

**ERF 5568, ONRUSTRIVIER (PREVIOUSLY REMAINDER OF PORTION 336 OF FARM 581, DIVISION CALEDON), HABONIM RESORT: APPLICATION FOR THE AMENDMENT OF THE EXISTING SITE DEVELOPMENT PLAN, APPROVAL OF DEVELOPMENT PARAMETERS FOR THE PROPERTY, AND DETERMINATION OF AN ADMINISTRATIVE PENALTY: WRAP PROJECT OFFICE ON BEHALF OF ADAMA (PTY) LTD**

Notice is hereby given in terms of Section 48 of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 (By-Law) that an application has been received for the following:

- **Amendment of the existing site development plan** in terms of Section 16(2)(l) of the By-Law to accommodate all the existing structures on the property.
- **Application for the approval of development parameters for the property** in terms of Chapter 13.1.2 of the Overstrand Municipality Land Use Scheme, 2020.
- **Determination of an administrative penalty** in terms of Section 16(2)(q) of the By-Law for the unauthorised uses as detailed above.

Full details regarding the proposal are available for inspection during weekdays between 08:00 and 16:30 at the Department: Town Planning, Paterson Street, Hermanus. Any comments must be in writing in accordance with the provisions of Sections 51 and 52 of the By-Law to reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) on or before **12 May 2023**, quoting your name, address and contact details, interest in the application and the reasons for comment. Telephonic enquiries can be made to the Town Planner, **Mr. H Boshoff** at 028-313 8900. The Municipality may refuse to accept comments received after the closing date. Any person who cannot read or write may visit the Town Planning Department where a municipal official will assist them in order to formalize their comment.

**ERF 5568, ONRUSTRIVIER (VOORHEEN RESTANT VAN GEDEELTE 336 VAN PLAAS 581, AFDELING CALEDON), HABONIM OORD: AANSOEK OM WYSIGING VAN DIE BESTAANDE TERREINONTWIKKELINGSPLAN, GOEDKEURING VAN ONTWIKKELINGSREËLS VIR DIE EIENDOM, EN BEPALING VAN 'N ADMINISTRATIEWE BOETE: WRAP PROJECT OFFICE NAMENS ADAMA (PTY) LTD**

Kennis word hiermee gegee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening vir Munisipale Grondgebruikbeplanning, 2020 (Verordening) dat 'n aansoek vir die volgende ontvang is:

- **Wysiging van die bestaande terreinontwikkelingsplan** ingevolge Artikel 16(2)(l) van die Verordening om al die bestaande strukture op die eiendom te akkommodeer.
- **Aansoek vir die goedkeuring van ontwikkelingsreëls vir die eiendom** ingevolge Hoofstuk 13.1.2 van die Overstrand Munisipaliteit Grondgebruikskema, 2020
- **Bepaling van 'n administratiewe boete** ingevolge Artikel 16(2)(q) van die Verordening vir die ongemagtige gebuike soos bo uiteengesit.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende weksdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. Enige kommentaar op die voorstel moet skriftelik wees ingevolge Artikels 51 en 52 van die Verordening en die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) bereik voor of op **12 Mei 2023**, met u naam, adres en kontakbesonderhede, belang in die aansoek sowel as die redes vir kommentaar. Telefoniese navrae kan gerig word aan die Stadsbeplanner, **Mnr. H Boshoff** by 028-313 8900. Die Munisipaliteit mag weier om die kommentaar te aanvaar na die sluitingsdatum. Enige persoon wat nie kan lees of skryf nie kan die Departement Stadsbeplanning besoek waar hul deur 'n munisipale amptenaar bygestaan sal word ten einde hul kommentaar te formaliseer.

**ISIZA 5568, ONRUSTRIVIER (NGAPHAMBI KWAKUSELEKILE KWIXANYE 336 YEFARM 581, ICANDELO CALEDON), HABONIM RESORT: ISICELO SOKULUNGISWA KWESICWANGCISO SOPHULISO ESIXHONAYO, UKUVUMELWA KOPHULISO I-PARAMETERS YEPROPATI, NOKUMISELWA KWESOHLWAYO SOLAWULO: WRAP PROJECT OFFICE EGAMENI LIKA ADAMA (PTY) LTD**

Isaziso siyanikezelwa ngokweCandelo lama-48 Overstrand kaMasipala woLungiso loMthetho kaMasipala kuCwangciso lokuSetyenziswa koMhlaba kaMasipala, ka-2020 (uMthetho kaMasipala) sokuba isicelo sifunyenwe soku kulandelayo:

- **Ukwenziwa kwezilungiso kwiplani yophuhliso lwesiza** ngokungqinelana neCandelo 16(2)(l) loMthetho kaMasipala ukuze kulungiselelwe zonke izakhiwo ezikhoyo kwipropati.
- **Isicelo ukuvumelwa kophuhliso i-parameters yepropati**, ngokweSahluko 13.1.2 seNkqubo yokuSetyenziswa koMhlaba kaMasipala waseOverstrand, 2020.
- **Ukumiselwa kwesohlwayo solawulo** ngokweCandelo le-16(2)(q) loMthetho kaMasipala ngokusetyenziswa okungagunyaziswanga njengoko kuchaziwe ngentla apha.

linkcukacha eziphelileyo malunga nesi sindululo ziyafumaneka ngeentsuku zomsebenzi phakathi kweyure-08:00 ne-16:30 kwiSebe: Town Planning, Paterson Street, Hermanus. Naziphi na izimvo ezibhaliweyo mazingeniswe ngokwezibonelelo zamaCandelo 51 nelama-52 alo Mthetho kamasipala zithunyelwe kuMasipala (16 Paterson Street, Hermanus / (f) 028-313-2093 / (e) [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)) ngolu suku okanye ngaphambi komhla **12 UCanzibe 2023**, unike igama lakho, idilesi neenkukacha zonxibelelwano nawe, umdla wakho kwesi sicelo nezizathu zokunika izimvo. Xa ufuna ukubuzisa into malunga nesi saziso ungafonela Umcwangcisi weDolophu **Mnu. H Boshoff** kule nombolo yomnxeba 028-313-8900. UMasipala angala ukuzamkela izimvo ezifike emva komhla wokuvalwa. Nabani na ongakwaziyo ukufunda okanye ukubhala makaye kwiSebe loYilo lweDolophu apho igosa likamasipala liya kumncedisa azibhale izimvo zakhe.





