



MEETING OF THE MUNICIPAL PLANNING TRIBUNAL (MPT)

A G E N D A

**PLEASE NOTE THAT THIS MEETING HAS BEEN POSTPONED UNTIL FRIDAY,
30 AUGUST 2019 AT 14:00**

DATE:	29 AUGUST 2019
VENUE:	TOWN PLANNING COMMITTEE ROOM HERMANUS
TIME:	10:00

OVERSTRAND MUNICIPALITY

Office of the Chairperson: MPT
Civic Centre
HERMANUS
7200

7 August 2019

TO : THE 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, 29 August 2019 at 10:00, Town Planning Committee Room, 16 Paterson Street, Hermanus**, to consider the attached agenda.

S 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. Secretariat

**MUNICIPAL PLANNING TRIBUNAL
(MPT)**

29 August 2019

I N D E X

ITEM

**PAGE
NUMBER**

APPLICATIONS FOR LEAVE OF ABSENCE

- | | | |
|------------|--|-----------|
| 4.1 | ERF 678, 82 JAN VAN RIEBEECK STREET, SANDBAAI, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE, THE DELETION OF A CONDITION IN RESPECT OF AN EXISTING APPROVAL AND DEPARTURE: MESSRS ENGELBRECHT AND SCORGIE ON BEHALF OF RED CHAIR PROPERTIES EIENDOMS BEPERK | 1 |
| 4.2 | ERF 936, 4 GRYSBOK CRESCENT, SANDBAAI, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, SUBDIVISION AND REGISTRATION OF A SERVICES SERVITUDE: MESSRS WRAP ON BEHALF OF J BIERMAN | 31 |

1. OPENING

2. APPLICATIONS FOR LEAVE OF ABSENCE

3. CONFIRMATION OF MINUTES

3.1 Minutes of a Municipal Planning Tribunal Meeting held on 1 August 2019

4. ITEMS FOR CONSIDERATION

4.1 ERF 678, 82 JAN VAN RIEBEECK STREET, SANDBAAI, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE, THE DELETION OF A CONDITION IN RESPECT OF AN EXISTING APPROVAL AND DEPARTURE: MESSRS ENGELBRECHT AND SCORGIE ON BEHALF OF RED CHAIR PROPERTIES EIENDOMS BEPERK

Report attached.

4.2 ERF 936, 4 GRYSBOK CRESCENT, SANDBAAI, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, SUBDIVISION AND REGISTRATION OF A SERVICES SERVITUDE: MESSRS WRAP ON BEHALF OF J BIERMAN

Report attached.

4.1

ERF 678, 82 JAN VAN RIEBEECK STREET, SANDBAAI, HERMANUS, OVERSTRAND MUNICIPAL AREA: APPLICATION FOR CONSENT USE, THE DELETION OF A CONDITION IN RESPECT OF AN EXISTING APPROVAL AND DEPARTURE: MESSRS ENGELBERECHT AND SCORGIE ON BEHALF OF RED CHAIR PROPERTIES EIENDOMS BEPERK

**678 HSB (4137)
H van der Stoep
24 June 2019**

(028) 313 8900

Hermanus Administration

1. EXECUTIVE SUMMARY

The following applications, applicable to Erf 678, Sandbaai, have been received on 7 August 2018 (revised application received on 27 November 2018) from Messrs Engelbrecht and Scorgie on behalf of Redchair Properties Eiendoms Beperk:

- a) application for consent use in terms of Section 16.(2)(o) of the Overstrand Municipality By-Law on Municipal Land Use Planning 2015 (By-Law) for "tourist accommodation" in order to utilize both the existing dwelling units on the property as self-catering dwelling units for tourists;
- b) application in terms of Section 16.(2)(h) of the By-Law for the deletion of a condition in respect of an existing approval in order to accommodate a wendy-house that is to be used as a garden shed at the northern lateral boundary of the property; and
- c) application in terms of Section 16.(2)(b) of the By-Law for departure to relax the northern lateral building line of the property from 2m to 0m in order to accommodate the above wendy-house, as well as the southern street building line from 4m to 1,04m in order to accommodate an open braai.

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

2. DECISION AUTHORITY

Municipal Planning Tribunal

3. BACKGROUND / SITE HISTORY

The property is 703m² in extent, situated in Sandbaai, and zoned Residential Zone 1: Single Residential and is developed with a single storey main- and second dwelling unit. The property is a corner erf.

