



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

**A G E N D A**

<b>DATE:</b>	<b>30 AUGUST 2018</b>
<b>VENUE:</b>	<b>TOWN PLANNING COMMITTEE ROOM HERMANUS</b>
<b>TIME:</b>	<b>14:00</b>

# OVERSTRAND MUNICIPALITY

Office of the Municipal Manager  
Civic Centre  
HERMANUS  
7200

**8 August 2018**

**TO : THE CHAIRPERSON AND MEMBERS OF THE MUNICIPAL PLANNING TRIBUNAL**

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

**NOTICE IS HEREBY GIVEN** that a meeting of the **Municipal Planning Tribunal (MPT)** will go into session on **Thursday, 30 August 2018 at 14:00, Town Planning Committee Room, 16 Paterson Street, Hermanus**, to consider the attached agenda.

You are kindly requested to submit any amendments/additions to Ms S Swart ([sswart@overstrand.gov.za](mailto:sswart@overstrand.gov.za)) on or before **15 August 2018**.

**STEPHEN MÜLLER**  
**CHAIRPERSON : MUNICIPAL PLANNING TRIBUNAL**

## **Distribution:**

1. Mr S Müller (Chairperson)
2. Mr R Williams (Vice Chairperson)
3. Mr S Madikane (Member)
4. Ms D Arrison (Member)
5. Ms H Janser (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. Mr H Olivier (Town Planner)
11. Secretariat

**1. OPENING**

**2. APPLICATIONS FOR LEAVE OF ABSENCE**

**3. CONFIRMATION OF MINUTES**

**3.1 Minutes of a Municipal Planning Tribunal Meeting held on 26 July 2018**

**4. ITEMS FOR CONSIDERATION**

**4.1 ERF 966, 73 MAIN ROAD, SANDBAAI : APPLICATION FOR CONSENT USE (RESTAURANT) : MESSRS PLAN ACTIVE ON BEHALF OF CK LAU**

Report attached

**4.2 ERF 5, 12 SMUTS STREET, DE KELDERS : PROPOSED CONSENT USE : MESSRS HUGO CARSTENS ATTORNEYS ON BEHALF OF SW VIETZE & ABJ GOMEZ**

Report attached

**4.3 ERVEN 42, 43, 44 AND 45, CHURCH STREET, HAWSTON, OVERSTRAND MUNICIPAL AREA : CONSOLIDATION, SUBDIVISION, REZONING AND CONSENT USE : MESSRS WRAP ON BEHALF OF ST ANDREWS CHURCH**

Report attached

## 4.1

**ERF 966, 73 MAIN ROAD, SANDBAAI : APPLICATION FOR CONSENT USE (RESTAURANT) : MESSRS PLAN ACTIVE ON BEHALF OF CK LAU**

966 HSB (3845)

H van der Stoep

19 June 2018

(028) 313 8900

Hermanus Administration

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**1. EXECUTIVE SUMMARY**

An application for consent use in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 to conduct a restaurant from the existing building on Erf 966, Sandbaai has been received on 10 November 2017 from Messrs Plan Active on behalf of CK Lau.

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

**2. DECISION AUTHORITY**

Municipal Planning Tribunal

**3. BACKGROUND / SITE HISTORY**

Erf 966, Sandbaai is located along Main Road, Sandbaai, zoned as Business Zone 3: Local Business and measures 747m<sup>2</sup> in extent. The property is developed with a building that was previously used for offices.

Various applications (between 2003 and 2007) were made in the past to have the property rezoned to business purposes by the previous landowners, which applications were unsuccessful. During 30 September 2015 an application for the rezoning of the then property owner was eventually approved by the Executive Mayor. The approval was subject to certain conditions, amongst others that the land use be limited to offices only. The applicant appealed the said condition and the Appeal Committee of the Municipality during a session held on 30 March 2016 resolved in favour of the applicant that the condition be removed from the Executive Mayor's decision of 30 September 2015. The Appeal Committee's reasons, amongst others, for the upholding of the appeal were that it was of the opinion that the points raised that retail concerns on the property will have a negative effect on the surrounding area, did not make sense. It was of the view that the property is situated within a development node in the main road of Sandbaai and opposite a supermarket, and that a relative small retail outlet will not increase the commercial impact that currently exists in the area. It is important to note that the Appeal Committee did not limit the usage of the property in terms of its primary rights when a decision was made on the appeal. The applicant is thus within its rights to apply for a consent use for a restaurant under the relevant zoning as set out in the Zoning Scheme.

**4. SUMMARY OF APPLICANT'S MOTIVATION**

The applicant's motivation for the application is summarized as follows (the detailed report is attached as Annexure B):

- ❖ The landowner is the owner of the CK Sushi Restaurant situated at the Engen Garage Sandbaai, and intends to expand and open another restaurant at Erf 966, Sandbaai;
- ❖ The Title Deed applicable to Erf 966, Sandbaai contains no restrictions that stipulate that the property may not be used for restaurant or business purposes;
- ❖ Erf 966, Sandbaai is situated in a predominantly mixed use area that consists of dwellings, flats, shops and offices;
- ❖ It is the owner's intention to retain most of the building and make the necessary alterations and additions to accommodate his restaurant. The alterations will consist of demolishing a portion of the building closest to the northern lateral boundary in order to create enough space to access the proposed parking area behind the building. A new kitchen behind the building and a deck on the street front are also proposed;
- ❖ There is no form of formalised parking on-site which makes it difficult to determine the existing entrance to the erf from Main Road. Access to the erf is proposed on the most northern portion of the street front parallel to the northern erf boundary;
- ❖ There is a generous section between the actual erf street boundary and road surface that makes the manoeuvrability in and out of the site extremely easy. A 5,5m wide access is proposed with two (2) parking bays immediately to the south located between the building and Main Road. The dimensions of these two (2) parking bays are 2,5m x 5m with 9,5m manoeuvre space behind each parking bay. A further nine (9) parking bays are proposed behind the restaurant;
- ❖ The dimensions of eight (8) of the nine (9) parking bays are 2,5m x 5m with a 10m manoeuvre space behind each parking bay. The parking bay labelled number 3 is 4m x 5m and will be used as a parking bay for disabled persons;
- ❖ The gross leasable floor area is ±176m<sup>2</sup>. In terms of the Overstrand Municipality Zoning Scheme six (6) parking bays per 100m<sup>2</sup> GLA is required. The proposed consent use to establish a restaurant on the property would therefore require eleven (11) parking bays on site. With reference to the proposed site development plan eleven (11) parking bays are provided;
- ❖ Due to the fact that the property is within an already developed mixed use area and zoned for business purposes, the municipal services already exist and to which the existing building is already connected to. No additional services will be required for the establishment of the restaurant;
- ❖ The Overstrand Municipal Growth Management Strategy, 2010 (OMGMS) indicates Erf 966, Sandbaai within Planning Unit 7. Planning Unit 7 consists of the heart of Sandbaai along the collector road, Main Road, giving access to Sandbaai. Erf 966, Sandbaai also falls within a Development Node in terms of the Opportunities and Constraints and it is also earmarked for economic opportunity in terms of the applicable plan Strategic Growth Management Interventions Plan and the Proposal Plan. Local business opportunities such as the proposed restaurant can therefore be supported within this development node and economic opportunity corridor due to its location;
- ❖ The Overstrand Municipal Wide Spatial Development Framework (2006) (SDF) earmarks Erf 966, Sandbaai for single residential purposes. Cognisance should be taken of the fact that the application for the rezoning of the subject property from Residential Zone 1 to Residential Zone 3 was approved;
- ❖ It should be noted that the OMGMS is an extension of the SDF and the opinion is that the proposed land use is compatible with the above mentioned proposals and current land uses of the area and the restaurant will not have a negative impact on the surrounding land owners;

- ❖ The property is not situated within the Heritage Overlay Zone as determined by the OMGMS and is not earmarked for heritage conservation purposes in terms of the Overstrand Heritage Survey Report (2009);
- ❖ The property is not associated with any important persons or groups or important events and activities. The subject property has no association with the history of slavery and is not used for living heritage;
- ❖ The proposed consent use does not trigger any listed activities in terms of the National Environmental Management Act, 1998 (NEMA), (Act no. 107 of 1998);
- ❖ Spatial Justice: The proposed consent use will be in line with the current mixed land uses found alongside Main Road in close proximity of Erf 966, Sandbaai. The proposed restaurant and associated parking will therefore be accommodated within an established mixed use area. The proposed application will have no impact on the conservation worthy areas of Sandbaai. Spatially the land use will be in keeping with the character of the area;
- ❖ Spatial Sustainability: The proposed consent use is in line with the current character of the established mixed use area that has also been earmarked for local business opportunities. The proposed application will have no impact on the conservation worthy areas of Sandbaai. Spatially the proposed land use of Erf 966, Sandbaai will be in line with the mixed use character of the area;
- ❖ Efficiency: The proposed restaurant is easily accessible and conveniently located in the Main Road, Sandbaai in adjoining Sandbaai's business hub;
- ❖ Spatial Resilience: Spatial resilience is not applicable to this application;
- ❖ Good Administration: Our firm is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process.

