

REGISTERED ERVEN 2166, 2176, 2178 & (UNREGISTERED ERVEN 2175, 2177), BERGSIG STREET, LEISURE PARK, SANDBAAI: APPLICATION FOR AMENDMENT OF CONDITION OF EXISTING APPROVAL: WRAP PROJECT OFFICE (obo CORPCLO 752 PTY LTD / FR JOHNSON / VS & J ATKINS)

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 in terms of Section 16(2)(h) of the By-Law, applicable to unregistered Erven 2175 and 2177, Sandbaai, and registered Erven 2166, 2176, and Erf 2178, Sandbaai, for the amendment of a condition in respect of an existing approval to allow for double storey dwelling units on the afore-mentioned erven that is situated at the western side of the neighbouring Green Mountain Villas development, instead of the limitation of only single storey dwelling units on these erven.

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 to reach the Municipality (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) on or before **Friday, 23 September 2022**, quoting your name, address and contact details, interest in the application, as well as the reasons for comments. 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 to formalize their comment.

GEREGISTREERDE ERWE 2166, 2176, 2178 & (ONGEGISTREERDE ERWE 2175, 2177), BERGSIGSTRAAT, LEISURE PARK, SANDBAAI: AANSOEK OM DIE WYSIGING VAN 'N VOORWAARDE VAN 'N BESTAANDE GOEDKEURING: WRAP PROJECT OFFICE (nms CORPCLO 752 PTY LTD, FR JOHNSON, EN VS & J ATKINS)

Kennis geskied hiermee ingevolge Artikel 48 van die Overstrand Munisipaliteit Wysigingsverordening op Munisipale Grondgebruikbeplanning, 2020 (Verordening), dat 'n aansoek ingevolge Artikel 16(2)(h) van die Verordening ontvang is, van toepassing op ongeregistreerde Erwe 2175 en 2177, Sandbaai, en geregistreerde Erwe 2166, 2176, en Erf 2178, Sandbaai, vir die wysiging van 'n voorwaarde ten opsigte van 'n bestaande goedkeuring om dubbelverdieping wooneenhede op voorgenoemde erwe toe te laat wat aan die westekant van die naburige Green Mountain Villas ontwikkeling geleë is, pleks van die beperking van slegs enkelverdieping wooneenhede op hierdie erwe.

Volle besonderhede rakende die voorstel is beskikbaar vir inspeksie gedurende woensdae tussen 08:00 en 16:30 by die Departement: Stadsbeplanning, Patersonstraat 16, Hermanus. Enige kommentaar op die voorstel moet skriftelik wees en die Munisipaliteit (Patersonstraat 16, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) bereik voor of op **Vrydag, 23 September 2022**, met u naam, adres en kontakbesonderhede, belang in die aansoek, asook 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.

IZIZA EZIBHALISIWEYO 2166, 2176, 2178 & (IZIZA ELINGABHALISWANGA 2175, 2177) BERGSIG STREET, LEISURE PARK, ESANDBAAI: ISICELO SOKULUNGISWA KOMQATHANGO WEMVUME EKHOYO: ABAKWA WRAP PROJECT OFFICE (EGAMENI LIKA CORPCLO 752 PTY LTD, FR JOHNSON, VS & J ATKINS)

Kukhutshwa isaziso ngokwemiba yeSoloty 48 loMthethwana kaMasipala wase-Overstrand weSicwangciso soYilo nokuSetyenziswa koMhlaba, sonyaka wama-2020 (uMthethwana) Isicelo ngokwemigqaliselo yeSoloty 16(2)(h) laloMthethwana esebenzayo kwi iziza elingabhaliswanga 2175, 2177 kwaye iziza ezibhalisiweyo 2166, 2176, 2178 eSandbaai ukulungiswa komqathango omalunga nolwamkelo olukhoyo lokuvumela iiyunithi zokuhlala ezinemigangatho emibini kwisiza esikhankanywe ngasentla esime kwicala elingasentshona lophuhliso lwezindlu ezihlala iGreen Mountain ezikufutshane, endaweni yothintelo lweendawo zokuhlala ezinomgangatho omnye kuphela kwezi ndawo.

linkcukacha ezipheleleyo malunga nesi sindululo ziyafumaneka ukuze zihlolwe ngeentsuku zomsebenzi phakathi kweyure-08:00 ne-16:30 kwiSebe: locwangciso lwedolophu, 16 Paterson Street, Hermanus. Nawuphi na umbono kufuneka ubhalwe, ucaphule igama lakho, idilesi kunye neenkukacha zonxibelelwano, umdla kwisicelo, kunye nesizathu sokuphawula. Ezezimvo kufuneka zifike kumasipala e (16 Paterson Street, Hermanus / (f) 0283132093 / (e) alida@overstrand.gov.za) ngomhla okanye phambi komhla ka **23 uLwesihlanu EyoMsintsi 2022**. Imibuzo ngefowuni ingathunyelwa ku**Mcwangcisi weDolophu, uMunu H Boshoff** kule nombolo yomnxeba 028-313 8900. UMasipala angala ukuthatha izimvo ezifunyeneyo emva komhla wokulawula. Nabani na ongakwazi ukufunda nokubhala angahambela kwiSebe lokuCwangcisa lweDolophu apho igosa likamasipala liza kuncedisa ukuze ukwazi ukuqulunqa uluvo lwakho.