## MOTIVATION

### 1. ABBREVIATIONS

<b>OM</b>	Overstrand Municipality
<b>OMLUS</b>	Overstrand Municipality Land Use Scheme, 2020
<b>By-Law</b>	Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020
<b>PSDF</b>	Western Cape Provincial Spatial Development Framework, 2014
<b>LUPA</b>	Western Cape Land Use Planning Act, 2014.
<b>MSDF</b>	Overstrand Spatial Development Framework, 2020

### 2. PROPERTY DETAILS

<b>Consultant</b>	WRAP Project Office
<b>Erf Number</b>	Erf 5568 Onrustrivier
<b>Extent</b>	18,8 ha
<b>Status Quo Zoning</b>	Resort Zone: Holiday Resorts (RZ)

### 3. BACKGROUND AND INTENT

Erf 5568 Onrustrivier, hereafter referred to as the subject property, is located between Sandbaai and Onrustrivier (refer **Plan 1 - Locality**). The property owner (Adama (PTY) Ltd) appointed WRAP Project Office to submit this land use application on their behalf (refer **Annexure A – Power of Attorney**).

The subject property has been owned by the property owners since 1967 for the past 55 years the property has been utilised to accommodate Habonim Dror Southern Africa (HDSA), which operates two centres in Johannesburg and Cape Town (Hermanus).

The objective of the HDSA is the following: *"We aim to educate Jewish Southern African youth on Zionism, Judaism and concerns of Humanity. We aim to inspire Jewish Southern African youth to prioritise and actualise Judaism, Zionism and Service to Humanity in their lives, whilst living out the values of tolerance, peace, equality, freedom, respect and human rights.*

*With a focus on informal education, Judaism, Zionism and leadership building, the movement is constantly running events for its chaverim. These events range from weekly meetings to mini-machanot over weekends to Israel tours and programmes."*

They accommodate Jewish children all year long to experience the Onrus campsite for learning, relaxation, meeting new people, engaging with the movement's top leadership, campfires, spending time with the Shomrim, listening to top guest speakers, playing paintball in the bush, singing, dancing, taking photos, eating matzah – it's over Pesach! – debate, learn about, love and engage with Israel, South Africa and the world.

While these camps are operational, the HDSA has a registered doctor on call, on site, to ensure the safety and well-being of the children. They have their own accommodation (dwelling unit) and an office on site to be able to effectively aid the children should it ever be required.



## MOTIVATION

To ensure the subject property is able to cater for these children and camps, the subject property is required to adhere to the OMLUS and National Building Regulations.

The property has a Resort Zoning which allows the property to be used for 'Holiday Accommodation' which is defined as the following:

*"holiday accommodation means a harmoniously designed and built development used for holiday and recreational purposes, whether in private or public ownership, which:*

- (i) consists of a single enterprise in which accommodation is supplied on a temporary basis and or by means of time-sharing only;*
- (ii) may include the provision of a camping site, mobile home park and dwelling units;*
- (iii) may also accommodate a restaurant and/or shop; indoor and outdoor recreation facilities for the use of paying lodgers and occupants of the establishment but excludes a hotel or conference centre;"*

The property's use is currently aligned with the definition of "holiday accommodation". The property is used as mentioned above as a camping site and dwelling units are available for the instructors and the doctors whose services are only provided on a temporary basis while the camp is occupied. There are also kiosks available on-site for the children to buy snacks and other items which is aligned with a shop as mentioned above.

The property owners however have the intention to remove all non-compliant perimeter fencing and replace it with Clear-Vu fencing in accordance with the OMLUS.

No Resort activities are taking place on the adjacent property to ensure that there are no mixed lines of activities. No Resort activities will be allowed on the agricultural property (Portion 366 of the Farm Afdaks Rivier 581, Caledon).

To ensure compliance with the OMLUS, approval of the following application is required:

- Amendment of a Site Development Plan (SDP); and
- Determination of an Administrative Penalty.

#### **4. PROCEDURE TO ACHIEVE THE PROPERTY OWNER'S INTENT**

**4.1 Amendment of a site development plan** in terms of Section 16(2)(l) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

The subject property is improved with various structures that are used throughout the year on a temporary basis to accommodate various camps by the HDSA. The last approval of the SDP occurred in 2008, refer to **Annexure C – Historic SDP Approval**.

Several of these structures have been demolished over the years and several have been added as the need arises. Refer to **Plan 4 – Amended Site Development Plan**. The existing and demolished buildings are included in the table on the next page.



## MOTIVATION

The subject property is not occupied continuously for holiday accommodation and to assist with general upkeep of the subject property there is a caretaker's house, which is permanently occupied.

The caretaker ensures that the property is ready and maintained for these camps or other events, as and when necessary, as discussed in Section 3.