## 5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Notices	<b>Yes</b>	16/02/2018	23/03/2018
Ward councillor	<b>Yes</b>	14/12/2017	19/01/2018
Total letters of objection	<b>ONE (1)</b>		
Was public participation undertaken in accordance with Section 45 - 49 of the Proposed Draft By-Law on Municipal Land Use Planning?			<b>Yes</b>
Was the application processed correctly (if no, elaborate below):			<b>Yes</b>
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)			<b>Yes</b>

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

Name	Date received	Summary of comments	Recommendation
Area Manager	14/12/2017	Parking at the rear of the property may not be blocked off with a gate. A problem at the Casa Beira restaurant in Sandbaai is experienced where the	Positive

		owner persistently keeps the side gate closed forcing patrons to park in the road making it a very dangerous situation. Adequate directional signage for parking behind the building needs to be placed at the front of the property.	
District Health	N/A	No comments received.	N/A
Ward Councillor	16/01/2018	No comment.	Positive
Building Department	28/12/2018	Supported subject to submission of building plans in compliance with SANS10400 especially Part S with wheelchair access and disability friendly toilets.	Positive
Operational Services	20/12/2017	No objection.	Positive
Electro Technical Services	04/01/2018	Minimal impact will be made on the existing services – no comments on the proposal.	Positive
Engineering Services	22/02/2018	Attached as Annexure G	Positive
Fire Services	23/01/2018	Attached as Annexure H	Positive
Local Heritage	09/01/2018	No objection.	Positive
Telkom	N/A	No comments received.	N/A

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

**A and S Bothma on behalf of Sobrey Eiendoms Beleggings CC, owners of both Erven 1738 and 1746, Sandbaai**  
(Translated from Afrikaans to English)

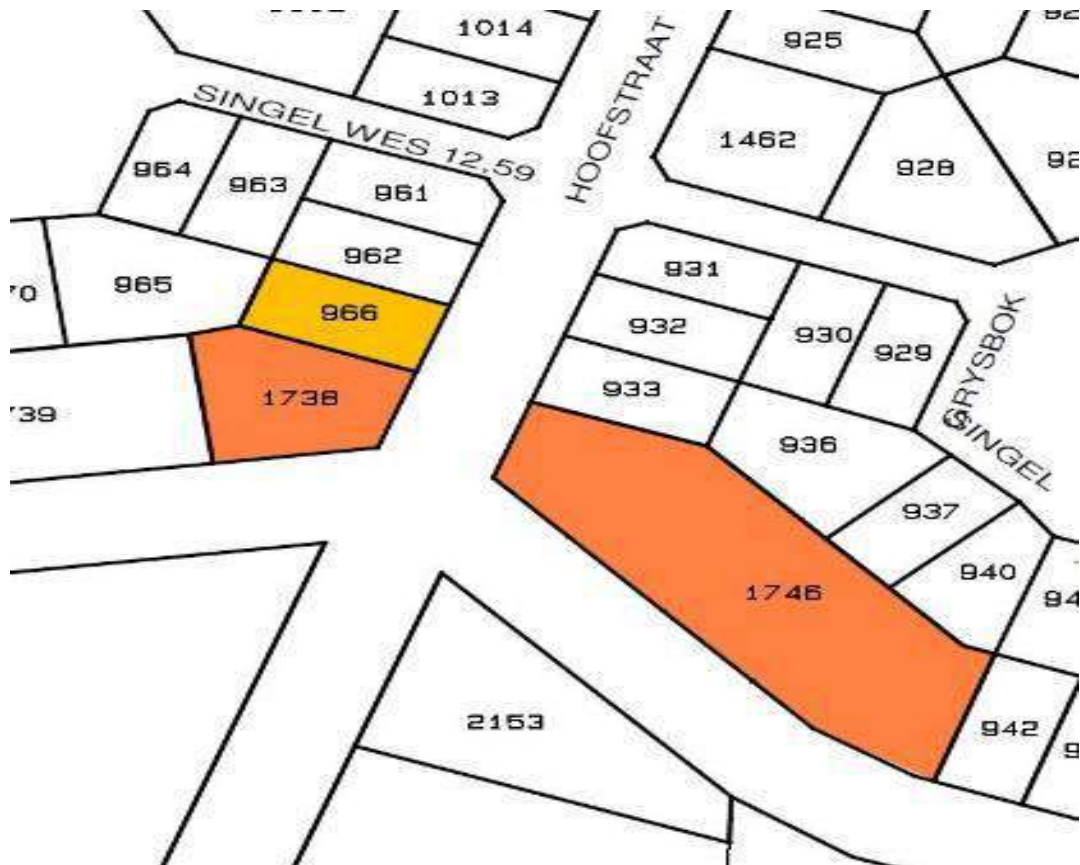
### Point of objection

The applicant indicates correctly that Erf 966 is situated within an area with mixed uses, but fails to indicate that all businesses with the exclusion of Sandbaai Food Zone conducts business within office hours. Thus, the first objection is noise after office hours. Erf 966 borders a property on three (3) sides that is permanently resided with a thirty eight (38) unit block of flats that is literally 15m away from the proposed parking area. All four (4) bedrooms of unit ST002 will be exposed with the

activities of such a restaurant, with the main bedroom at the kitchen and parking area portions. The owners thereof reside this portion since 1996 already, and to have a restaurant directly adjacent your main bedroom is totally unacceptable.

#### Applicant's comment

To put all in perspective applicant would like to indicate at first where the subject property is situated in relation to the objectors' erven, Erf 1738 and 1746, Sandbaai. Refer to the map below.



The objectors are the owners of both the business Erven 1738 and 1746, Sandbaai, located on the corners of Main Road and Long Street, Sandbaai. The Sandbaai Foodzone and Paddakoor Primary School are located on Erf 1746, Sandbaai. A hairdresser, flooring company, estate agent and flats are located on Erf 1738, Sandbaai.

It is mentioned by the objectors that Erf 966, Sandbaai abuts three (3) residential properties and is in close proximity of thirty eight (38) units that are located within a block of flats and objects to the noise that will be generated after office hours by the proposed restaurant. Applicant can only presume that the flats referred to is the Watsonia Park residential development that is located  $\pm 35\text{m}$  from Erf 966, Sandbaai. Erf 966, Sandbaai abuts the following residential erven, Erven 962 and 965, and shares a common corner with Erf 963, Sandbaai. Not one of the owners of the aforementioned residential erven or owners of the flats located in Watsonia Park objected to the application for consent use to accommodate a restaurant on Erf 966, Sandbaai. Most of the residents of the Sandbaai Township are familiar with the CK Sushi Restaurant located at the Engen filling station and the manner in which they

manage and operate their restaurant. They operate a well-managed restaurant that is quiet without any live entertainment or loud music. The proposed restaurant will be managed in the same manner.

Cognisance is taken of the fact that the objectors, that are also the owners of Erf 1738, Sandbaai reside in one of the flats located on the first floor on the mentioned erf. The objectors manage both their business properties and cognisance should be taken of the fact that they also accommodated a take-away restaurant on the ground floor on Erf 1738, Sandbaai that has closed recently, the same property on which they reside. We have mentioned the land use on Page 3 of our Motivation Report. We find it rather interesting that the objectors will accommodate a similar land use on their own property, but it is not allowed on an adjoining property. None of the residents in the other flats being rented out objected to the application.

### **Municipal comment**

From approved building plans the development on Erf 1738, Sandbaai consists of businesses at lower level and one (1) five (5) bedroom flat at the upper level. Regarding the applicant's comment that the objectors operated a take-away restaurant from the ground floor level of the building they reside in, it should be noted that, taking into consideration that the parking areas are located at the front sides of the property, no records could be traced of any complaints regarding activities on these parking areas. It is thus the opinion that the proposed parking area will also not impact on owners of the adjacent properties.

Further, in terms of approved building plans Erf 1739, Sandbaai is developed with a two storey block of flats consisting of thirty eight (38) units. The block of flats is named Watsonia Park and a copy of the application was served on the Watsonia Park Body Corporate. No objections were received from the body corporate that represents the owners of the individual units. The objectors cannot remark on behalf of the body corporate.

Although Erf 962, Sandbaai (adjacent to the application property) is zoned for business purposes, the usages thereof are restricted to that of single residential – and/or office purposes (estate agency) only. It is currently only utilized for single residential purposes. Neither the owners/tenants of Erf 962 or the owners of Erven 963 and 965 (latter properties are both zoned for single residential purposes) commented on the application. In fact only one (1) objection was received and that is from the owners who own both Erven 1738 and 1746. It is thus the opinion that the proposal meets the approval of the rest of the property owners in the immediate surrounding area of the application property.