MOTIVATION

1. ABBREVIATIONS

| | |
|---------------|---|
| OM | Overstrand Municipality |
| OMLUS | Overstrand Municipality Land Use Scheme, 2020 |
| BY-LAW | Overstrand Municipality By-Law on Municipal Land Use Planning, 2015, as amended |
| PSDF | Western Cape Provincial Spatial Development Framework, 2014 |
| LUPA | Western Cape Land Use Planning Act, 2014. |
| MSDF | Overstrand Spatial Development Framework, 2020 |
| GRI | General Residential Zone 1: Town Housing |

2. PROPERTY DETAILS

| | |
|-------------------|---------------------|
| Consultant | WRAP Project Office |
| Erf Number | 2176 |
| Extent | 412m ² |

| | |
|-------------------|-------------------|
| Erf Number | 2178 |
| Extent | 403m ² |

| | |
|-------------------|--|
| Erf Number | 2166 (Unregistered erven 2175 and 2177) |
| Extent | 697m ² (363m ² and 334m ²) |
| Zoning | General Residential Zone 1: Town Housing |

3. BACKGROUND AND INTENT

The subject erven, Erven 2176, 2178 & 2166 (unregistered Erven 2175 & 2177) Sandbaai, hereafter referred to as the subject properties, are located in the Leisure Park group housing development adjacent to a servitude that abuts Green Mountain Villas (refer **Plan 1 – Locality Plan**). The property owners approached WRAP Project Office to apply on their behalf to amend a condition from the original approval, affecting the optimal development of their properties. (Refer **Annexure A – Power of Attorney**)

Erven 2175 and 2177 Sandbaai have not yet been registered in the Deeds Office and their title is still held under Erf 2166, Sandbaai.

The property owners each have their own vision on how they would like to develop their properties. There is however a limitation in the form of a condition of a previous land use approval limiting the properties to be improved with only a single storey dwelling unit, although it was never registered as a restrictive condition in the title deeds of their properties.

The condition of approval that limits Erven 2168, 2175, 2176, 2177 & 2178 Sandbaai to only construct single storey units, reads as follows:

Extract of the 2/10/2003 – Minutes of the Mayoral Committee Meeting (refer **Annexure C – Meeting Minutes**):



"1. (c) that units adjacent to the Green Mountain Villas boundary be single storey"

This is more restrictive than the current development parameters set out by the OMLUS, and it is proposed that the restriction be amended from the original approval.

The proposal is to amend the condition and only to remove the limitation from Erven 2175, 2176, 2177 and 2178 Sandbaai. It is however not proposed to remove the limitation from Erf 2168 Sandbaai as the developer will not be building second storeys on the existing structures of Erf 2168 Sandbaai.

It is proposed that the condition be amended to read as follows:

"that except for the units on Erven 2175, 2176, 2177 and 2178, Sandbaai, all units adjacent to the Green Mountain Villas boundary be single storey."

4. PROCEDURE TO ACHIEVE THE PROPERTY OWNERS' INTENT

WRAP compiled this report to ensure the property owners' vision is achieved. The following is proposed:

4.1 Amendment of a condition in respect of an existing approval in terms of Section 16(2)(h) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

The condition that is proposed to be amended is currently hindering the property owners to develop and enjoy their properties to its full extent. This application will allow the property owners to utilise their properties as intended and allowed in terms of the development parameters of the OMLUS.

Leisure Park adopted Architectural Guidelines that have been reviewed in 2016. With reference to the Section 4 – Building Regulations, the height of buildings is limited to two storeys and may not exceed 8m (refer **Annexure D – Leisure Park Architectural Guidelines**).

The only restriction is the historic approval which limits these four properties to only a single storey as indicated above. The intention of the condition was to protect the privacy of units in Green Mountain Villas, bordering Leisure Park. We are however of opinion that the application for amendment of a condition of approval will not affect the privacy or views of any units in Green Mountain Villas.