LEGEND	
	Existing Structures – Before 1977
	Existing Structures – From 1977 to 2005
	Existing Structures – 2005 to date
	Demolished Structures

#	Age	Use / Building Type	Extent	Located on
1.		Main Machson (workshop) =	224m <sup>2</sup>	Erf 5568
2.		Office =	80m <sup>2</sup>	Erf 5568
3.		Tuckshop =	53m <sup>2</sup>	Erf 5568
4.		Kitchen =	123m <sup>2</sup>	Erf 5568
5.		Kitchen store: meat =	80m <sup>2</sup>	Erf 5568
6.		Kitchen store: milk =	117m <sup>2</sup>	Erf 5568
7.		Admin open shelter =	103m <sup>2</sup>	Erf 5568
8.		Containers =	56m <sup>2</sup>	Erf 5568
9.		Caretakers house =	121m <sup>2</sup>	Erf 5568
10.		Hall =	282m <sup>2</sup>	Erf 5568
11.		Accommodation =	397m <sup>2</sup>	Erf 5568
12.		Sollelim boys shower/toilets =	69m <sup>2</sup>	Erf 5568
13.		Sollelim girls shower/toilets =	68m <sup>2</sup>	Erf 5568
14.		Sollelim shelter (Hall) =	259m <sup>2</sup>	Erf 5568
15.		Shtilim shelter (Hall) =	297m <sup>2</sup>	Erf 5568
16.		Shtilim huts =	200m <sup>2</sup>	Erf 5568
17.		Shtilim boys shower/toilets =	72m <sup>2</sup>	Erf 5568
18.		Shtilim huts =	225m <sup>2</sup>	Erf 5568
19.		Shtilim girls shower/toilets =	72m <sup>2</sup>	Erf 5568
20.		Sollelim boys shower/toilets =	68m <sup>2</sup>	Erf 5568
21.		Admin girls shower/toilets =	22m <sup>2</sup>	Erf 5568
22.		Admin boys shower/toilets =	22m <sup>2</sup>	Erf 5568
23.		Beach tuckshop =	10m <sup>2</sup>	Erf 5568
24.		Shlichim Ablution Block (House) =	80m <sup>2</sup>	Erf 5568
25.		Water reservoir	-	Erf 5568
26.		Bonim white house (tuck Shop) =	10m <sup>2</sup>	Erf 5568
27.		Bonim Open shelter =	131m <sup>2</sup>	Erf 5568



## MOTIVATION

28.		Bonim Open shelter =	100m <sup>2</sup>	Erf 5568
29.		Bonim boys shower =	35m <sup>2</sup>	Erf 5568
30.		Bonim girls shower =	37m <sup>2</sup>	Erf 5568
31.		Bonim toilets =	20m <sup>2</sup>	Erf 5568
32.		Amelim toilets =	14m <sup>2</sup>	Erf 5568
33.		Amelim toilets =	14m <sup>2</sup>	Erf 5568
34.		Amelim girls shower =	33m <sup>2</sup>	Erf 5568
35.		Amelim boys shower =	34m <sup>2</sup>	Erf 5568
36.		Amelim Open shelter =	358m <sup>2</sup>	Erf 5568
37.		Amelim white house (Tuck Shop) =	11m <sup>2</sup>	Erf 5568
38.		Sayarim white house (Tuck Shop) =	10m <sup>2</sup>	Erf 5568
39.		Sayarim Open shelter =	223m <sup>2</sup>	Erf 5568
40.		Sayarim toilets =	41m <sup>2</sup>	Erf 5568
41.		Sayarim girls shower (Demolished)	-	Erf 5568
42.		Sayarim boys shower =	37m <sup>2</sup>	Erf 5568
43.		Shomrim shelter =	136m <sup>2</sup>	Erf 5568
44.		Shomrim white house (Tuck Shop) =	9m <sup>2</sup>	Ptn 360/581
45.		Demolished Structure	-	Ptn 360/581
46.		Shomrim toilets =	16m <sup>2</sup>	Ptn 360/581
47.		Shomrim showers =	50m <sup>2</sup>	Ptn 360/581
48.		Demolished Structure	-	Erf 5568
49.		Demolished Structure	-	Erf 5568
50.		Demolished Structure	-	Erf 5568
51.		Demolished Structure	-	Erf 5568
52.		Concrete slab (Demolished)	-	Ptn 360/581
53.		Demolished Structure	-	Erf 5568
54.		Demolished Structure	-	Erf 5568
55.		Demolished Structure	-	Erf 5568
56.		Demolished Structure	-	Erf 5568
57.		Demolished Structure	-	Erf 5568
58.		Demolished Structure	-	Erf 5568
59.		Demolished Structure	-	Erf 5568
60.		Store =	265m <sup>2</sup>	Ptn 360/581
61.		Store =	166m <sup>2</sup>	Ptn 360/581
62.		Pergola =	12m <sup>2</sup>	Ptn 360/581
63.		Pergola =	7m <sup>2</sup>	Erf 5568
64.		Huts/ Wendy Houses =	106m <sup>2</sup>	Erf 5568
65.		Pergola =	21m <sup>2</sup>	Erf 5568
66.		Pergola =	15m <sup>2</sup>	Erf 5568

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## MOTIVATION

67.	Pergola =	31m <sup>2</sup>	Erf 5568
68.	Containers =	82m <sup>2</sup>	Erf 5568
69.	Pergola =	42m <sup>2</sup>	Erf 5568
70.	Huts/ Wendy Houses =	66m <sup>2</sup>	Erf 5568
71.	Pergola=	29m <sup>2</sup>	Erf 5568
72.	Shtilim Huts (existing in new location)	116m <sup>2</sup>	Erf 5568
73.	Pergola =	29m <sup>2</sup>	Erf 5568

The amendment of the SDP will ensure the municipality has an up-to-date record of all the structures on the subject property. The property owners do not wish to add any additional structures on the subject property and is attempting to obtain approval for an SDP that illustrates all the structures. The property will solely be used for resort purposes.

#### **4.2 Determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

To ensure compliance with the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020 it is of importance to include the determination of an administrative penalty in this application.

It is well established in case law that legislation cannot be applied retrospectively unless it is specifically stated in the legislation. Refer below:

Goldstone in his judgment in *Van Lear v Van Lear* (1979 (3) SA 1162 (W) 1164) on the other hand, explains the distinction as follows:

*"In its narrow connotation and enactment, it is only retrospective if it provides or has the effect that, as at a particular date, the law shall be taken to be that which it was not. However, a statute is also deemed to be retroactive when it interferes with existing rights and obligations".*

It should be noted that the structures in question were constructed prior to the amalgamation of the Overstrand Municipality and no additional structures have been added to the property since the implementation of the new Municipal Land Use Planning By-Law in 2015. Based on this information, it is our belief that the property owners are not currently subject to any land use penalties. As the By-law is not allowed to be applied retrospectively since its announcement. However, it should be noted that any future construction without proper approval may result in an administrative penalty. It is also important to note that the property owners are still required to comply with all building control regulations in place since 1978.