### **Point of objection**

The applicant indicates that most of the parking will be at the rear of the restaurant. It can to a relative great certainty be accepted that clients will not drive in a 4m wide passageway whilst all the surrounding properties and a vast sidewalk is available for hassle free parking that will result in misuse and disagreements. Parking access at the northern side will further upset the constantly barking dogs of the neighbour that will make it impossible for residents to rest. Objector's Toyota pick-up is 5,6m long and should he enters the parking area at the back and find that all parking is occupied; it will take much effort to make a U-turn especially if three (3) or four (4) other pick-ups are already parked there. It should further be noted that people will

park 35cm to 50cm from the boundary walls, thus an easy metre over the 5m idyllic picture on the parking plan. All the surrounding businesses have open parking areas with unobstructed and easy accessible parking of which Erf 966 is not fit at all. Slamming car doors, the switching on of cars, hooters, kitchen personnel washing pots and pans, smell of food dishes (and fish), visiting guests that talks and laughs and greet each other loudly after an enjoyable evening can certainly not be accepted as normal and these events will go on night after night.

### **Applicant's comment**

Two (2) parking bays are provided in front of the restaurant and nine (9) parking bays at the back of the restaurant. One (1) of the parking bays is a parking bay for disabled persons. The parking bays at the back of the restaurant are accessed via a 5,5m driveway. Taking the number of guests into consideration that can be accommodated within the restaurant it is the opinion that the width of access to the rear of the restaurant is sufficient. A standard parking bay measures 5m x 2,5m and requires manoeuvre space of at least 7,5m. Refer to the proposed parking layout. The parking bays as indicated are 5m x 2,5m with 9,5m manoeuvre space for parking Bays 1 and 2, and 10m manoeuvre space is provided for parking Bays 3 to 11. The proposed parking bays therefore exceed the minimum requirements for the provision of parking bays and therefore larger vehicles can be accommodated with ease. Please take note that more than 50% of the patrons enjoying food prepared by CK Sushi Restaurant phone in their orders to collect food as take-aways. The parking bays provided in front of the restaurant is ideally located for people that collect their take-away.

Existing parking bays, referred to by the objectors, located in the area (Erven 1738 and 1746, Sandbaai) gain access directly from a street and guests/ clients / patrons reverse back into either Long Street or the Main Road in close proximity of an intersection. No provision is made for manoeuvre space to turn vehicles around in order to exit the existing parking bays with vehicles facing their front side first. The parking layout proposed on Erf 966 Sandbaai provides ample space to manoeuvre and boasts a safer exit option for patrons onto Main Road than the existing parking configuration of surrounding business erven.

Cognisance should also be taken of the fact that Erven 1738 and 1746, Sandbaai are the prime business erven located in the business hub of Sandbaai centrally located on Main Road. There is a constant flow of traffic throughout the day and night. The Sandbaai Superette / Foodzone is open from 07:00 to 21:00 and the parking area facing Main Road is ±25m to 30m from the objectors' flat. The objectors' property, Erf 1738, Sandbaai, abuts a high density residential development, Watsonia Park, located west of the last mentioned erf. Residents of Watsonia Park and their visitors park outside the property boundary on the sidewalk opposite the road on both sides of the entrance to Autumn Harvest Retirement Village and opposite Erf 1738, Sandbaai. "No Parking" signs have been erected but visitors, guests, clients and customers still park on the sidewalk.

With reference to the above it could be argued that the restaurant proposed on Erf 966, Sandbaai will not have a negative impact on the surrounding mixed land use area due to the existing activities in the area such as the already constant flow of vehicular and pedestrian traffic, businesses being open until 21:00, being located in the business hub of Sandbaai abutting Main Road and impact of the high density residential development adjacent to the objectors' property.

**Municipal comment**

It is common trend of the general public to park vehicles on open parking areas and road reserves after normal office hours which is unfortunately not easy to control. However, a main requirement of these types of applications is that parking layout plans be submitted that indicate that all parking requirements can be met on-site. The latter is also a standard condition when such applications are approved. The applicant submitted the parking layout plan to an independent traffic engineering firm who confirmed that the parking layout is practical. The parking layout is also in line with the Municipality's requirements. Should the application be approved a condition should also be imposed to the effect that the landowner affixes a permanent parking-direction sign on the property.

The property has business status and is located within a business zone of Sandbaai. No change of usage is proposed. Application is made for a secondary additional use right as set out under the secondary uses of the specific zoning in the Zoning Scheme. These secondary uses are in any event of such a nature that it is regarded as being ancillary uses to the primary uses of such zoned properties. It should further be kept in mind that application is not made for a tavern that is normally associated with the negative activities the objectors refer to.

**Point of objection**

It is indicated that it is planned that business hours will be until 21:00. Will this mean that clients will have to leave? During summer months clients socialize until late at night. They drink and spend money and nobody will be requested to leave at 21:00. Further, the kitchen and restaurant needs to be cleaned after closing time and how will this be done quietly. The disturbance will just go on and on for those who have been residing here for years already and who loyally pay their municipal taxes.

**Applicant's comment**

Currently the CK Sushi Restaurant attracts older couples that enjoy the quiet atmosphere and good food, and younger people with children have the tendency to phone in orders that are then taken home to be enjoyed. The proposed restaurant's kitchen will be open until 21:00 after which no food or drinks will be served. Patrons will however be allowed to finish their meals and beverages. Well trained kitchen staff ensure that dishes are washed on a regular basis and in an orderly fashion to ensure that noise levels be kept to a minimum. They cannot afford to be noisy as they would also have a negative impact on the patrons visiting the restaurant.

**Municipal comment**

It is common knowledge that the operation of businesses are not limited to specific hours anymore, except those businesses that requires liquor licenses in terms of which the selling of liquor are limited to certain hours, or in cases where the Municipality may restrict business hours as a condition of approval of a town planning application.

It is common practise by **restaurateurs** in the industry to close their kitchens for orders prior to closing times of such restaurants in order to allow staff to do the necessary cleaning, thus avoiding unnecessary disturbances after closing times.

**Point of objection**

The applicant indicates that a restaurant is in line with the existing surrounding businesses. This statement is far from the truth. The hours of restaurants differ, noise levels differ, clients differ, the duration of interaction with the clients differ, accessibility to parking differ, restaurants sell liquor for on-site consumption in an area where people walk with their children and animals, where people send their child to the shop with its bicycle. Restaurants, and especially those who sell fish dishes, generate unpleasant smells. Staff must be transported and then have to wait for transport (more disturbances). This business is thus not in line with existing businesses.

**Applicant's comment**

The restaurant will be offering a similar menu as CK Sushi Restaurant and the owner, also the chef, sees to it that his premises is always clean and that leftover food and food scraps are disposed of on a regular basis at the Hermanus Municipal Refuse Yard and are not taken out on an "once a week" basis for the municipal refuse truck to collect the refuse on Wednesdays. Therefore there would be no unpleasant smells deriving from decaying food that is being disposed of.

**Municipal comment**

The greater part of the objection is based on speculation and is not commented upon.

As already mentioned the operation of businesses are not limited to specific hours anymore, except those businesses that requires liquor licenses in terms of which the selling of liquor are limited to certain hours.

The emission of stench at restaurants is regulated by the health authorities and it is compulsory for such enterprises to obtain compliance certificates from such authorities prior to the operation thereof. The latter is also a standard condition should the application be approved.

**Point of objection**

Restaurants offer entertainment and live music and with an open veranda it will get even more unbearable, because everybody does not have the same taste for music (few have the nerves for twelve (12) hours plus of oriental/eastern music a day).

**Applicant's comment**

No live entertainment will be provided and no loud music will be played. The choice of music that is being played in their restaurant is current main stream international music and not eastern music as the objector mentions. The music serves as background music and patrons can converse with one another without raising their voice. The quiet atmosphere at the proposed restaurant will be the same as at their existing restaurant and will be managed in the same manner. It is also the opinion that patrons visiting the restaurant could support the surrounding businesses from which the objectors and other business owners could benefit from.

**Municipal comment**

Application is not made for a place of entertainment, but for a restaurant and the proposed deck/veranda will only be approximately 25m<sup>2</sup> in extent. It is the opinion that it will not generate more noise than the vehicular and other activities that is currently being generated in Main Road.

No comment is offered on the point relating to oriental/eastern music, as it is the opinion that it borders discrimination.

**Point of objection**

The selling of liquor for on-site consumption holds a lot of new objections in for the restaurant since the restaurant will have a very low survival rate without such a license.

**Applicant's comment**

The applicant does not specifically address this point of the objection.

**Municipal comment**

This point of objection is also based on speculation. It is in any event compulsory for the landowner to obtain the necessary liquor license to sell liquor for on-site consumption.

**Point of objection**

With the coming of the new mall there is already an oversupply of properties that is suitably located for more restaurants, and as soon as lease agreements expire more will be available. To allow consent for business on a property that is on all sides used for residential purposes would be irresponsible, thoughtless and unacceptable. It is requested that in the interest of the affected taxpayers of surrounding property owners that the consent use be refused.

**Applicant's comment**

Mr. Robert Lau has been operating the CK Sushi Restaurant at the Engen filling station for five (5) years and knows Hermanus and the restaurant market very well. He offers a different eating experience, other than the restaurants found in Hermanus and restaurants that are established in the Whale Coast Mall and it is the opinion that he will also make a success of his proposed restaurant at his new proposed location in Sandbaai.

