting all the regulations set out by the Overberg Municipality and the WPLA.

Regarding our operating times - these will increase to Monday to Sunday 8 30 am to 10pm inclusive, once the weather warms up and we are near summer months.

If the applicant can obtain written proof in the form of a Guarantee from both the Western Cape Liquor Authority and the Overberg Municipality that our License will be renewed every year and not turned down due to there being a children's day care / school operating on erf 425, we will reconsider our objection.

Regards
J Smitsman and M Peacock



Margie Peacock
The Cork Wine Bar and Restaurant



PRINGLE BAY RATEPAYERS' ASSOCIATION
PRINGLEBAAI BELASTINGBETALERSVERENIGING

SARS Reg. 9101/138/16/3
 NPO Reg. 214-205
 www.pringlebayratepayers.co.za
 P O Box 409, Pringle Bay, 7196 / Posbus 409, Pringlebaai, 7196
 Chairman / Voorsitter: chairman@pringlebayratepayers.co.za / Tel: 083 556 3345

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27 JULY 2022

The Municipal Manager

OVERSTRAND MUNICIPALITY
 HERMANUS
 7200

PER EMAIL: loretta@overstrand.gov.za

**ERF 425, 19 CENTRAL ROAD, PRINGLE BAY: APPLICATION FOR CONSENT USE: INTERACTIVE
 TOWN & REGIONAL PLANNING (OBO HM JOAO): COMMENTS**

1. ORGANISATION

The Pringle Bay Ratepayers' Association (PBRA) was started in the late 1960s by the first residents of Pringle Bay to represent the interests of ratepayers and residents. Today it is a registered Non-profit, Public Benefit Organisation.

The PBRA represents the ratepayers within the declared Urban Edge. This currently constitutes approximately 1,800 properties (erfs) of which approximately 1,000 are developed (thus having a habitable structure erected on it either for residential or business purposes). Our Vision states:

"Motivated by the unspoiled beauty of our village and surrounds, the warm embracing spirit of its people, our aim is to grow and nurture a life-enriching community who live, work and play in Pringle Bay"

To fulfil our vision, we believe our primary goals are, among others:

- To preserve our community's distinctive cultural & natural heritage and unique lifestyle.
- To promote a sustainable local economy that supports the unique lifestyle of the village.
- To influence orderly and sustainable growth and development supporting the uniqueness of the village.
- To establish and maintain a mutually beneficial partnership with the municipality and politicians to positively influence the provision of reliable and efficient services, to the benefit of the community.



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- To secure Pringle Bay Village by developing and implementing a holistic safety and security solution using best practices.

We believe that the above mentioned can only successfully be achieved by firstly upholding our values through focusing our efforts on implementing appropriate plans to achieve these goals and secondly by having organs of state in place which will support these values and plans. Our overarching Strategic Plan must always be aligned with relevant statutory and legal requirements including but not necessarily limited to those included in the Spatial Development Framework, Land Use Scheme(s) and the Bylaws in support of these.

HENCE, herewith please find our comments related to the subject Application, for your consideration.

2. COMMENTS

2.1. NEED FOR "PLACE OF INSTRUCTION"

- 2.1.1. The PBRA agrees with the opinion in the conveyancer's report that no restrictive title deed conditions exist against the application for consent use to accommodate the use of "Place of Instruction".
- 2.1.2. The PBRA agrees with the applicant's statement that the urban landscape has changed over the recent past. We are of the opinion that Pringle Bay has actually experienced a drastic change in this regard.
- 2.1.3. The applicant references the Overberg Growth Management Strategy (2010) and states the following:

"The application is within Planning Unit 3. In terms of the Overstrand Municipality Growth Management Strategy, 2010 one Pre-primary school is proposed within planning unit 3".

According to paragraph 7.4.2 B(iii) of the referenced document:

"Based on the standards contained in Annexure B, in addition to the existing facilities, a pre-primary, a primary and a secondary school as well as two worship sites are required.

....

.....

In future, provision should be made for these facilities. At present only about 20% of the dwellings are permanently occupied."



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According to paragraph 7.4.2 C(iv): Densification Proposals per identified Planning Unit, it is apparent that it is proposed that:

- One Pre-primary school is proposed for Planning Unit 1;
- One Pre-primary School and one Primary School is proposed for Planning Unit 2; and
- Only a Library is proposed for Planning Unit 3.