Section 90(3) of the By-law requires the following information:

#### **The nature, duration, gravity and extent of the contravention**

The nature, gravity and extent are explained in Section 4.1 above.



## MOTIVATION

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There has been no building built after 2014 and there are no contraventions applicable to the subject property.

**The conduct of the person (allegedly) involved in the contravention**

The property owners have owned the property since 1967.

**A report by a quantity surveyor in matters of unauthorised building/construction**

A quantity surveyor was not appointed as there are no penalties applicable to the property.

**Whether the unlawful conduct was stopped**

There was no recent unlawful conduct on the property .

**Whether the person allegedly involved in the contravention has previously contravened this By-Law or a previous planning law.**

To the knowledge of this office, the property owner has not previously contravened the By-Law.



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## 5. APPLICATION

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Considering the above, application is made for the following:

- 5.1 Amendment of a site development plan** in terms of Section 16(2)(l) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.
- 5.2 Determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.

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## 6. LAND USE ENVIRONMENT

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The property has a unique location nestled between Sandbaai and Onrustrivier. There are several different land uses surrounding the subject property. The surrounding area's zonings are illustrated in **Plan 2** (zoning plan).

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## 7. TITLE DEED

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A conveyancer was requested to provide a conveyancer's certificate to ensure that the correct title deed was used for the subject property. The Deed of Transfer No. T29109/1967 (refer **Annexure B**) historically referred to the subject property as the following:

*"CERTAIN PIECE OF REDEEMED QUITRENT LAND BEING THE REMAINDER OF MELKBOSCH PUNT, A PORTION OF LOT NO. 2 OF ONRUST RIVER AND RHEESIGHT, SITUATE IN THE DIVISION OF CALEDON, MEASURING TWENTY-TWO (22) MORGEN."*

The title deed does not contain any restrictive title deed conditions that prohibit the amendment of a Site Development Plan.

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## 8. ZONING

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The following zoning parameters were assessed in conjunction with the Resort Zone (RZ) OMLUS zoning as this is a relevant consideration in terms of Section 66 (1) (q) of the OM By-Law:



**MOTIVATION**

<b>RESORT ZONE: HOLIDAY RESORTS (RZ)</b>			
<b>Land Use Restrictions</b>			
	<b>Parameters</b>	<b>Proposal</b>	<b>Comply/ deviate</b>
<b>Primary use</b>	Conservation Use, <b>Holiday Accommodation</b> , Private Open Space, Private Road and Tourist Accommodation.	Holiday Accommodation	Comply
<b>Consent use that may be applied for</b>	<b>Additional Dwelling Units</b> , Conference Facilities, Holiday Housing, Hotel, Place of Assembly, Place of Entertainment, Recreational Facilities, Restaurant, Transmission Apparatus (Subject to the Provisions of Chapter 16.10), Tourist Facilities or Any Other Uses Determined By The Municipality.	Additional Dwelling Units	N/A
	<b>Development parameters</b>		
	<p>a) Prior to the approval of any building or engineering services plan, the Municipality shall stipulate development parameters with regard to density, height, coverage, layout, building design, landscaping, parking, access, signage and the use of the property when:</p> <p>(i) the zoning of a land unit to this zone is approved;</p> <p>(ii) any environmental impact report is considered;</p> <p>(iii) any environmental management plan is considered; and</p> <p>(iv) any site development plan and landscape master plan is approved.</p> <p>b) A site development plan must be submitted to the Municipality for approval in accordance with 16.3.</p> <p>c) A landscape master plan and environmental management plan shall be submitted to the Municipality and approved in terms of the provisions stipulated in 16.4.</p> <p>d) The Municipality shall stipulate the required services and other infrastructure required to service the resort.</p>		

**Refer to Annexure D – Development Parameters.**



## MOTIVATION

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### 9. DESIGN GUIDE FOR THE RESORT DEVELOPMENT

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To ensure compliance with the OMLUS a draft design guide was compiled. The design guideline addresses all the development parameters proposed for the subject property.

Refer to **Annexure D – Development Parameters**.

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### 10. SERVICES

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The availability of services is a relevant consideration in terms of Section 42(1)(c)(v) of SPLUMA and is herewith illustrated.

#### **Electricity, Water, Sewage and Solid Waste**

The subject property is connected to the OM's networks, which include electricity and water. The proposal of this application will not affect these networks as no additional development is required.

The sewage is managed on-site using conservancy tanks. These tanks are serviced by the OM when required.

Solid waste is collected every week by the OM.

#### **Access and Egress**

Access and egress to the subject property is gain from Pinaroux Street, once constructed. The property currently gains access from an unnamed gravel road.

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### 11. NEED AND DESIRABILITY

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The need and desirability of the approval and implementation of this proposal in accordance with Section 66 (1) (c) of the OM By-Law can be illustrated as follow:

#### **Need and desirability**

The approval of this land use application is required to ensure that the property adheres to the requirements set out by the Overstrand Municipality to have the existing buildings compliant with the relevant legislation. The first step in this process was to ensure all the existing building are illustrated on a single plan as the last SDP was approved in 2008 and since then there have been small additions that are required to be shown on an amended SDP.

The property owners are also taking steps, after the amended SDP is approved, to have building plans drawn up for all buildings and structures on the property and submitted to the Overstrand Municipality Building Control Department.

To achieve their vision, the property owners have appointed WRAP Project Office to submit this application to ensure the proposed development is not in contradiction to any policies, legislation, or title deed conditions.



## MOTIVATION

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### **Impact on views, sunlight and character of the area**

The subject property is located in a unique location between Onrus and Sandbaai. The proposal to have the SDP amended is not predicted to affect the **views, sunlight and character of the area**.