On 27 March 2017 the Municipal Planning Tribunal conditionally approved an application for removal of restrictive title deed conditions (the Title Deed has been endorsed accordingly by the Registrar of Deeds in the meantime), building line relaxations to accommodate a braai room, a pergola, a scullery and a covered stoep that partially encroached the relevant building lines. The removal of the conditions also allowed the landowner to enjoy the primary rights as set out in the Zoning Scheme that allows a second dwelling unit.

The landowner has in the meantime constructed the second dwelling unit and illegally utilizes both dwellings as self-catering units for tourists. Application is also made for the relaxation of the southern street building line to accommodate an illegal open braai, as well as the northern lateral building line to accommodate an existing wendy-house. Refer to the attached letter of approval dated 10 April 2017 (attached as Annexure H) and specifically condition 3.(d) thereof. Application is also made for the deletion of the relevant condition in order to accommodate the said wendy-house on the relevant boundary. The aim of the application is therefore to legalize the above irregularities.

4. SUMMARY OF APPLICANT'S MOTIVATION

Only a summary of the main points of motivation are conveyed as follows (the detailed motivation report is attached as Annexure B):

- ❖ The property is surrounded by similar residential properties – the area is flat with no properties having sea views, but mostly mountain views;
- ❖ Surrounding properties are similar in size and mostly single storey;
- ❖ There are no garage or storage space for garden tools which are required to maintain the outdoor gardens, lawns and spaces;
- ❖ No suitable position for the relocation of the wendy-house;
- ❖ The wendy-house has been upgraded and re-painted and a 2,1m high fire wall will be constructed between the wendy-house and Erf 679. Erf 681 has no view towards the east and will not be affected in any way;
- ❖ Only the upper section of the wendy-house will be visible to the owners of Erf 679;
- ❖ To encroach the lateral building line, the relevant condition needs to be deleted;
- ❖ The main dwelling (self-catering unit no. 1) has spacious outdoor area and due to the second dwelling (self-catering unit no.2) being rotated partially, the privacy of both units would be compromised when entertaining externally;
- ❖ Sandbaai is characterised with properties with single dwellings and some with second dwellings with tourist type accommodation;
- ❖ Although the property is close to the sea and shopping mall, tourists of the self-catering units would probably travel by vehicle to local attractions and amenities;
- ❖ The property is located in a quiet area of Sandbaai and bordered by two (2) relatively quiet roads;
- ❖ The two (2) small self-catering units can be let to two individual families;
- ❖ Secure off-street parking and an enclosed property is an attraction for tourists;
- ❖ The braai is well away from any surrounding properties as it falls within the street building line and is situated on the corner of the property – the height of the braai is only 1,655m which is lower than the permitted 2,1m height of a boundary wall;
- ❖ The property is not situated in a heritage overlay zone and has no grading in terms of the Overstrand Heritage Survey;
- ❖ Access will be taken from Jan van Riebeeck Street and sufficient parking can be provided with sufficient manoeuvring space;
- ❖ The SDF earmarks the property for residential purposes and the consent use will not change the zoning of the property;
- ❖ The self-catering units will have similar type occupancy as the permitted primary and second dwelling unit;
- ❖ The consent use proposal will be in line with the spatial planning principles for the area as it is within the existing land uses for the area;
- ❖ Employment opportunities.

5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Internal Departments	Yes	11/12/2018	11/01/2019
Ward councillor	Yes	11/12/2018	11/01/2019
Notices	Yes	14/02/2019	22/02/2019
Total letters of support	None		
Was public participation undertaken in accordance with Section 46 - 50 of the By-Law on Municipal Land Use Planning?			Yes
Was the application processed correctly?			Yes
Is the proposal consistent with the principles referred to in Chapter 2 of SPLUMA and Chapter VI of LUPA?			Yes
In case of application for removal, amendment or suspension of restrictive title conditions if notices in accordance with Section 35(3)(d) of the By-Law on Municipal Land Use Planning was served on all persons mentioned in the title deed for whose benefit the restriction applies			N/A

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

Name	Date received	Summary of comments	Recommendation
Building Department	19/12/2018	Supported subject to the submission of buildings plans in compliance with SANS10400.	Positive
Local Heritage	19/12/2018	Supported.	Positive
Telkom	5/02/2019	Attached as Annexure D.	Positive
Fire Department	22/01/2019	Attached as Annexure E.	Positive
Engineering Services	18/01/2019	Attached as Annexure F.	Positive

7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

N/A

8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS

N/A

9. MUNICIPAL ASSESSMENT OF COMMENTS

N/A

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

N/A

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

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

The objectives relating to:

Spatial Justice

The application will not perpetuate spatial injustices.