Considering Sheet G of the referenced document titled Growth Management Interventions, it is clear that:

- i) Planning Unit 1 requires one Pre-primary School, (0.9 units);
- ii) Planning Unit 2 requires two Pre-primary Schools (1.9 units) (together making up the required three schools the applicant correctly states in paragraph 4(d) on page 9 of the application); and
- iii) Planning Unit 3 practically do not require a Pre-primary School (0.1 units).

The only reason Planning Unit 3 shows one Pre-primary school is because at the time of compiling the Growth Management Strategy the subject erf (the location for which consent use is applied for) was used as a Pre-primary school (whether legal at the time remains unclear), hence the wording, "... in addition to the existing facilities." as quoted above.

Contrary to the motivation of the applicant, we therefor submit that the need and desirability for Pre-primary Schools seems to be outside Planning Unit 3, preferably within Planning Units 1 and 2.

2.1.4. Furthermore, in paragraph 3(b) the applicant states that 20% of plots are permanently occupied. This statement seems to be based on 2010 figures as is quoted above. The relevance of same is questioned, especially taking cognizance of the applicant's statement regarding the change in the urban landscape over the recent past. We are of the opinion that the social fabric of Pringle Bay is nowadays considerably different than what is quoted by the applicant.

The PBRA however agrees with the applicant that there is indeed a need for "Pre-school" and "Day-care" facilities in our community. We do however question whether Erf 425 is suited for the purpose, hence our caution and consequent request outlined in paragraph 2.2 below.

The basis for their reasoning to motivate the application is thus in more than one way flawed.



2.2. LAND USE PLANNING and DEVELOPMENT PRINCIPLES

2.2.1. The Overstrand Municipality has gone out of their way to assist PBRA in identifying a suitable area to be developed as an educational facility located in close proximity to the existing Community Hall. It makes for sound planning principles to co-locate a Pre-school facility with a Primary school. Maybe the applicant could enter into discussions with the Eco School to investigate working together?

2.2.2. In Section 3c: Page 5 of the application, the following is stated:

"The application area currently accommodates a business on the property. The immediate surrounding land-uses are business. Within the general area, the land uses include community facilities (a church) and single residential. The application is for a consent use for a place of instruction. The application proposal is considered compatible with the land-use of the area."

The applicant conveniently only highlights the church to be in close proximity to the application area but dismally fails to properly describe the rest of the businesses in the area.

In a "piecemeal manner" the applicant refers to the "The Cork Wine Bar" but fails to also point out the Head Office Pub, the Liquor Store, The Anchor Pub, all less than 75m from Erf 425, and among others, Hook, Line & Sinkers, @365 Bistro, Hanging Rock Kitchen, all within a radius of 150m from Erf 425 and all serving alcohol, not to mention alcohol serving restaurants under construction.

2.2.3. The Liquor Act states that the proximity of a school to any premises applying for a liquor licence, is a determining factor in granting such a licence. We submit that the reverse should also be applicable, namely considering an application for a consent use for a "Place of Instruction", in close proximity to establishments licensed to serve or sell alcoholic beverages, especially if it constitutes a Pre-primary School and/or a Crèche, (it is unclear whether the separation is 100m or 500m).

2.2.4. Irrespective of any strict legal requirement, it would in our opinion be out of order to allow a Pre-primary school at Erf 425 neighbouring a licensed establishment serving alcohol and which is also located in close proximity (less than 75m) from at least two more licensed establishments selling alcoholic beverages.

2.2.5. Should the consent use applied for be granted, what will be the consequences when existing liquor licenses need to be renewed as this would then be against the restrictive condition of proximity to school(s).

2.2.6. In addition to 2.2.5 above, and perhaps of more importance, it would be impossible for new businesses to apply for liquor licences in the business zone.

2.2.7. We are of the opinion that it is more suitable to reserve the business area of the village for appropriate business activities rather than for a school/pre-school/creche/day-care centre which inherently will hamper or even prohibit future business development in the area.



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3. REQUEST

The PBRA thus sincerely requests that the Overstrand Municipality to take cognizance of our comments outlined above in making their recommendations or taking a decision on granting consent use as applied for in the referenced application.

Your kind attention to the above-mentioned will be appreciated and we are looking forward to receiving your reply in this regard.