**Municipal comment**

There are no restaurant facilities in close proximity of the application property and to state that there is already an oversupply of properties suitable for restaurant purposes, borders on trade competition as an objection that may not be considered in terms of legislation when evaluating town planning applications.

**8. SUMMARY OF APPLICANT'S REPLY TO OBJECTIONS**

Refer to Point 7. above.

**9. MUNICIPAL ASSESSMENT OF COMMENTS**

Refer to Point 7. above.

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

The application will not perpetuate spatial injustices.

**Spatial sustainability**

The application is located within the urban edge and thus will not lead to urban sprawl. No natural habitat is impacted upon and it will not have any negative influence on the environment.

**Efficiency**

The application will optimize the use of the property in terms of municipal services and infrastructure.

**Spatial resilience**

The application will ensure that the existing resource, land is used to its maximum in an affordable manner and in line with the Overstrand Municipality's forward planning documents.

**Good administration**

The application followed the required planning procedures to ensure that land use activity is in line with Municipal By-Laws and the public process has been followed.

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

Same as above

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

The proposed application is in line with the strategic documents.

**10.4 (In)consistency with guidelines prepared by the Provincial Minister**

Not applicable.

**10.5 Impact on Municipal engineering services**

The existing services are available.

**10.6 Outcomes of investigations/applications i.t.o other legislation**

Not applicable.

**10.7 Existing and proposed zoning comparisons and considerations**

The application is in line with the Overstrand Spatial documents.

The operation of a restaurant from the property requires consent from the Municipality.

**10.8 The desirability of the proposal**

The property is developed with a building that used to be a dwelling unit prior to business rights being obtained. Application is made for a consent use in order to operate a restaurant from the existing building. It is the intention of the property owner to retain most of the existing building and alterations thereof to accommodate the proposed restaurant/sushi bar. Alterations will include the demolition of a portion of the building closest to the northern lateral boundary to create enough space to access the proposed parking area behind the building. A new kitchen will be constructed at the rear side of the existing building and a deck of approximately 25m<sup>2</sup> will be constructed at the front side of the building.

The application was circulated to the surrounding property owners and internal departments. One (1) objection was received against the proposal that has already been addressed in this submission.

The gross leasable area of the proposed building will be approximately 176m<sup>2</sup>. As already addressed in this submission, sufficient and practical parking with one (1) entrance/exit point can be provided on the property from Main Road, Sandbaai from the most northern section of the street boundary. Should the application be approved, a condition should be imposed to the effect that the parking area be provided with a hard surface and that all parking bays be marked out properly. In view of the points of objection (as already addressed in this submission) regarding parking, a condition should also be imposed that a direction sign for the parking area be placed at the access point of the property.

The property is situated in an established business hub of Sandbaai along Main Road. In terms of the OGMS the property falls within an area that is earmarked for local economic opportunities. The proposed restaurant is therefore compatible with the proposals of the said document, as well as the current land uses in the immediate area of the subject property. Numerous restaurants have been approved in similar nodes throughout the Overstrand's jurisdictional area already. The area in which the property is located is further ideal for tourists visiting the greater Hermanus area with its various tourist related facilities. Therefore, the opinion is held that the usage will have a very low, if any, impact on the character of the existing surrounding built environment or vested rights of surrounding property owners.

The restaurant will offer permanent job opportunities.

No services will be affected.

There are no title deed restrictions which prohibit the proposed usage.

The property already has business rights.

The application was circulated to the applicable departments whose comments are attached to this submission.

Considering the above, the proposed usage is regarded as being desirable from a town planning perspective.

#### **10.9 ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS**

N/A

#### **11. RECOMMENDATION**

1. that the application in terms of Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for a consent use to operate a restaurant from Erf 966, Sandbaai, **be approved** in terms of the provisions of Section 61 of the By-Law, be subject to the following conditions:
  - (a) that the parking area be in accordance with plan no. sand966b.drw dated 10/2017 (attached as Annexure F);
  - (b) that the parking area, as per the parking layout, be of a hard surface, be permanently and clearly demarcated and maintained by the landowner/s – no on-street parking is allowed for guests;
  - (c) that a proper direction sign for the parking area be placed at the access point of the property;
  - (d) that all the relevant conditions of Engineering Services and the Fire Department (respectively attached as Annexures G and H), be complied with;
  - (e) that building plans be submitted to the Building Department for approval and that all comments from the Fire and Building Departments be complied with at that stage;
  - (f) all signage on the property is subject to the approval by the Building Department;
  - (g) that the selling or serving of liquor on the premises is subject to the landowner/s obtaining the necessary liquor licence;
  - (h) that the restaurant complies with Health and Safety Legislation and that this approval will be subject to regular inspections by the Fire Control Co-ordinator and the Health Inspector;

- (i) that the necessary Certificate/s of Acceptability be obtained from the Overberg District Municipality;
  - (j) that this approval does not absolve the applicant from compliance with any other relevant legislation, and
  - (k) that all other applicable development parameters as prescribed in the relevant Zoning Scheme 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 By-Law on Land Use Planning, 2015 with regard to the above conditional approval.

### **11. REASONS FOR RECOMMENDATION**

- ❖ The application has followed due procedure.
- ❖ The points of objection are not supported due to a lack of substantiation thereof.
- ❖ None of the internal departments have any objection.
- ❖ Numerous such enterprises have been approved in similar nodes throughout the Overstrand Municipality's area of jurisdiction.
- ❖ In terms of the OGMS the property falls within an area that is earmarked for local economic opportunities.
- ❖ In terms of the SDF the tourism industry should be promoted.
- ❖ Permanent job opportunities will be created.
- ❖ The proposal will have a low, if any, impact on the existing character of the immediate area and will thus not impact on the vested rights of surrounding property owners.

### **12. Annexures**

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Plan
Annexure D:	Objection received
Annexure E:	Applicant's response to objection
Annexure F:	Site Plan / Parking Layout
Annexure G:	Services Report
Annexure H:	Comments: Fire Department

### **SIGNATURE**

#### **REGISTERED PLANNER**

Name : **H VAN DER STOEP**

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

Signature : \_\_\_\_\_

Date: \_\_\_\_\_

ANNEXURE A



<b>PLAn Active</b> Stads- en Streeksbeplanners Town & Regional Planners	All distances approximate and subject to survey.  COPY RIGHT RESERVED	Property Description: <b>ERF 966                  SANDBAAI</b>	Plan Description: <b>LOCALITY MAP</b>	Scale: <b>N1S</b> Drawing Nr: <b>sandbaai drw</b> Date: <b>11/2017</b>
		ANNEKURE A		

**PROPOSED CONSENT USE**  
**ERF 966 SANDBAAI**  
**DIVISION: CALEDON**  
**OVERSTRAND MUNICIPALITY**

**MOTIVATION REPORT**

**1. BACKGROUND**

The owner of Erf 966 Sandbaai, Mr. Chun Kong Lau, has instructed the company Plan Active to apply for a consent use in order to establish a restaurant on Erf 966 Sandbaai.

Mr. Lau is the proud owner of the CK Sushi restaurant situated at the Engen Garage Sandbaai, and he intends to expand and open another restaurant at Erf 966 Sandbaai. Erf 966 Sandbaai was rezoned from Residential Zone 1 to Business Zone 3 and it is not limited to office use. In order to accommodate a restaurant on Erf 966 Sandbaai it would be required to apply for a consent use.

The Title Deed applicable to Erf 966 Sandbaai contains no restrictions that stipulate that the property may not be used for restaurant or business purposes.

Erf 996 Sandbaai is 747m<sup>2</sup> in extent and is held by title deed number T49324/2017.

1

## **2. APPLICATION DETAILS**

Application is made in terms of:

- Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for a consent use to establish a restaurant on Erf 966 Sandbaai;

## **3. DESIRABILITY**

### **3.1 PROPERTY DESCRIPTION**

The subject property is situated at 73 Main Road, Sandbaai. Please refer to the enclosed locality plan. Erf 966 Sandbaai is 747m<sup>2</sup> in extent and it is situated in a predominantly mixed use area that consists of dwellings, flats, shops and offices.

### **3.2 ZONING**

Erf 966 Sandbaai is zoned Business Zone 3 and is developed. The current building was formerly used as an office.

### **3.3 LAND USE**

Erf 966 Sandbaai is developed and was formerly used as offices. It is the owner's intention to retain most of the building and make the necessary alterations and additions to accommodate his restaurant. Please refer to the photograph below of the existing structure.



## Motivation report

Land uses that surround erf 966 Sandbaai are shops, flats, offices, single residential dwellings and public roads. It is therefore evident that erf 966 Sandbaai is within a predominantly mixed use area.

The following businesses are established in the immediate vicinity:



**Erf 1738 Sandbaai:** Cardinal Flooring, Hermanus Property Sales; Hair Dresser, Takeaways & Flats.



**Erf 1746 Sandbaai:** Food Zone and Paddakoor Crèche.



**Erf 933 Sandbaai:** Die Woltas



**Erf 932 Sandbaai:** The Banting Pantry & Homes @ Hermanus Estate Agency.



**Erf 931 Sandbaai: Seeff Estate Agency.**



**Erf 1462 Sandbaai: Amanzi Veterinary Laboratory.**



**Erf 1015 Sandbaai: EMR Emergency Services**

Please refer to the enclosed Business Land Use Map indicating the above mentioned land uses in relation to Erf 966 Sandbaai.