Spatial Sustainability

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

Efficiency

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

Spatial Resilience

The accommodation establishments 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 follows the required planning procedures and a good public participation process has been followed.

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

Same as 10.2 above.

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

Partly inconsistent with the Zoning Scheme, but consistent with the Spatial Development Framework.

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

N/A

10.6 Impact on Municipal engineering services

The existing services are available and have been viewed positively by the Engineering Department.

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

N/A

10.8 Existing and proposed zoning comparisons and considerations

The application is in line with the Overstrand spatial documents.

10.9 Additional Planning Motivation For Removal of Restrictive Condition

N/A

10.10 THE DESIRABILITY OF THE PROPOSAL**Consent Use**

The application for two (2) self-catering units is not in line with the Tourism Accommodation Policy, which restricts a residential erf to one (1) self-catering unit. In the motivation the applicant refers to make the self-catering units available to single families and or groups. This is contrary to the principle applied by the Overstrand Municipality that should an erf have two (2) dwellings that only one (1) of the dwellings may be used for self-catering. The reasons are due to the noise factor and unruly behaviour of tourists. An owner and or manager residing on the property usually have more control over the behaviour of tourists.

In this case, a room is indicated for a manager that will reside on the property. However, the room indicated as manager's living and sleeping area is interleading through the self-catering units' bedroom to access the kitchen facilities or will be able to access the kitchen from the back door. This is most unusual that a manager will have access to a self-catering unit to prepare food whilst it is occupied by a family on holiday. It seems that the manager will only be responsible for the upkeep of the property and not actually managing the tourism accommodation, due to the limitation of only a room. The fact that the room is interleading with the remainder of the house, the possibility exists that it will be rented out as part of the self-catering unit or as an extra single room.

A single residential erf primary right is to provide residency for the inhabitants of the Overstrand. It entails a residential dwelling of the owner and or manager to occupy the house as a permanently.

The other aspect is that a dwelling house must have two (2) parking bays and a second dwelling one (1) bay as per the application. However, no provision has been made for the manager.

Access is gained from Jan van Riebeeck Street. Access cannot be obtained from the Jimmy Smith Street side of the property due to an existing storm water ditch in front of the property. The access and the off-street parking provision have been viewed positively by the Engineer Department. Access and egress from one side of the property will also limit possible impacts on pedestrian- and vehicular traffic. Thus in terms of the application, the parking requirements for a main dwelling and a second dwelling is provided for, but not the manager.

The application for two self-catering units are not found desirable in terms of the primary right of a single residential zoned erf, that clearly states that a dwelling be used for a single family which is not the case in this application.

Departures

The open braai at the street corner of the property should not have any mentionable impacts on surrounding property owners as it is not situated along any lateral or rear building lines of adjacent properties. It is also only 1,655m high at the highest point thereof and mostly screened off and camouflaged by an existing palisade wall with a similar paint colour (see site photos attached as Annexure G). It should therefore not have any impact on the streetscapes of the property, passing traffic or pedestrians. The actual fire place of the braai is also not visible from the street due to the wall of the braai structure concealing it. It should also be noted that if the landowner decides to raise the existing boundary wall to the maximum 2,1m allowable height, the braai would almost be completely concealed. A condition should be imposed that the open braai may not be enclosed in any way whatsoever.

The wendy-house has been upgraded and has a much better appearance than before, thus not detracting from the character of the immediate area (see photos of original state of wendy-house as well as current state thereof attached as part of Annexure G). The applicant indicated that the wendy-house is only used as a tool shed for garden tools for the property. A condition should be imposed that it may only be utilised for such purposes. The applicant further indicated that the owner is going to construct a fire wall at a height of 2,1m between the wendy-house and the affected property (Erf 679). Only a section of the roof of the wendy-house will be visible from Erf 679 once the wall has been constructed which will minimize any visual impact on the neighbour and will also serve as a fire safeguard for the neighbour. A condition should be imposed to the latter effect. In view of the afore-said, the deletion of the relevant condition 3.(d) as set out in the letter of approval dated 10 April 2017 (attached as Annexure H) can therefore be supported.