Leisure Park originated from Erf 1458 Sandbaai (the "mother erf") which had an original extent of 5,4 ha and was subdivided into Erven 1807 to 1819 Sandbaai in 1999 (Refer **Annexure – General Plan 560/1999**). Several of these properties (Erven 1812, 1813 en 1814 Sandbaai) were consolidated and re-subdivided to form Leisure Park consisting of Erven 2169 – 2184 Sandbaai (Refer **Plan 4 – General Plan 4764/2004**). Remainder of Erf 1458 Sandbaai was not part of the consolidation to form the subject property of the subdivision.



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As per **Annexure E – General Plan of 1999**, the original Erf 1458 Sandbaai was subdivided, and a remainder was created on the eastern boundary that is 4 metres wide over the entire length of the historic Erf 1458 Sandbaai. The Remainder of Erf 1458 Sandbaai has its own title deed (T81486/2005), and it is registered in the name of Corpclo (Pty) Ltd.

The Remainder of Erf 1458 Sandbaai is a 4m wide erf between these two group housing developments, acting as a buffer. It is important to note that there is currently a **10m** buffer between any proposed building on Leisure Park and buildings on Green Mountain Villas, made up of a 3m wide perimeter boundary line applicable to Leisure Park, 4m wide Remainder of Erf 1458 Sandbaai and a 3m wide perimeter boundary line applicable to Green Mountain Villas.

No departure of the rear building line is required and the OMLUS has development parameters that ensure the privacy of all parties involved are protected. To only limit the property owner and the other affected owners in Leisure Park to not build second storeys is not considered reasonable. Green Mountain Villas does not have this restriction and the owners adjacent Leisure Park may build second storeys onto their properties.

- The request is to allow the property owners to also enjoy this right in the future. The property owner of Erf 2176 Sandbaai (Mr and Mrs Johnson) has bought the property with the intent of constructing a two-storey dwelling house. After the restriction was revealed he and his wife was devastated and opted to build a single storey house, with the intent to possibly expand to a second storey in the future, once this application is approved.
- Mr and Mrs Atkins (owners of Erf 2178 Sandbaai) do not wish to build a second storey onto their house at this stage, but they wish to be included into this application as it could increase their property value should they wish to sell in the future.
- The other two properties (Erven 2175 and 2177) have not been sold by the developer (Corpclo (Pty) Ltd) yet, but their intention is to sell these two properties in the future. The developer would like to offer the new owners of the erven the choice to construct a double storey dwelling on their property.

As mentioned above, it is proposed that the condition is amended to read as follows:

“that except for the units on Erven 2175, 2176, 2177 and 2178, Sandbaai, all units adjacent to the Green Mountain Villas boundary be single storey.”

5. APPLICATION

Considering the above, application is made for the following:

- 5.1. Amendment of a condition in respect of an existing approval** in terms of Section 16(2)(h) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.



6. LAND USE ENVIRONMENT

The properties surrounding the subject property are predominantly zoned General Residential Zone 1: Town Housing. The surrounding area's zonings are illustrated in **Plan 2** (zoning plan). The proposed amendment of a condition and what will be allowed if the amendment of this condition is approved, is not out of the ordinary and is allowed in terms of the OMLUS.

7. TITLE DEED

Title deeds 62862/2021, 8061/2022 & 21547/2014 (refer **Annexure G**) was perused and there are no conditions that restrict the amendment of the condition of approval.

8. ZONING

The following zoning parameters were assessed in conjunction with the GR1 OMLUS zoning as this is a relevant consideration in terms of Section 66 (1) (a) of the OM By-Law:



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| GENERAL RESIDENTIAL ZONE 1: TOWN HOUSING | | | |
|---|---|--|------------------------|
| Land Use Restrictions | | | |
| | Parameters | Proposal | Comply/ deviate |
| Primary use | Town Housing, Private Road and Private Open Space. | Town House | Comply |
| Consent use that may be applied for | Crèche, Day Care Centre, Dwelling House in Accordance With 6.1.2, Flats, Green House, Home Occupation, Residential Building, Retirement Village and Tourist Accommodation. | N/A | Comply |
| Development parameters | | | |
| Density | (i) The maximum gross density in this zone is 35 units per hectare. (ii) A minimum erf size of 3000 m ² is applicable for densification. | N/A to the subject property | Leisure Park Complies |
| Coverage | The maximum coverage for all buildings on the land unit is 65%. | TBD | Comply |
| Height | (i) The maximum height of a building, measured from the base level to the top of the roof is 8,0m provided that; (ii) Historic approval restricts to only one storey | Applied to amend the existing condition of approval to allow a second storey | Applied and motivated |
| Building lines on the perimeter | (i) The building line on the perimeter of the property is 3,0 m. | 3,0m building line will be adhered to on the perimeter. | Comply |
| Building lines within the town housing development | (i) The street building lines on internal roads are 1,0 m, provided that garages must be set back at least 5,0 m from the road kerb. (ii) The lateral and rear building line is 1,0 m. | (i) Comply (ii) Comply | Comply |