### **3.4 PROPOSAL**

- Chapter 4, Section 16(2)(o) of the Overstrand Municipality's By-law on Municipal Land Use Planning, 2016, for a consent use to establish a restaurant on Erf 966 Sandbaai;

It is the intention of the Mr. Lau to establish a restaurant on Erf 966 Sandbaai. A restaurant is not a primary right under the property's zoning, Business Zone 3.

Please refer to the abstract below of the Overstrand Municipality Zoning Scheme indicating the primary rights and consent uses for easy reference:

## **7.2 BUSINESS ZONE 3: LOCAL BUSINESS (B3)**

### **Use of the property**

7.2.1 The following use restrictions apply to property in this zone:

- (a) **Primary uses** are: shops, flats (above ground floor), offices;
- (b) **Consent uses** are: bottle store, business premises, clinic, conference facility, flats (on ground floor), town housing, guest house, hotel, informal trading, institution, place of assembly, place of entertainment, place of instruction, place of worship, recreational facilities, residential building, restaurant, rooftop base station, sale of alcoholic beverages, service station, service trade, transmission tower.

With reference to the above abstract from the Zoning Scheme it would be required that we submit an application for a consent use for a restaurant.

### **3.4.1 Proposed consent use**

Mr. Chun Kong Lau is the owner of the popular CK Sushi Restaurant situated at the Engen filling station on the corner of the R43 and Main Road, Sandbaai. Mr. Lau bought Erf 966 Sandbaai, being a business erf, and wants to establish a second restaurant on the erf. The restaurant will be similar to his current restaurant that offers great Chinese cuisine and sushi.

His intention is to retain most of the existing building situated on Erf 966 Sandbaai and with minor building works establish his new restaurant. The alteration will consist of demolishing a portion of the building closest to the northern lateral boundary in order to create enough space to access the proposed parking area behind the building. A new kitchen behind the building and a deck on the street front are also proposed. Please refer to the enclosed site plan for easy reference.

The utilisation of the building can be tabled as follows:

Proposed use	Size ( $\pm m^2$ )
Proposed inside restaurant area	115
Proposed deck (outside seating area)	25
Proposed new kitchen	36
Front Entrance Porch	7
Rear Entrance Porch and Toilet Facilities	10

With reference to the above table the gross leasable floor area is  $\pm 176m^2$ . The proposed operating hours of the restaurant is from 10:30am to 9:00pm, Monday to Sunday. Access to the restaurant will either be from the street entrance or the rear entrance as indicated on the site plan. The detail of the proposed parking will be described in section 3.5, Access and Parking, below.

Building plans will be submitted to the Overstrand Municipality for the proposed alterations to their satisfaction after approval has been obtained for the consent use.

### 3.5 ACCESS AND PARKING

The property is situated at 73 Main Road, Sandbaai. The property has a Business Zone 3 zoning and was used as offices. There is no form of formalised parking on-site which makes it difficult to determine the existing entrance to the erf from Main Road. With our application for a consent use to establish a restaurant on Erf 966 Sandbaai an access to the erf is proposed on the most northern portion of the street front parallel to the northern erf boundary.

There is a generous section between the actual erf street boundary and road surface that makes the manoeuvrability in and out of the site extremely easy. A 5.5m wide access is proposed with 2 parking bays immediately to the south located between the building and Main Road. The dimensions of these 2 parking bays are 2.5m x 5m with 9.5m manoeuvre space behind each parking bay. A further 9 parking bays are proposed behind the restaurant.

The dimensions of 8 of the 9 parking bays are 2.5m x 5m with 10m manoeuvre space behind each parking bay. The parking bay labelled number 3 is 4m x 5m and will be used as a parking bay for disabled persons.

The gross leasable floor area is  $\pm 176\text{m}^2$ . In terms of the Overstrand Municipality Zoning Scheme 6 parking bays per  $100\text{m}^2$  GLA is required. Our proposed consent use to establish a restaurant on Erf 966 Sandbaai would therefore require that we provide 11 parking bays on site. With reference to our proposed site development plan 11 parking bays are provided.

### 3.6 SERVICES

Due to the fact that Erf 966 Sandbaai is within an already developed mixed use area and zoned for business purposes the municipal services already exist and to which the existing building is already connected to. No additional services will be required for the establishment of a restaurant on Erf 966 Sandbaai.

It should be noted that Erf 966 Sandbaai is a Business Zone 3 erf. The proposed consent use to establish a restaurant on Erf 966 Sandbaai will have a minimal impact on the existing available services.

### 3.7 TITLE DEED

The title deed T49324/2017 has no restrictions that need to be removed in order for this application for a consent use to establish a restaurant on Erf 966 Sandbaai to be approved.

### **3.8 FORWARD PLANNING**

The Overstrand Municipal Growth Management Strategy (OMGMS) indicates Erf 966 Sandbaai within Planning Unit 7. Planning Unit 7 consists of the heart of Sandbaai along the collector road, Main Road, giving access to Sandbaai. Erf 966 Sandbaai also falls within a Development Node in terms of the Opportunities and Constraints and it is also earmarked for economic opportunity in terms of the Strategic Growth Management Interventions Plan and the Proposal Plan. Local business opportunities such as the proposed restaurant can therefore be supported within this development node and economic opportunity corridor due to its location.

The Overstrand Municipal Wide Spatial Development Framework (2006) earmarks Erf 966 Sandbaai for single residential purposes. Cognisance should be taken of the fact that application for the rezoning of the subject property from Residential Zone 1 to Residential zone 3 was approved and that the land use was limited to that of office use only. A successful appeal was lodged against the condition of approval limiting the use to office use only in order to utilise all the primary land use right prescribed under the new zoning.

With reference to the above it should be noted that the Overstrand Municipal Growth Management Strategy is an extension of the Overstrand Municipal Wide Spatial Development Framework and we are of the opinion that the proposed land use is compatible with the above mentioned proposals and current land uses of the area.

This proposed use for a restaurant will not have a negative impact on the surrounding land owners.

### **3.9 OTHER RELEVANT LEGISLATION FOR CONSIDERATION OF THE APPLICATION**

#### **3.9.1 HERITAGE VALUE**

Erf 966 Sandbaai is not situated within the Heritage Overlay Zone as determined by the Overstrand Municipality Growth Management Strategy (2010). The property is

not earmarked for heritage conservation purposes in terms of the Overstrand Heritage Survey Report (2009).

The subject property is not associated with any important persons or groups or important events and activities. The subject property has no association with the history of slavery and is not used for living heritage.

In the light of the above mentioned it is evident that the proposed consent use will not have a negative impact on the heritage value of the subject property or the greater area of Sandbaai.

### **3.9.2 IMPACT ON THE BIOPHYSICAL ENVIRONMENT**

The proposed consent use does not trigger any listed activities in terms of the National Environmental Management Act (NEMA), 1998 (Act no. 107 of 1998).

### **3.10 PLANNING PRINCIPLES**

The planning principles of spatial justice, spatial sustainability, efficiency and spatial resilience of this application can be described as follows:

Spatial Justice: The proposed consent use will be in line with the current mixed land uses found alongside Main Road in close proximity of Erf 966 Sandbaai. The proposed restaurant and associated parking will therefore be accommodated within an established mixed use area. The proposed application will have no impact on the conservation worthy areas of Sandbaai. Spatially the land use will be in keeping with the character of the area.

Spatial sustainability: The proposed consent use is in line with the current character of the established mixed use area that has also been earmarked for local business opportunities. The proposed application will have no impact on the conservation worthy areas of Sandbaai. Spatially the proposed land use of Erf 966 Sandbaai will be in line with the mixed use character of the area.

Efficiency: The proposed restaurant is easily accessible and conveniently located in the Main Road, Sandbaai in adjoining Sandbaai's business hub.

Spatial Resilience: Spatial resilience is not applicable to this application.

Our firm is committed to the principle of good administration and will cooperate with the Overstrand Municipality to ensure a time efficient, uncomplicated land use planning process.