No additional structures are being proposed and only steps are being taken to obtain approval for a Site Development Plan indicating the existing structures.

### **Economic impact**

The proposal has little to no impact on the economy as no additional development is being planned at this stage. The property attracts attention, especially during December when these camps are held, purchasing and consuming local- produce and products to prepare and provide food and services for these children.

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### **Opportunity cost**

An opportunity cost in the context of land use planning refers to a development proposal that leads to the devaluation or foregoing of valued land use rights of interested and affected parties when an application is approved.

The proposal is not predicted to have a negative impact on surrounding properties. The proposal will ensure the OM is able to understand the situation on the subject property and to ensure that these buildings comply with the required legislation.

### **Impact on heritage**

The subject property is not listed in the OM Heritage Register.

### **Environmental impact**

The subject property is not located within an environmentally important area. No additional development is being proposed and only amendment of the SDP is being requested.

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## **12. POLICIES AND REGULATIONS**

### **12.1 Overstrand Municipality Environmental Protection Overlay Zone (EMOZ)**

The subject property is located within the 'Coastal Protection' EMOZ, managing the integrity of coastal ecosystems, ecosystem services, coastal dynamic processes, and biodiversity within Coastal Reserves.

To ensure compliance with the guidelines set out in the EMOZ, the application was evaluated in terms of the provisions of Schedule A & B of the Environmental Management Overlay Zone 2020:



**MOTIVATION**

<b>SCHEDULE A PROHIBITED ACTIVITIES IN OVERSTRAND ENVIRONMENTAL MANAGEMENT OVERLAY ZONES</b>		
<b>Prohibited Activity</b>	<b>Applicable Environmental Management Overlay Zone (EMOZ)</b>	<b>Applicable to the application or not</b>
	<b>Coastal Protection</b>	
Agricultural practices within this EMOZ which may cause water logging and siltation.	X	N/A
Planting or harbouring of declared emerging weeds on properties within and adjacent to this EMOZ.	X	N/A
Development or agriculture on slopes steeper than 1:4	X	N/A
Establishment of Informal settlements or Temporary Relocation Areas.	X	N/A
No land user within this EMOZ may utilise the vegetation in a vlei, marsh or within the flood area of watercourse in a manner that may cause the deterioration or damage to the natural agricultural resources.	X	N/A
Placement of religious symbols or memorabilia.	X	N/A
Harvesting /collection of kelp / seaweed in municipal designated "no-take" zones.	X	N/A
Harvesting, collection, moving, loading drying of kelp /seaweed, with a valid Seaweed Harvesting Permit or an exemption in terms of Section 81 or the MLRRA issued by the DAFF.	X	N/A
Stockpiling, drying, processing or loading of marine resources beyond areas designated, demarcated and signposted by the Municipal Council for such purposes.	X	N/A
Modification of the littoral active zone / functional dune systems in absence of approved management plans.	X	N/A
Feeding, disturbing / pursuit of fauna.	X	N/A
Disturbance, modification or destruction of the environment or species within special management areas designated, demarcated and signposted by the Municipal Council from time to time.	X	N/A
Defacing/damaging / removing of any notice, sign, barrier building or other infrastructure.	X	N/A
Playing or tampering with any rope, float, buoy, vessel, shelter or similar life - saving device.		N/A



## MOTIVATION

Staying overnight.	X	The entire subject property is located within the zone. The property is utilised for camping.
The discharging of domestic effluent / grey water into all natural systems.	X	N/A
Tampering with security / surveillance infrastructure.	X	N/A
Defacing of rocky outcrops and placement of memorial plaques, religious symbols or structures on natural features.	X	N/A
Graffiti, vandalism or damaging of municipal infrastructure.	X	N/A
Littering	X	N/A
Disposal of cigarette butts, ash or other hazardous materials in any place or manner other than a receptacle designated for such items	X	N/A
Dog walking / exercising of dogs in non-designated zones.	X	N/A

SCHEDULE B ACTIVITIES ONLY PERMITTED WITH COUNCIL CONSENT IN OVERSTRAND ENVIRONMENTAL OVERLAY ZONES		
A) Activities Only Permitted With Council Consent	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Coastal Protection	
Permission for the utilization of access routes to permitted kelp / seaweed harvesting sites.	X	N/A
Removal or destruction of vegetation which is protected and/or of conservation concern.	X	N/A
Dune maintenance on private land as per approved dune maintenance management plans.	X	N/A
Excavation and destruction or removal of substrate (soil, substrate, rock, shellgrit, dune sediment, mineral deposits).	X	N/A
Discharging of pool backwashing or untreated grey water or the channelling of storm water into open spaces without the necessary approval from the Municipality.	X	There are no pools on the property.



## MOTIVATION

B) Permit Upon Approval By Delegated Authority and / Receipt of Tariff	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Coastal Protection	
Installation of conservancy tanks or biological treatment plants within 50 metres from the edge of a watercourse / wetland.	X	N/A
Access from private properties to open spaces, including the removal of vegetation and the establishment of paths, structures and infrastructure.	X	N/A
Commercial filming.	X	N/A
Construction or placement of any temporary object, building, shelter, path or structure.	X	N/A
Use of engine or motor driven vehicles, remotely piloted aircraft or any other means of transport or other conveyances beyond designated, demarcated and signposted areas.	X	N/A
Launching of vessels at registered launch sites.		N/A

C) Council Authorisation Pending Consent Use Application / Lease Agreement / Applicable Tariffs as applicable	Applicable Environmental Management Overlay Zone (EMOZ)	Applicable to the application or not
	Coastal Protection	
Buildings / Structures associated with: Taking of water, storing of water, impeding or diverting flow, stream flow reduction, altering the bed, banks, course characteristics, outflow structures or discharge pipes.	X	N/A
Application for the designation of industrial sites and activities associated with the seaweed harvesting, collection, drying, transport and processing fishery.	X	N/A
Encroachment of private buildings, structures, infrastructure, access routes.	X	The entire property is within the zone. All of the structures are located within the zone.
Commercial Harvesting/collection and removal of any natural resource.	X	N/A
Construction or placement of any permanent object, building, shelter, pathway or structure.	X	The entire property is within the zone. All of the structures are located within the zone.