Kind Regards

Bertie Vorster
Vice Chair: PBRA

Obo: Pringle Bay Ratepayers' Association



InterActive Town & Regional Planning

PO Box 980
Overstrand
7200

Reference: Erf 425, Pringle Bay, Overstrand

Date: 24 August 2022



TP-A Theart
(Huid stoep)

ERF 425, PRINGLE BAY: CONSENT USE – RESPONSE TO OBJECTIONS

With reference to your request dated 10 August 2022, please find our response to the objections for the application for a consent use for a Place of Instruction on Erf 425 Pringle Bay herewith.

Kind Regards

Andre Wiehahn Pr Pln A/927/1996
B Art et Sc (Town and Regional Planning)

FILE NO.	EL 425-KPRB
SCAN NO.	KPRB 425
COLLABORATOR NO.	1746544

Annexure E | 11

TP
13 SEP 2022

1. Introduction

a. Background

An application was submitted on 10 June 2022 for a Consent-Use application to operate a day care centre on Erf 425 Pringle Bay. Objections were received from the Pringle Bay Ratepayers Association and J Smitsman and M. Peacock to which the Overstrand Municipality has requested via a letter dated 10 August 2022 for a response to the objections.

b. Application objective

The objective of the application is to set up a day care centre to accommodate approximately 12 children within normal business hours between the ages of 4 months and 4 years.

c. Objections

i. The objections

Two objections were received; namely from the Pringle Bay Ratepayers Association and J Smitsman and M. Peacock.

ii. Background to the objections

The Pringle Bay Rate Payers Association is primarily an association which aims "To preserve and protect the rights and interests of all ratepayers and residents as a whole of the area" and "liaising with the relevant local authority" "and its affairs, especially on matters which might affect ratepayers and residents of Pringle Bay Township such as public services, water supply, electricity supply, sewerage, storm water, roads, refuse removal, rates and taxes etc."

The second objector, J Smitsman and M Peacock, is from the restaurant The Cork Wine Bar and Restaurant located adjacent to the application site as reflected in the adjacent sketch.



It however appears that the restaurant has since closed as shown in the following extract from the restaurants Facebook page:



Figure 1: Facebook screenshot taken on the 6th of September 2022.

d. Methodology

The response to the objections are dealt with by analysing and interpreting the points of objections to which each of the analysed points are responded to. It was also considered necessary obtain external information to provide factual information in our responses.

2. Summary of the application


The proposal is for a pre-school childcare centre and after care service in the Pringle Bay business node. The specific proposal is for a childcare centre where care for children is proposed within normal business hours between the ages of 4 months and 4 years which is the ages before pre-school. It is proposed to accommodate approximately 12 children. The proposal primarily serves the need for childcare for working parents.

3. Summary of objections

The objection of J Smitsman and M Peacock can be summarized that they are concerned that the Western Cape Liquor Authority will not renew their liquor license if there is a school adjacent to the restaurant, but is prepared to reconsider the objection if a guarantee can be provided from both the Overberg Municipality and the WCLA that their license will be renewed every year.

The second objection from the Pringle Bay Rate Payers Association is summarized in the following table.

It is evident that the emphasis of the objection is about alcohol selling places.

Summary of objection	Response
<p>An educational facility in close proximity to the existing community hall has been identified and it makes sound planning principles to co-locate a pre-school facility with a primary school.</p>	 <p>The comment of the PBRA is vague and lacks context and reason and is subsequently misleading.</p> <p>The educational facility referred to and proposed by the PBRA, (The Eco School) is located outside the Pringle Bay development area and for the purposes of a pre-school completely inappropriate and undesirable. The</p>

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	<p>premises supported by the PBRA for a pre-school is more than 2km from the central business area of Pringle Bay opposite the R44 Provincial Route. Working parents prefer to be within easy reach of their children, especially young pre-school children.</p> <p>It is also not clear how the Overstrand Municipality has gone out of their way to assist the PBRA as stated by the PBRA.</p> <p>This statement by the PBRA is considered to be misleading by stating that "it makes for sound planning principles to co-located a Pre-school with a primary school" whilst the school referred to is located outside the town's boundaries and not within easy access of the parents.</p> <p>This comment should thus be ignored by the Municipal Planning Tribunal.</p>
<p>The applicant conveniently only highlights the church to be in close proximity to the application area but dismally fails to properly describe the rest of the businesses in the area.</p>	<p>The comment is factually incorrect and the PBRPA appears to discredit the application by this statement. In the motivation report the surrounding land-uses are described and supported with a map whereby it is clearly shown and described in the report that the adjacent properties consist of business uses.</p> <p>Subsequently, the point of objection by the PBRPA is clearly invalid and should strongly be rejected.</p>
<p>The objector highlights a number of alcohol selling / serving businesses from the application site within 150m radius.</p>	<p>The applicant is fully aware of the location of restaurants, pubs and places selling alcohol in Pringle Bay</p> <p>The proposed school is planned to be fenced and secured in order not to be exposed to the restaurants or vice versa.</p> <p>Apart from the school being fenced and secured, the operating hours of the school is unlikely to co-inside with the peak hours of the restaurants as reflected in the following time graphs:</p>