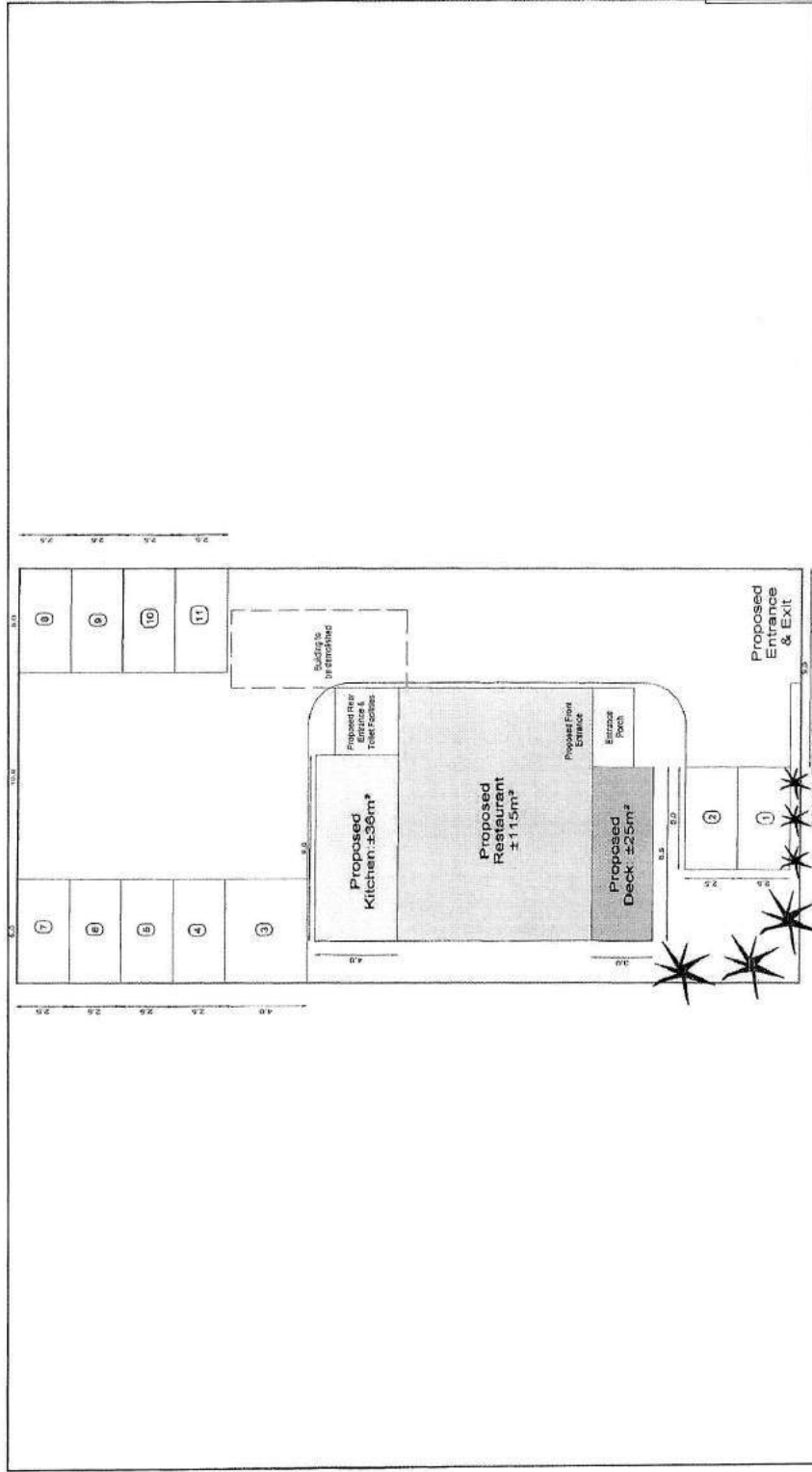
#### 4. RECOMMENDATION

When this application is evaluated it is important to take note of the following:

- The proposed consent use to establish a restaurant on Erf 966 Sandbaai falls within the existing land use tendencies in the area;
- The proposal is compatible with the existing land uses of the area;
- The impact on services will be minimal;
- The proposed consent use will not have a negative impact on the current character and land values of the surrounding erven.
- The site is easy accessible and enough parking can be accommodate on-site as depicted on the proposed site development plan.
- Erf 966 Sandbaai abuts the Sandbaai business hub and is ideally located and is easy accessible to be used as a restaurant.

With regards to the above mentioned it would be appreciated if the Overstrand Municipality would consider the application favourably for the consent use to establish a restaurant on Erf 966 Sandbaai.

ANNEXURE C



	All distances approximate and subject to survey. COPY RIGHT RESERVED	Property Description: <b>ERF 966                  SANDBANI</b>	Plan Description: <b>PROPOSED                  SITE PLAN</b>	Scale: <b>1:250</b> Drawing Nr: sand966a.dwg Date: 10/2017
	Proposed Entrance & Exit			

ANNEXURE D 1/2



Posbus 1687  
Hermanus  
7200  
18 Maart 2018

Mr H Bossof  
Stadsbeplanner  
Lêerverwysing 966 HSB (3845)  
Fax 0283132093  
alida@overstrand.gov.za

TP-A Theart  
(H Boshoff)

BESWAAR TEEN AANSOEK OM VERGUNNINGSGEBRUIK (RESTAURANT) OP ERF  
966 SANDBAAI VIR CK LAU DEUR PLAN ACTIVE

Hierdie beswaar word namens drie partye ingedien en moet dus  
as 3 besware gesien word.

Sobrey Eiendoms Beleggings BK vir erf 1738 ST001 HSB  
Sobrey Eiendoms Beleggings BK vir erf 1746 HSB  
A + S Bothma vir erf 1738 ST002 HSB

Die aansoeker dui eerstens korrek aan dat erf 966 binne 'n  
gemengde gebruiksaarea is, maar versuim om aan te dui dat alle  
besighede met die uitsluitel van Sandbaai Food Zone slegs  
besigheid binne kantoorure doen.

Die eerste beswaar is dus geraas na kantoor ure. Erf 966 grens  
op 3 sye aan eiendom wat permanent bewoon word, met 'n 38  
eenheid woonstelblok (residensieel) letterlik slegs 15 meter  
vanaf die voorgestelde parkeer area. Al 4 slaapkamers van erf  
1738 ST002 sal heeltemal blootgestel wees aan alle  
bedrywighede van so 'n resaurant, met die hoofslaapkamer direk  
by die kombuis en parkeeringsgedeelte. Die eienaars hiervan  
bewoon hierdie gedeelte al sedert 1996 en om na 22 jaar  
skielik 'n resaurant langs jou hoofslaapkamer te hê is  
absoluut onaanvaarbaar.

Verder dui die aansoeker aan dat meeste van die parkeerling  
agter die resaurant verskaf gaan word. Daar kan met 'n  
redelike groot sekerheid aanvaar word dat kliente nie in 'n 4m  
wee steeg gaan ry terwyl al die omliggende eiendom se  
parkeerling en 'n groot sypaadjie beskikbaar is vir moeitevrye  
parkeerling nie, wat misbruik en groot onmin tot gevolg gaan hê.  
Voorts gaan die parkeer toegang aan die noordekant die  
aangrensende buurman se amper altyd blaffende honde verder  
ontstel wat rus vir die inwoners eenvoudig onmoontlik gaan  
maak. Verder is my Toyota bakkie 5.6m lank en sou ek agter die  
resaurant inry en vind dat alle parkeerruimte beset is, met  
hoeveel moeite gaan ek 'n u-draai kan maak om daar uit te kom,  
veral as daar dalk nog 4 of 5 bakkies geparkeer staan. Neem  
verder in ag dat mense 35 tot 50 cm van die grensmure sal stop  
en dus maklik 'n meter oor die idilliese 5m prentjie op die  
plan gaan parkeer. Al die omliggende besighede het oop parkeer  
areas met onbelemmerde en gemaklike in/uitry parkeerings,  
waarvoor erf 966 glad nie geskik is nie.  
Motordeure wat klap, motors aansakel, toeters,  
kombuispersoneel wat potte en panne was/skrop/ teen mekaar  
kap, reuke van disse (en visse) gaste wat kuier, gesels lag en  
mekaar na 'n genotvolle aandjie luidkeels groet kan tog seker  
nie as 'n normaal aanvaar word nie, en hierdie gebeure gaan

1

FILE NO: EL 966-HSB
SCAN NO:
HSB 966
COLLABORATOR NO:
1140622

TP  
19 MAR 2018

## ANNEXURE D 2/2

aand na aand na aand na aand volhou.

Daar word ook aangedui dat beplande besigheidsure tot 21h00 gaan wees.

Gaan dit beteken kliënte word uitgesit? Kliënte kuier in somermaande tot laatnag, hulle drink en spandeer geld, en niemand gaan 21h00 uitgesit word nie en verder moet die kombuis en restaurant na toemaaktyd seker eers skoongemaak word. Hoe gaan dit stil stil gedoen word?, dus gaan die steurnis vir almal van ons wat al baie baie jare hier bly en getrou ons munisipale belastinge betaal net aan en aan.

Die aansoeker noem natuurlik ook dat 'n restaurant in lyn is met die bestaande omliggende besighede is, en hierdie stelling is baie vër van die waarheid af. Die ure van restaurante verskil, hulle geraasvlakke verskil, hulle kliënte verskil, die tydsduur van interaksie met kliënte verskil, die parkerings toeganklikheid verskil, restaurante verkoop drank vir "op perseel gebruik" in 'n area waar mense met hulle kinders en diere gaan stap, waar mense hulle kind winkel toe stuur met sy fiets, restaurante en veral die wat visgeregte verkoop genereer onsmaklike reuke, restaurant personeel moet laat saans kom haal en vervoer word en dar vir hierdie vervoer wag (nog steurnisse) so in lyn met betaande besighede, is hierdie besigheid nie.