The proposed amendment of an SDP is not predicted to affect the EMOZ anyway.

File 22/71

ERF 5568 ONRUSTRIVIER

Sept 2022 & Amended Jan 2023

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## 12.2 Overstrand Municipality Heritage Protection Overlay Zone (HPOZ)

The subject property is classified by its own HPOZ, "Onrust HPOZ" of which the purpose is the following:

*"To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:*

- (i) To protect the views from the main access road to the beach area and sea.*
- (ii) To protect the green natural environmental frame of the lagoon area.*
- (iii) To protect the public space environment of the Point area, particularly the natural flow between the public and private realms; the lack of boundary walls and formalised kerb and channel treatment; the preponderance of milkwood trees; and the relatively fine-grain nature of the residential fabric.*
- (iv) To protect the framed sea views on the Point area to the south of Beach Road.*
- (v) To protect the natural interface between the camping ground and the coastline and the context of the coastal walkway."*

The front of the property is also located within the "Coastal Strip" HPOZ, and its purpose is the following:

*"To ensure that any land use application resulting in additional rights complies with the existing character and contextual significance:*

- (i) To protect and enhance the nature of the transition zone between the built fabric along the coastal strip, including the first line of erven facing the coast, the coastal walkway and the coastline.*
- (ii) To protect the natural, environmental and scenic qualities along the coastal strip;*
- (iii) To protect lateral views between the mountain and coastline by ensuring the continuation of existing view lines and by controlling the massing and form of buildings adjacent to the coastal strip;*
- (iv) To ensure the retention of the relatively fine-grain form of development characteristic of the Overstrand holiday home vernacular evident along the coastal strip; and*
- (v) To ensure the retention of the existing structures identified as having intrinsic and contextual significance."*

To ensure compliance with the HPOZ it is of importance that certain aspects need to be provided and addressed in terms of Overstrand Municipality Heritage Protection Overlay Zone Regulations, 2020:

Section 20 – 22 states the following -

"20

*The Overstrand Municipality By-Law on Municipal Planning, 2020, will apply in respect of all applications, processes and decisions contemplated in these regulations.*

21

*In considering an application for written consent in order to undertake an activity in terms of the Heritage Protection Overlay Zone, the Municipality may require from an applicant*



## MOTIVATION

whatever information it deems necessary in order for an informed decision to be made regarding the application.

22 This could include, inter alia:

- 22.1 statements of significance;
- 22.2 heritage research;
- 22.3 photographs, including contextual photographs;
- 22.4 results of public consultation;
- 22.5 impact assessments; and
- 22.6 comment from affected and interested bodies."

### Statements of Significance

The heritage significance of the subject property is not large. The proposal is only to approve the Site Development.

### Heritage Research

No additional heritage research was done.

### Photographs, Including Contextual Photograph

Aerial maps were included into the application, refer to **Plan 3 – Aerial Plan**.

### Results of Public Consultation

Regarding this application an extensive public participation process will be held. If any comments are received regarding the heritage aspect it will be addressed accordingly.

### Impact Assessments

No impact assessments were conducted.

### Comment From Affected and Interested Bodies

The application will be circulated to affected and interested bodies for comment.

## **12.3 Spatial Planning Policies**

This proposal is not in conflict with any provisions of the Western Cape Provincial Spatial Development Framework, 2014 or the Overstrand Spatial Development Framework, 2020.

## **13. PLANNING PRINCIPLES**

Chapter 2 of SPLUMA contains 5 uncompromisable planning principles by which each development application must be guided. Policy proposals in SPLUMA which are pertinent to this proposal are recorded below:

### **Spatial Justice**

Spatial justice refers to planning proposals that do not contribute towards the perpetuation of apartheid spatial development imbalances. This proposal to amend the SDP will not contribute to spatial injustices.



## MOTIVATION

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### **Spatial sustainability and Efficiency**

Spatial sustainability refers to planning proposals that result in communities that are viable. This proposal will ensure the OM is aware of the structures and ensure all guidelines and other requirements are adhered to.

### **Spatial resilience**

This proposal is not in conflict with any spatial planning policies or other OM regulations which is a hallmark of resilience.

### **Good administration**

The Overstrand Municipality has demonstrated a solid history of effectively incorporating public participation into its administrative processes. Public participation is a crucial aspect of the land use planning process. This process allows individuals who may be impacted by the proposal to provide feedback and raise any concerns or make suggestions that may lead to a more favourable outcome for all parties involved. All comments received will be carefully reviewed and taken into consideration before being addressed appropriately.



## RECOMMENDATION

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### 14. EVALUATION

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This application is being submitted in accordance with the requirements set forth by the Overstrand Municipality to ensure that all existing structures on the subject property are illustrated on a single plan and are compliant with national building regulations. The application serves its function to address the first requirement. The previous Site Development Plan (SDP) was approved in 2008 and the current proposal is limited to amending that approved SDP to reflect the current state of the property.

It should be noted that the proposal is consistent with the surrounding area and no future development is being proposed. The property, which has been used by Habonim for over 50 years, is intended to continue being used for the same purposes in the foreseeable future.

As stated in Section 4.2, the Municipal Land Use Planning By-Law cannot be applied retrospectively, thus the property owners are currently not liable for any land use contravention penalties. However, it should be noted that any new structures built without prior approval may result in an administrative penalty.

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### 15. RECOMMENDATION

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Based on the abovementioned motivation, it is recommended that the following be approved:

**15.1 Amendment of a site development plan** in terms of Section 16(2)(l) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020; and

**15.2 Waiving of the determination of an administrative penalty** in terms of Section 90(5) of the Overstrand Municipality Amendment By-Law on Municipal Land Use Planning, 2020.