	The Hook, Line and Sinker	The Anchor	Fynbos Enterprises
	<p>Popular times</p> <p>People typically spend 1:52-2:00 hours here</p>	<p>Popular times</p> <p>People typically spend 1 hr here</p>	<p>Popular times</p> <p>People typically spend 1:10-1:15 hr here</p>
<p>Evident from the three restaurants popular times (on a Thursday - day normally used to do representative surveys) it is clear that the popular times are during evenings after 18h00 which does not coincide with the operating hours of the proposed day care centre.</p>	<p>In addition to the above, enquiring with Sergeant Thomas from the Hermanus South African Police Services, involved with the allocation of liquor licences indicated that when a liquor license is considered the nature of the business is taken into account to ensure that the business will not have a negative effect on the nearby community facilities and each application is considered on merit.</p>	<p>The above is confirmed with a letter from the Western Cape Liquor Authority as is evident in the following email extract from the liquor Authority on a question whether licences can be renewed if a day care centre (as per the application is located adjacent to a restaurant):</p>	

7/11

9:14 AM (6 hours ago)

☆

Kim Bezuidenhout <Kim.Bezuidenhout@wcla.gov.za>
to Nadine, info@alpr.co.za *

Dear Mr Andrie Wehahn

I acknowledge receipt of the below email.


Kindly could you provide me with your licence number so that I may check if you are eligible for automatic renewal for year 2023.

As an existing license holder it is required of you as holder to ensure that you operate your business in line with the license and conditions issued to establishments, be it a school, salon, church etc. This may affect the renewal of your liquor license. First and foremost, a formal complaint needs to be received by our office first, a formal investigation done based on the complaint, if found guilty you are given an opportunity to correct the non-compliance thereof. If the non-compliance becomes continuous, and ends up as a referral to our prosecutor, a fine is issued and then ends up with the tribunal, it can place the renewal of your liquor license at risk.





In a nutshell always ensure that you operate your business in line with the license and conditions issued to you, ensure you remain compliant.



Kind Regards

Kim Bezuidenhout
Manager: Liquor Licensing Administration
Tel: +27 (0) 21 204 9621 | Email: Kim.Bezuidenhout@wcla.gov.za
3rd Floor | Sunbe Building | 5 Old Paarl Road | Bellville 7530
www.wcla.gov.za



WESTERN CAPE
LIQUOR AUTHORITY

 #WCLA
 @wcla
 wcla.gov.za
 wcla

 Screenshot app: Liquor Authority
 QR code: app: Liquor Authority

In telephonic discussion with the official from the Liquor License Authority is was also clear and can also be derived from the letter that no restriction exist to the distance from a school or establishment restricts the allocation of a liquor license but rather the person or the business which are considered on merit. The onus clearly rest on the liquor licence holders to adhere to all rules and regulations.