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| | <p>(iii) A garage may be constructed at 0 m on one internal side boundary and 0 m on the internal rear boundary, provided that the building does not occupy more than 50% of such internal side or rear boundary.</p> <p>(iv) The general building line exemptions of 16.1 apply.</p> | <p>(iii) Comply</p> <p>(iv) Comply</p> | |
| <p>Parking</p> | <p>(i) Parking and access shall be provided on the land unit in accordance with 17.1.</p> <p>(ii) Parking may be provided at the town house concerned, form part of a communal parking, or be a combination of the two.</p> | <p>TBD</p> | <p>Comply</p> |



9. SERVICES

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 properties are connected to the OM's networks, which include electricity, water and sewage. The proposal of this application will not affect these networks. Solid waste is collected by the OM on a weekly basis.

Access and Egress

Access and egress to the subject property is gained from an internal road of Leisure Park and the proposal will not affect this.

10. NEED AND DESIRABILITY

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 need for the land use application is to ensure the subject properties meet all the needs and requirements of the respective property owners. The desirability is more often a personal feeling of the property owners. The intent is to amend a condition of the existing approval and to allow the property owners to possibly construct a second storey to ensure the subject property is utilised to its maximum potential. The proposal is not proposed to benefit any other users or persons, but it will increase functionality of the properties and align the development parameters with what is allowed in terms of the OMLUS.

To achieve his vision, the property owner has 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.

Impact on views, sunlight and character of the area

The subject properties are located in a group housing development which has by its nature, a higher density than a single residential area. The proposal is not out of the ordinary for a group housing development as there are two storey buildings in Leisure Park and in Green Mountain Villas. The proposal will comply with the OMLUS's development parameters ensuring no views, sunlight, or the character of the area is affected.

Economic impact

There is little to no impact on the economy. The construction phase will temporarily employ a contractor that will use workers in the construction phase. Building materials will be purchased at local suppliers which will have a positive impact in the surrounding economy.



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 development will not affect the property values of surrounding properties.

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 critical area.

11. POLICIES AND REGULATIONS

11.1 Overstrand Municipality Environmental Protection Overlay Zone (EMOZ) & Heritage Protection Overlay Zone (HPOZ)

The subject property is not located within the Environmental Protection Overlay Zone or Heritage Protection Overlay Zone.

11.2 Spatial Planning Policies

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

12. 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 proposed amendment of a condition of the existing approval will not contribute to past spatial injustices.

Spatial sustainability

Spatial sustainability refers to planning proposals that result in communities that are viable. The proposal will not hinder the sustainability of the surrounding area and will ensure a more efficient layout of the subject properties.

Efficiency

Efficiency refers to the need to create rural areas that optimise on the use of space, energy, infrastructure, resources and land. The land uses allowed on the subject property are intended to optimise on the use of space, infrastructure, resources and land on the subject property within the carrying capacity limits of the subject property.

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 OM has a credible record of accomplishment of good administration regarding the method of public participation which invites and accepts comments from the public to make an informed decision as well as complying with the prescribed time frames pertaining to the processing of applications.



13. EVALUATION

The property owners would like to have the option to build a second storey should they wish, as is the case for Mr Johnson (owner of Erf 2176 Sandbaai), who bought the property with the vision to develop a comfortable home, which is in line with the development parameters set out by the OMLUS. In the planning of his new dwelling, it came to his attention that a second storey will not be allowed, due to a historic condition of approval of the development. He and his wife has opted to go forward with the proposal to only construct a single storey home at this stage.

The condition was intended to conserve and protect the privacy of Green Mountain Villas which is located adjacent to the 4m wide Remainder of Erf 1458 Sandbaai between Leisure Park and the Green Mountain Villas. As indicated above, buildings between Leisure Park and Green Mountain Villas will be approximately 10m from each other, once the applicable building lines are added.

The proposal for the amendment is in harmony with all relevant spatial planning policies. The title deed is also not prohibiting the amendment of the condition of approval that restricts the property owner's right to build a second storey.

It is not anticipated that the second storey will have any impact on the views and privacy of any property owners as the remainder of the proposed building adheres to the development parameter of the OMLUS.

14. RECOMMENDATION

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

14.1 Amendment of a condition of an existing approval in terms of Section 16(2)(h) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 as amended.

DISTANCES FROM NEIGHBOURING PROPERTIES

Plan prepared by: Thian Jansen
 Plan based on Surveys conducted by NA Clark - Geomatics
 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



Scale 1 : 250