# Project Office

Town Planning & Project Management

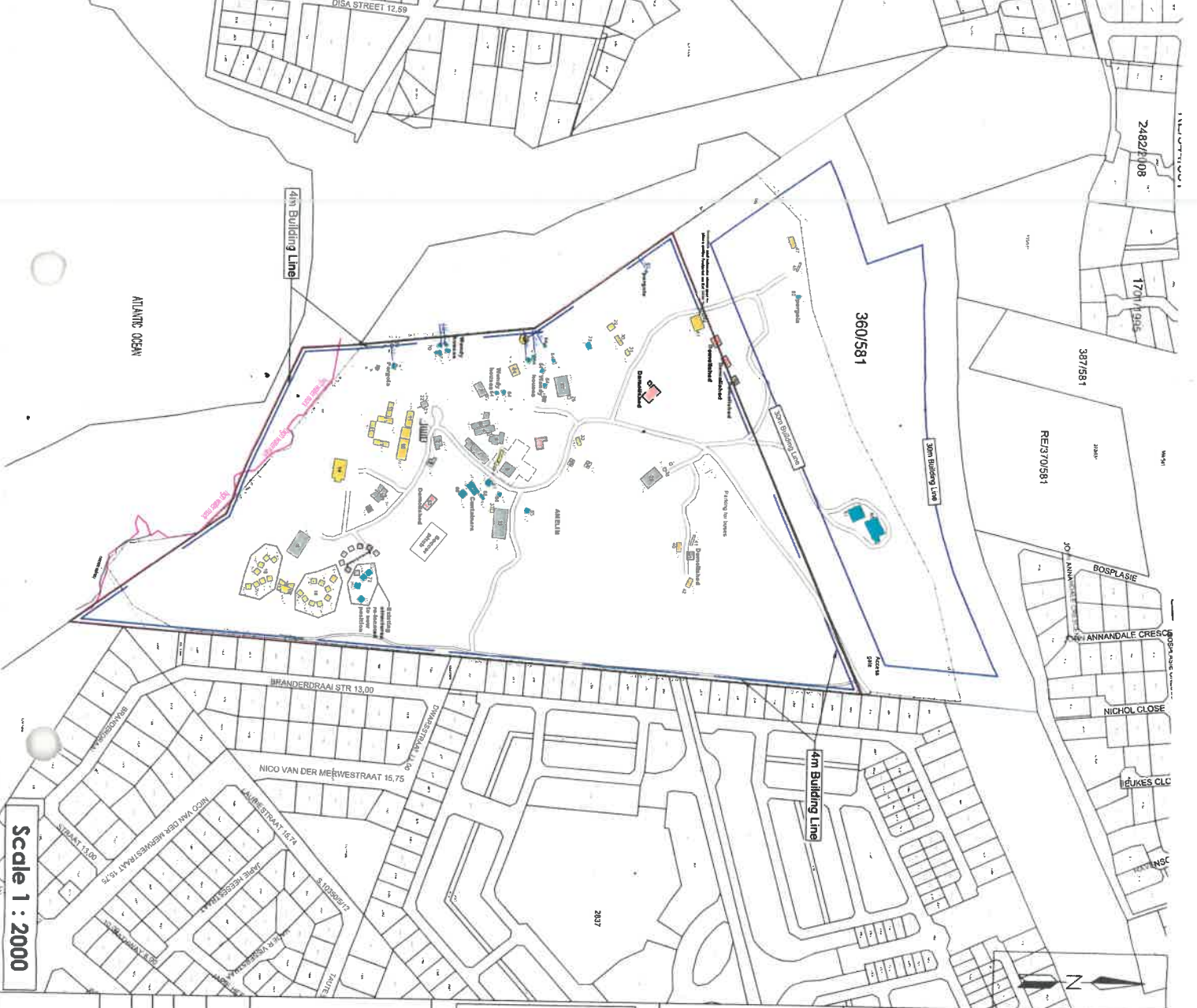
## HABONIM - RESORT

### Development Parameters

The document contains the development parameters for the existing resort development located on Erf 5568 – Onrustrivier. The parameters were drafted with the intention to be aligned with the existing structures and ensure any future development adheres to these guidelines:

Density (Dwelling Units per hectare)	<p>Maximum of 3 dwelling units per hectares.</p> <p>Total extent of Erf 5568 – Onrustrivier = 18.8Ha</p> <p>18.8ha x 3 du = 56.4 Dwelling Units</p> <p>Maximum number of dwelling units = 57</p>
Maximum height of structures	<p>8,0m</p> <p>(To be aligned with the residential properties located adjacent Habonim)</p>
Perimeter building lines	<p>4,0m from all boundaries</p>
Building Design	<p>One exception exists, for Building 44 of the Amended SDP. All structures need to be approved by the Overstrand Municipality.</p> <p>No requirement for the design, material or colours.</p>
Landscaping	<p>Landscaping to retain the maximum of amount of natural flora.</p> <p>Fire breaks to be in accordance with applicable legislation including Overstrand Municipality By-Laws.</p>
Parking	<p>Parking to adhere to the requirements set out by the Overstrand Municipality.</p>
Access and Signage	<p>Access to be gained from Pinaroux Street.</p> <p>Signage to be compliant with Overstrand Municipality By-Laws.</p>