<p>The Liquor Act states that the proximity of a school to any premises applying for a liquor license, is a determining factor granting such license.</p> <p>The objector is of the opinion that the reverse should be implemented where places of instruction in close proximity to establishments licensed to serve and sell alcoholic beverages, especially if it constitutes a pre-primary school or creche it should be separated 100m or 500m (not sure)</p>	<p>There is no restriction within the Liquor Act 2003 or the Western Cape Liquor Act 2008 that limits the sale of liquor within 500m of a school. Evidently the information provided by the PBRA is false and incorrect.</p> <p>The Western Cape Liquor Act 2008 states:</p> <p>"34. The Liquor Licensing Tribunal may not grant a licence, unless it is satisfied on a balance of probabilities that—</p> <p>(e) the granting of the application does not prejudice—</p> <p>(iii) the learners of an educational institution who are under the age of eighteen (18) years;"</p> <p>It is clear that the objector interprets the regulations in their own way and is without any facts. When a liquor license is considered by the relevant parties, consideration is given to circumstances.</p> <p>It is evident from the Liquor Act that holistic consideration and circumstances is considered when allocating liquor licenses.</p> <p>The onus is on the business to conduct their business in a responsible way that complies with the Liquor Act and does not prejudice learners of an educational institution who are under the age of eighteen.</p> <p>It is obvious that the objector is generalizing information in an attempt discredit the application.</p>
<p>Irrespective of any strict legal requirements, it would in the objector's opinion be out of order to allow a Pre-primary school at Erf 425 neighbouring a licensed establishment serving alcohol and which is located in close proximity (less than 75m) from at least two more licensed establishments selling alcoholic beverages.</p>	<p>The comment / point of objection is a thoughtless opinion with no legal status.</p> <p>The implementation of such general requirement would contribute to ill-functioning towns and business areas. The merit of each land-use must be considered holistically and taking all matters into consideration.</p> <p>In contrast with the comments, initiatives are currently also in process to establish a formal play park directly opposite the application site by volunteers to enhance Pringle Bay as a child friendly village.</p> <p>Therefore this generalized point of objection should be omitted.</p>

<p>The objectors major concern is the application and renewal of liquor licenses of businesses within the business zone would be impossible in his / her opinion</p>	<p>When considering liquor licenses, a holistic and objective evaluation are made by the Liquor and related authorities to evaluate Liquor License applications.</p> <p>It is further evident that the objector subjectively only considers the view of alcohol selling businesses and does not consider the need for all and by implication discriminating against facilities for children.</p>
<p>The business area should be reserved for appropriate business activities rather than school / creche / day-care centre which will inherently hamper or even prohibit future business developments</p>	<p>It is seriously concerning that a rate-payers association deter / discourage children (school/ creche / day-care centre) within the business area of the town. By implication, the PBRA's objective / aim to "To preserve and protect the rights and interests of all ratepayers and residents as a whole of the area" is subsequently not adhered to given that they do not protect the rights of parents who wish to have their kids in an easy accessible day-care centre close to their homes or work place.</p> <p>The functioning of towns, the needs of working parents, traffic considerations, infrastructure or land-use planning in general should inter alia be taken into consideration by a rate payers association. The objector ignores the latest educational trends of home-school centres with more and more parents working from home due to technological evolution and growth and circumstances.</p> <p>It is also seriously concerning that a ratepayers association discourages much needed investments and subsequent employment opportunities by objecting to such augmenting and complimenting agglomerating land-uses resulting to investors to rather invest elsewhere or completely abandon / omitting their initiatives. Ratepayers association should rather assist potential investors in a positive manner by inter alia assisting potential investors.</p> <p>In the light of the above, this point of objection should strongly be rejected and omitted.</p>

<p>The objector states that in terms of the Growth Management Strategy, 2010 that the only reason Planning Unit 3 shows one Pre-Primary school is because at the time of compiling the Growth Management Strategy the subject erf was used as a Pre-primary school.</p> <p>Contrary to the motivation of the applicant, we therefore submit that the need and desirability for a Pre-primary school seems to be outside Planning Unit 3, preferably within Planning Units 1 and 2.</p>	<p>The reason provided by the objector is incorrect and based on a generalised assumptions.</p> <p>The proposals for community infrastructure was based on Provincial Standards for the provision of community infrastructure. In the Overstrand Growth Management Strategy, 2010 the allocation of community facilities was based on representative distribution and accessibility as well as the calculation per planning unit.</p> <p>The comments made by the PBRPA has taken the information out of context to justify their point of objection without considering the actual need of the community.</p> <p>The objection is thus invalid.</p>
<p>The objector questions whether the applicant has taken the changed urban and social landscape into consideration.</p> <p>They agree that a pre-school and day care facility is required, but questions whether Erf 425 is suited, given the liquor license issues within the business area of the village</p>	<p>This application was actually made as a result of a changed urban and social landscape.</p> <p>It is clearly obvious that the objector is afraid of losing their liquor licence and therefore objected to the application. From the communication with the Liquor Authority, the South African Police Service and the Western Cape Liquor Act, 2008 if the licence holder acts within the rules no reason exist that the liquor license holder will lose their license.</p> <p>This question is thus not applicable and should be ignored.</p>

4. Conclusion:

The objections received is disregarding the need of other supporting land-uses than those in the tourism and hospitality sector and is clearly protecting their own existing rights without the necessary background information. In this instance the objectors has the concern that their liquor licences would be affected by the proposed day care centre. Subject to complying to the rules and regulations applicable to the Western Cape Liquor Act, 2008, the proposed day care centre will not threaten their liquor licences.