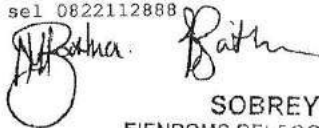
Restaurante bied vermaak en musiek aan, en met 'n oop stoep gaan dit net nog ondraagliker raak, want almal het nie dieselfde musieksmaak nie (min het die senuwees vir 12 uur plus per dag van oosterse musiek).

Drankverkope vir gebruik op perseel hou 'n klomp heel nuwe besware in die hoed en 'n restaurant gaan bitter min bestaansreg sonder so lisensie hê.

Met die koms van die nuwe Mall is daar reeds 'n ooraanbod van eiendomme wat geskik en reg geleë sal wees vir nog 'n restaurant en sodra bestaande huurkontrakte verstyk sal daar nog beskikbaar kom, maar om nou 'n eiendom wat van alle kante deur permanente inwoners, residensieel gebruik word, 'n vergunning toe te staan om sulke sake te doen sal onverantwoordelik, ondeurdag en onaanvaarbaar wees. Ons versoek u om in belang van die bestaande belastingbetalers van die geafekteerde omliggende eiendomme hierdie vergunningsgebruik af te keer. Of vra uself "Sal ek geliefd neem met so 'n besigheid langs my slaapkamers en my huis?"

Ons dank u vir die geleentheid om ons saak te stel en vertrou op u om die regte besluit te neem.

By voorbaat dank  
Aubrey en Sorita Bothma  
sel 0822112888



**SOBREY 2**  
**EIENDOMS BELEGGINGS CC**  
Wat: 4680198967 Reg. 200002991023  
Sel: 0822112888

**PLAN Active**  
Town & Regional Planners  
Stads-en Streeksbeplanners



*TPA Theat  
CHolwier*

ANNEXURE E 1/3

6 Magnolia St / Str  
PO Box / Posbus 296  
HERMANUS  
7200  
Tel: (028) 313 1673  
Fax / Faks: (028) 312 1351

Email: [planactive@hermanus.co.za](mailto:planactive@hermanus.co.za)

Website: [www.planactive.co.za](http://www.planactive.co.za)

Your reference: 966 HSB(3845)  
Our reference: PA17087

23 April 2018

The Municipal Manager  
Overstrand Municipality  
PO Box 20  
HERMANUS  
7200

FILE NO:	EL 966
	Sandbaai
SCAN NO:	59
COLLABORATOR NO:	1153953

For attention: Mr. H. Boshoff

Sir

**COMMENTS ON OBJECTIONS: ERF 966 SANDBAAI: PROPOSED CONSENT USE**

Your letter dated 6 April 2018 with the objections from A & S Bothma refers. Our comments on the objections are as follow:

To put all in perspective we would like to indicate at first where the subject property is situated in relation to the objectors erven, Erf 1738 and 1746 Sandbaai. Please refer to the map below for easy reference.



The objectors are the owners of both the business erven, 1738 & 1746 Sandbaai, located on the corners of Main Road and Long Street Sandbaai. The Sandbaai Foodzone and Paddakoor Primary School are located on Erf 1746 Sandbaai. A hairdresser, flooring company, estate agent and flats are located on Erf 1738 Sandbaai.

It is mentioned by the objectors that Erf 966 Sandbaai abuts 3 residential properties and is in close proximity of 38 units that are located within a block of flats and objects to the noise that will be generated after office hours by the proposed restaurant. We can only presume that the flats they refer to is the Watsonia Park residential development that is located  $\pm 35m$  from Erf 966 Sandbaai. Erf 966 Sandbaai abuts the following

Divine Inspiration Trading 329 (Pty) Ltd. trading as Plan Active  
Reg. No. 2006/030921/07  
Vat. No. 4770250340

John Mc Lachlan: Ndip (Town Planning) Tech Witwatersrand; MSAPI Nr.10908; SACPLAN Tch.Pln B/8250/2014  
Pauline Spronk: B (Soc Sc) US, BA Hon (UNISA)  
Meriké Lerm: B. Art et Scien Cum Laude (Town Planning) UNW; SACPLAN Pr.Pln A/158/2009

residential erven, erven 962 and 965 and shares a common corner with Erf 963 Sandbaai. Not one of the owners of the aforementioned residential erven or owners of the flats located in Watsonia Park objected against the application for consent use to accommodate a restaurant on Erf 966 Sandbaai. Most of the residents of the Sandbaai Township are familiar with the CK Sushi Restaurant located at the Engen filling station and the manner in which they manage and operate their restaurant. They operate a well-managed restaurant that is quiet without any live entertainment or loud music. The proposed restaurant will be managed in the same manner.

We take note of the fact that the objectors, that are also the owners of Erf 1738 Sandbaai, reside in one of the flats located on the first floor on the mentioned Erf. The objectors manage both their business properties and cognisance should be taken of the fact that they also accommodated a take-away restaurant on the ground floor on Erf 1738 Sandbaai that has closed recently, the same property on which they reside. We have mentioned the land use on page 3 of our motivation report. We find it rather interesting that the objectors will accommodate a similar land use on their own property but it is not allowed on an adjoining property. None of the residents in the other flats being rented out objected to the application.

2 parking bays are being provided for in front of the restaurant and 9 parking bays at the back of the restaurant. One of the parking bays, number 3, is a parking bay for disabled persons. The parking bays at the back of the restaurant are accessed via a 5.5m driveway. Taking the number of guests into consideration that can be accommodated within the restaurant is it our opinion that the width of access to the rear of the restaurant is sufficient. A standard parking bay measures 5m x 2.5m and requires manoeuvre space of at least 7.5m. with reference to the proposed parking layout. The parking bays as indicated are 5m x 2.5m with 9.5m manoeuvre space for parking bays 1 and 2, and 10m manoeuvre space is provided for parking bays numbered 3 to 11. The proposed parking bays therefore exceeds the minimum requirements for the provision of parking bays and therefore larger vehicles can be accommodated with ease. Please take note that more than 50% of the patrons enjoying food prepared by CK Sushi Restaurant phone in their orders to collect food as take-aways. The parking bays provided in front of the restaurant is ideally located for people that collects their take-away.

Existing parking bays, referred to by the objectors, located in the area (erven 1738 & 1746 Sandbaai) gain access directly from a street and guests/ clients / patrons reverse back into either Long Street or the Main Road in close proximity of an intersection. There is no provision made for manoeuvre space to turn vehicles around in order to exit the existing parking bays with vehicles facing their front side first. The parking layout proposed on Erf 966 Sandbaai provides ample space to manoeuvre and boasts a safer exit option for patrons onto Main Road than the existing parking configuration of surrounding business erven.

Cognisance should also be taken of the fact that erven 1738 & 1746 Sandbaai are the prime business erven located in the business hub of Sandbaai centrally located on Main Road. There is a constant flow of traffic throughout the day and night. The Sandbaai Superette / Foodzone is open from 7:00am to 9:00pm and the parking area facing Main Road is  $\pm$ 25m to 30m from the objectors flat. The objectors property, Erf 1738 Sandbaai abuts a high density residential development, Watsonia Park, located west of the last mentioned erf. Residents of Watsonia Park and their visitors park outside the property boundary on the sidewalk opposite the road on both sides of the entrance to Autumn Harvest Retirement Village and opposite Erf 1738 Sandbaai. "No parking" signs have been erected but visitors, guests, clients and customers still park on the sidewalk.

With reference to the above it could be argued that the restaurant, proposed on Erf 966 Sandbaai, will not have a negative impact on the surrounding mixed land use area due to the existing activities in the area such as the already constant flow of vehicular and pedestrian traffic, businesses being open until 9:00pm, being located in the business hub of Sandbaai abutting Main Road and impact of the high density residential development adjacent to the objectors property.

## ANNEXURE E 3/3

Currently the CK Sushi Restaurant attracts older couples that enjoy the quiet atmosphere and good food, and younger people with children have the tendency to phone in orders that are then taken home to be enjoyed. The proposed restaurant's kitchen will be open until 9:00pm after which no food or drinks will be served. Patrons will however be allowed to finish their meals and beverages. Well trained kitchen staff ensure that dishes are washed on a regular basis and in an orderly fashion to ensure that noise levels be kept to a minimum. They can not afford to be noisy as they would also have a negative impact on the patrons visiting the restaurant.

No live entertainment will be provided and no loud music will be played. The choice of music that is being played in their restaurant is current main stream international music and not eastern music as the objector mentions. The music serves as background music and patrons can conversate with one another without raising their voice. The quiet atmosphere at the proposed restaurant will be the same as at their existing restaurant and will be managed in the same manor. It is also our opinion that patrons visiting the restaurant could support the surrounding businesses from which the objectors and other business owners could benefit from.

The restaurant will be offering a similar menu as CK Sushi Restaurant and the owner, also the chef, sees to it that his premises is always clean and that leftover food and food scraps are disposed of on a regular basis at the Hermanus Municipal Refuse Yard and are not taken out on a "once a week" basis for the municipal refuse truck to collect the refuse on Wednesdays. Therefore there would be no unpleasant smells deriving from decaying food that is being disposed of.