#	Use / Building type	Extent	located on
1	Main washroom (workshop) =	224m <sup>2</sup>	Ef 5568
2	Office =	92m <sup>2</sup>	Ef 5568
3	Toiletshop =	53m <sup>2</sup>	Ef 5568
4	Kitchen =	129m <sup>2</sup>	Ef 5568
5	Kitchen store/meet =	80m <sup>2</sup>	Ef 5568
6	Kitchen store/mlk =	117m <sup>2</sup>	Ef 5568
7	Admin/open shelter =	103m <sup>2</sup>	Ef 5568
8	Condoners =	50m <sup>2</sup>	Ef 5568
9	Caremakers house =	121m <sup>2</sup>	Ef 5568
10	Hall =	282m <sup>2</sup>	Ef 5568
11	Accommodation =	397m <sup>2</sup>	Ef 5568
12	Solelm boys shower/toilets =	48m <sup>2</sup>	Ef 5568
13	Solelm girls shower/toilets =	69m <sup>2</sup>	Ef 5568
14	Solelm shelter (hall) =	297m <sup>2</sup>	Ef 5568
15	Shilim shelter (hall) =	202m <sup>2</sup>	Ef 5568
16	Shilim huts =	72m <sup>2</sup>	Ef 5568
17	Shilim boys shower/toilets =	229m <sup>2</sup>	Ef 5568
18	Shilim huts =	72m <sup>2</sup>	Ef 5568
19	Shilim girls shower/toilets =	69m <sup>2</sup>	Ef 5568
20	Solelm Boys shower/toilets =	23m <sup>2</sup>	Ef 5568
21	Admin girls shower/toilets =	22m <sup>2</sup>	Ef 5568
22	Admin boys shower/toilets =	10m <sup>2</sup>	Ef 5568
23	Beach lockshop =	10m <sup>2</sup>	Ef 5568
24	Stichim Adulthn block (House) =	80m <sup>2</sup>	Ef 5568
25	Water reservoir =	-	Ef 5568
26	Borin white house (Lack Shop) =	10m <sup>2</sup>	Ef 5568
27	Borin Open shelter =	131m <sup>2</sup>	Ef 5568
28	Borin Open shelter =	100m <sup>2</sup>	Ef 5568
29	Borin boys shower =	35m <sup>2</sup>	Ef 5568
30	Borin girls shower =	37m <sup>2</sup>	Ef 5568
31	Borin toilets =	20m <sup>2</sup>	Ef 5568
32	Amelim toilets =	14m <sup>2</sup>	Ef 5568
33	Amelim toilets =	33m <sup>2</sup>	Ef 5568
34	Amelim boys shower =	39m <sup>2</sup>	Ef 5568
35	Amelim Open shelter =	33m <sup>2</sup>	Ef 5568
36	Amelim Open shelter =	11m <sup>2</sup>	Ef 5568
37	Amelim white house (Lack Shop) =	10m <sup>2</sup>	Ef 5568
38	Soycim white house (Lack Shop) =	223m <sup>2</sup>	Ef 5568
39	Soycim Open shelter =	41m <sup>2</sup>	Ef 5568
40	Soycim toilets =	37m <sup>2</sup>	Ef 5568
41	Soycim girls shower =	136m <sup>2</sup>	Ef 5568
42	Soycim boys shower =	91m <sup>2</sup>	Ef 5568
43	Shorrim shelter =	16m <sup>2</sup>	Pn 360/581
44	Shorrim white house (Lack Shop) =	53m <sup>2</sup>	Pn 360/581
45	Demolished Structure	-	Ef 5568
46	Shorrim toilets =	-	Ef 5568
47	Shorrim showers =	-	Ef 5568
48	Demolished Structure	-	Ef 5568
49	Demolished Structure	-	Ef 5568
50	Demolished Structure	-	Ef 5568
51	Demolished Structure	-	Ef 5568
52	Concrete bloc (Demolished)	-	Pn 360/581
53	Demolished Structure	-	Ef 5568
54	Demolished Structure	-	Ef 5568
55	Demolished Structure	-	Ef 5568
56	Demolished Structure	-	Ef 5568
57	Demolished Structure	-	Ef 5568
58	Demolished Structure	-	Ef 5568
59	Demolished Structure	-	Ef 5568
60	Store =	265m <sup>2</sup>	Pn 360/581
61	Store =	164m <sup>2</sup>	Pn 360/581
62	Pergola =	12m <sup>2</sup>	Pn 360/581
63	Pergola =	7m <sup>2</sup>	Ef 5568
64	Huis Wendy Houses =	103m <sup>2</sup>	Ef 5568
65	Pergola =	21m <sup>2</sup>	Ef 5568
66	Pergola =	15m <sup>2</sup>	Ef 5568
67	Pergola =	31m <sup>2</sup>	Ef 5568
68	Condoners =	42m <sup>2</sup>	Ef 5568
69	Pergola =	66m <sup>2</sup>	Ef 5568
70	Huis Wendy Houses =	29m <sup>2</sup>	Ef 5568
71	Pergola =	118m <sup>2</sup>	Ef 5568
72	Shilim Huts (existing in new location)	29m <sup>2</sup>	Ef 5568
73	Pergola =	-	Ef 5568



Scale 1 : 2000

12 SEP 2022

Plan prepared by: Thian Jansen  
Version 1 - 06 Sep 2022  
All distances are approximate  
and subject to a survey

Tel: 028 313 1411  
Email: admin@wragroup.co.za

Unit B, Standard House, Corner of Royal and Dirke Uys  
Street Hermanus, 7200

- Existing Structures - Before 1977
- Existing Structures - After 1977 - 2005
- Existing Structures - To date
- Demolished Structures

Property Extent - 18,4 ha  
Total Buildings footprint - 4208m<sup>2</sup>  
Total Coverage % = 2.287%

The closest existing building is located  
0m from a boundary.  
4m building lines are being proposed  
to be adhered to.

### 6. Site Development Plan Ef 5568 - Onustriver

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Town Planning & Project Management

360/581

gale

30m Building Line

Demolish and relocate structures to place entire footprint on Erf 5568

Parking for buses

63 pergola

Demolished

Demolished

Wendy houses

AMELIM

Wendy houses

Containers

Wendy Houses

Soccer pitch

Pergola

Existing structures re-located to new position

4m Building Line

### 6.1 Inset Site Development Plan Erf 5568 - Onrustrvier

Plan prepared by: Thian Jansen  
Version 1 - 06 Sep 2022

All distances are approximate  
and subject to a survey

Tel: 028 313 1411

Email: admin@wrapgroup.co.za

Unit 8, Standard House, Corner of Royal and Dirkie Uys  
Street Hermanus, 7200



**Project Office**  
Town Planning & Project Management



Scale 1 : 2000

12 SEP 2022