It need to be understood that a town, even a small town or village like Pringle Bay consists of functional systems of mutual linked urban components such as residential, commercial, industrial, public services, educational, recreational and transport land-uses. For the optimal and harmonious functioning of these different land-uses it is important that the different characteristics are taken into account when applications are considered. These components should be orderly sited to obtain the most balanced and efficient utilization, functioning and development of land. In addition to this it should also be taken into consideration that towns are dynamic and changes all the time in terms of needs, desirability due to technological evolution, however the principle of mutual linked urban components towards a functioning town remains.

Thus, by not accommodating certain land-uses results to an unbalanced and incomplete town.

In the light of the above it is requested that this consent use application for a day care centre be approved.

Kind Regards



Andre Wiehahn Pr Pln A/927/1996
B Art et Sc (Town and Regional Planning)
Tel: 082 466-0490

Annexure F

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITION &
CONSENT USE: ERF 425, PRINGLE BAY**

Stormwater (SW)	:	Refer to Conditions
Electricity	:	Eskom Area
Water	:	Refer to Conditions
Sewer	:	Refer to Conditions
Roads and traffic	:	Refer to Conditions

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 should any additional municipal services or connections be required, the owner will be responsible for the cost thereof and/or payment of bulk services levies;
3. that the developer investigates and determine the limitations of the site in terms of drainage, subject to the minimum requirements of SANS 10400 – P: 2010: Drainage;
4. that on-site parking facilities be provided as per the Planning Schedule, and to the satisfaction of the Directorate: Infrastructure and Planning;
5. that any additional and / or extended vehicle entrance will be for the owner's account;
6. that, upgrading and/or development of the relevant sidewalks adjacent to the property be required as part of the development, application for such development be made to the office of the Senior Manager: Operational Services (Kleinmond) for written approval;
7. that stormwater be allowed to discharge through Erf 425, Pringle Bay, unobstructed.

pp. R. Hendriks
DENNIS HENDRIKS
 SENIOR MANAGER: ENGINEERING SERVICES

12/08/2022
 DATE



File reference:	425 KPRB (4183/2022)
Date:	29 June 2022
	LI

INTERNAL MEMORANDUM

From	:	Town Planning Department
Town Planner	:	Hanneen van der Stoep

TO:

<u>Area Manager</u>	<u>Building Control Department</u>	<u>District Health</u>	<u>Electrical Department</u>	Environmental Officer
<u>Fire Department</u>	<u>Infrastructure and Planning</u>	Local Heritage Committee	<u>Operational Services</u>	Property Administration
Tourism	<u>Traffic Department</u>	<u>Ward Councillor</u>	<u>Waste Management</u>	

Applicant	INTERACTIVE TOWN & REGIONAL PLANNING (obo HM JOAO)
Property Details	ERF 425, 19 CENTRAL ROAD, PRINGLE BAY
Application Description	APPLICATION FOR CONSENT USE

ATTACHMENTS:

1. Notice	Should the information be insufficient for you to make an informative comment, please list any additional documentation that you would require to make informed comments.
2. Locality Plan	
3. Motivation	
4. Site Development Plan	

YOUR DEPARTMENT'S COMMENTS:

No objection to this application. If this application is approved, please note -	
In terms of Overberg District Municipality Municipal Health Services By-Law,	
application needs to be done for a Health Certificate – Child Care Facility and need to comply with	
all requirements in the by-law; with the inspection it will also be establish how many children are	
allowed on the premises as prescribed in the mentioned By-Law.	
Signature:	<i>Goshthuizen</i>
Date:	28 July 2022

Please provide your comments (with specific reference to any conditions of approval that should be imposed) in the space provided above or in a separate Memo **by not later than the date stipulated below**. If you require an extension of time for submission of comments, kindly request this in writing. Should no comments be received, it will be assumed that you have no objection to the proposal and where appropriate, the Mayoral Committee will be informed accordingly.