Mr. Robert Lau has been operating the CK Sushi Restaurant at the Engen filling station for 5 years and knows Hermanus and the restaurant market very well. He offers a different eating experience, other than the restaurants found in Hermanus and restaurants that are established in the Whale Coast Mall and it is our opinion that he will also make a success of his proposed restaurant at his new proposed location in Sandbaai.

We trust that you would find our comments on the objections in order and that our application will be dealt with favourably.

Your faithfully



John Mc Lachlan



**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR CONSENT USE: ERF 966, SANDBAAI (3845)**

Stormwater (SW) : In Order  
Electricity : In Order  
Water : In Order  
Sewer : In Order  
Roads and traffic : In Order

**Conditions:**

1. that only the existing water connection and sewer septic tank will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the owner's cost;
3. that the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 10400 – P: 2010: Drainage;
4. that any commercial food preparation facilities (e.g. restaurant/guest house etc.) must be provided with a grease trap, which must comply with the standards and specification of the Department: Operational Services;
5. that, should any 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 Area Manager: Hermanus for written approval;
6. that, as it is noted that the parking layout as proposed in the application does not appear to be practical, it is recommended that the parking layout be revised and that a revised parking layout, that conforms to the requirements as set out in the Guidelines for Engineering Services Townships (Red Book), be submitted for written approval prior to approval of the application;
7. that stormwater be allowed to discharge through Erf 966, Sandbaai, unobstructed;
8. that no on-street parking be allowed.

  
**DENNIS HENDRIKS**  
**SENIOR MANAGER:**  
**ENGINEERING SERVICES**

02/2/2018  
 DATE

**Loriaan Isaacs - Erf 966 , Sandbaai - Revised Site Plan**

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**From:** Ricardo Andrew  
**To:** Helgaardt Boshoff  
**Date:** 11 July 2018 09:43 AM  
**Subject:** Erf 966 , Sandbaai - Revised Site Plan  
**Cc:** Dennis Hendriks; Miliswa Mantyi

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Good Day

The purpose of this e-mail is to confirm that the Engineering Services Department:

1. Received the revised parking layout (submitted 22 June 2018) for Erf 966, Sandbaai. This is in line with condition number 6 of the original conditions specified by the Engineering Services Department.
2. Has studied the revised parking layout and the revised layout has been approved.
3. Herewith confirms that condition 6 of its original conditions has been satisfied and no additional actions are required.

Regards

**Ricardo Andrew**  
**Manager: Engineering Services**  
**Tel: (028) 313 5073**  
**Fax: (028) 313 0760**  
**E: randrew@overstrand.gov.za**



**Overstrand Municipality**

**A:** 1 Magnolia Street, Hermanus, 7200 | **P:** P.O Box 20, Hermanus, 7200  
**T:** +27 (0) 313 8000 | **F:** +27 (0) 312 1894  
**E:** enquiries@overstrand.gov.za | **W:** [www.overstrand.gov.za](http://www.overstrand.gov.za)

Vision Statement: *"To be a centre of excellence for the community"*

File reference: 3845  
Date: 14.12.2017



**INTERNAL MEMORANDUM**

From : Town Planning Department  
Town Planner : H Boshoff

TO:

<b>Area Manager</b>	<b>Building Department</b>	<b>District Health</b>	<b>Electrical Department</b>
Environmental Officer	<b>Fire Department</b>	<b>Infrastructure and Planning (Onrus)</b>	Local Heritage Committee
<b>Operational Services</b>	<b>Traffic Department</b>	<b>Ward Councillor (D Botha)</b>	Waste Management

<b>Applicant</b>	Plan Active obo CK Lau
<b>Property Details</b>	Erf 966, 73 Main Road, Sandbaai
<b>Application Description</b>	Notice is hereby given in terms of Section 48, read with Section 16(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2016 that an application has been received for a consent use (restaurant) applicable to Erf 966 Sandbaai. Kennis word hiermee gegee ingevolge Artikel 48, saamgelees met Artikel 16(2)(o) van die Overstrand Munisipaliteit Verordening vir Munisipale Grondgebruikbeplanning, 2016 dat 'n aansoek om vergunningsgebruik (restaurant) van toepassing op Erf 966 Sandbaai ontvang is.

**ATTACHMENTS :**

<ol style="list-style-type: none"> <li>1. Notice</li> <li>2. Locality Plan</li> <li>3. Site &amp; Ground Floor Plans</li> <li>4. Motivation</li> </ol>	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.
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**YOUR DEPARTMENT'S COMMENTS:**


Consent use is subject to compliance with National Fire Protection Regulations SANS 10400T:2011.  
(Refer to Annexure A for compliance requirements)

MUNISIPALITEIT OVERSTRAND MUNICIPALITY	
FIRE BRIGADE / BRANDWEER	
APPROVED / GOEDGEKEUR	
Signature:	Date: 23 JAN 2018

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 objections to the proposal and where appropriate, the Mayoral Committee will be informed accordingly.

Building Control Department to confirm that all structures on the properties are in accordance with the approved building plans.

**COMMENTS REQUIRED BY: 19 January 2018**

	<p><b>OFFICE of THE CHIEF FIRE OFFICER</b>  <b>PO BOX 20</b>  <b>HERMANUS</b>  <b>7200</b>  <b>Tel: 028 313 8980</b>  <b>Fax: 028 313 1493</b></p>	
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Compliance requirements for A1 - Restaurants, Bars, Entertainment, Tourist Facility - Public Gathering venues in terms of the National Fire Protection Regulations SANS10400T:2011

**ANNEXURE A - TOWN PLANNING APPLICATION: ERF 966 HSB, 73 MAIN ROAD, SANDBAAI**  
**APPLICATION No: 3845**

- Free standing building - Provide fire hose reels in compliance with Section 4.34 of SANS10400T:2011 – 1x30m FHR per 500m<sup>2</sup> in the case of a building being larger than 250m<sup>2</sup>.
- Provide 1 x Fire Hydrants for any building larger than 1000m<sup>2</sup> or part thereof in compliance with Section 4.35.4 of SANS10400T:2011.
- Provide a SANS10139 compliant manually activated visual and audible alarm system in compliance with Section 4.31.3 of SANS10400T:2011.
- Provide 1 x Fire Extinguisher per 200m<sup>2</sup> of either type: Water - 9litre; Carbon Dioxide CO<sub>2</sub> – 5kg; Dry Chemical Powder – 4.5kg. Locations to be marked by SANS1186-5 (Photoluminescent) signs.
- Fire protection of air conditioning systems must be in compliance with Section 4.43 of SANS10400T:2011.
- **Kitchen Extraction Systems:**  
Kitchen extraction systems must be in compliance with SANS1850:2012 – Design of Commercial Kitchen Extraction Systems. Maintenance and cleaning of extraction systems must be on a 6 monthly basis with certificate of work done issued by the maintenance company.
- **Solid Fuel Ovens (Pizza or Tandoori):**  
Solid Fuel ovens shall be provided with a suitable dedicated extraction/ventilation system in compliance with Section 7 of SANS1850:2012
- **Release of Solid Fuel Combustion Products:**  
Where there is a risk of airborne sparks being produced, a suitable spark arrester shall be fitted to prevent embers entering the extraction duct in compliance with Section 7.2 of SANS1850:2012.
- **Grease Draws:**  
All canopies shall be fitted with an internal gutter and grease draw of capacity large enough as to not require constant attention, or some other device to contain any run-off safely. Such a device should have a maximum capacity of 500millilitre.
- **Fire Suppression of Deep Frying Units:**  
At least one Type F (Saponification/Wet Chemical) fire extinguisher shall be supplied for cooking operations involving deep frying units. The size and rating of the unit should be commensurate with the oil capacity of the frying unit. Type extinguishers should meet the requirements of ISO 7165 or acceptable equivalent. In accordance with Section 11 of SANS1850
- Provide automatic self-contained emergency lighting in compliance with Section 4.30.2 & 4 of SANS10400T:2011 that is able to provide lighting for a minimum period of 60 minutes or alternatively provide automatic power supply i.e. Generator or Battery backup with a maximum startup of 10 seconds time lapse.
- Provide emergency fire exits in compliance with Sections 4.16; 4.17; 4.18 & 4.21 of SANS10400T:2011 including provision for the escape of persons with disabilities in compliance with SANS10400S. i.e. 1m in width for up to 100 persons without disabilities and 1.5m width for persons with disabilities.
- All emergency exits must be indicated along the entire route with SANS1186-5 (Photoluminescent) signs and directional arrows together with illuminated EXIT signs above exit doors in compliance with Section 4.29 of SANS 10400T:2011.
- Final escape doors must be provided with a panic bar release system in compliance with Section 4.16.10 of SANS10400T:2011.
- Seating and furniture arrangement within places of entertainment must be in compliance with Section 4.29 of SANS10400T:2011 i.e. that a walking space between the backrests of chairs shall be a minimum of 500mm.
- The use of any place of entertainment is subject to the issue of a Population control certificate issued by the local authority for which application must be submitted to the Fire & Rescue Service in terms of the Overstrand Community Fire Safety By-law P.N. 6454 of 2007.

Chief Fire Officer