It should be noted that in terms of the applicable forward planning documents of the Municipality, the tourism industry should be promoted as far as possible.

The zoning status of the property will not be altered. No objections were received and the applicable development parameters will be maintained.

In view of the above, it is the opinion that the application under consideration holds sufficient merit not to be deemed undesirable from a town planning perspective and should be supported in the manner as set out in the recommendation of this submission.

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 for "tourist accommodation" in order to utilise both the existing dwelling units on Erf 678, Sandbaai as self-catering dwelling units for tourists, **be approved in part** in terms of the provisions of Section 61 of the By-Law;
2. that application in terms of Section 16.(2)(h) of the By-Law for the deletion of Condition 3.(d) as set out in the relevant letter of approval dated 10 April 2017 in order to accommodate a wendy-house that is to be used as a garden shed at the northern lateral boundary of Erf 678, Sandbaai, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the application for departure in terms of Section 16.(2)(b) of the By-Law to relax the northern lateral building line of Erf 678, Sandbaai from 2m to 0m in order to accommodate the above wendy-house, as well as the southern street building line from 4m to 1,04m in order to accommodate an open braai, **be approved** in terms of the provisions of Section 61 of the By-Law;
4. that the above approvals be subject to the following conditions:
 - (a) that the Primary Unit (main dwelling) be used as a residential dwelling and the secondary unit be used as a self catering unit;
 - (b) that the development of the property strictly be in accordance with plan number erf678_MULLER_A1/11-2018-WA (REVISION A) dated NOVEMBER 2018 that was submitted with the application with reference to the wendy house and the open braai and second dwelling (secondary unit);
 - (c) that the site and amendmend of the building plan as to reflect condition (a) in as far as removing the manager room and reflect a bedroom;
 - (d) that the open braai may not be enclosed in any way whatsoever;
 - (e) that the wendy-house at the northern lateral boundary of the property may only be used as a garden shed for garden tools;
 - (f) that the landowner construct a fire wall of 2,1m high between the wendy-house and the common lateral boundary with Erf 679, Sandbaai;
 - (g) that no bedrooms of the self-catering unit may be individually be rented out to tourists for short term accommodation purposes at any time;

- (h) that building plans be submitted to the Building Department and that all requirements of the Building Department and Fire Services at that stage be complied with - all buildings on the property must be in compliance with SANS10400;
- (i) that the conditions of Telkom, the Fire Department and Engineering Services (attached as Annexures D, E and F), be complied with;
- (j) that the parking bays indicated on the plan in (a) above must be provided with a hard surface and must be properly demarcated;
- (k) that no on-street parking be allowed whatsoever;
- (l) that the owner or manager resides permanently on the premises and be responsible for the proper management of the accommodation establishment;
- (m) that the applicable rates and service tariffs, as determined by the annual budget is applicable, which tariffs are automatically adjusted in terms of the annual budget;
- (n) that the accommodation establishments comply 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;
- (o) that only a single non-illuminated sign that complies with the Municipal By-Law on Signage, may be displayed on the premises
- (p) that the accommodation establishment be conducted in such a manner that it is not found to be detrimental to the peacefulness and amenity of the surrounding area;
- (q) that a R918 Certificate of Acceptability must be applied for at the Overberg District Municipality;
- (r) that this approval does not absolve the landowner from compliance with any other relevant legislation;
- (s) that all other applicable development parameters as prescribed in the relevant Zoning Scheme be, complied with, and
- (t) that the accommodation establishments may not be operated prior to the landowner submitted proof to the Municipality of compliance with the above conditions (d), (f) and (h), and
- (u) that the application for one self catering unit be approved and the main dwelling be occupied by the manager or owner of the property.

5. that the applicant be notified of its appeal right in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the conditions in 4. above.

12. REASONS FOR RECOMMENDATION

- ❖ The application has followed due procedure.
- ❖ No objections were received from the public.
- ❖ It is in line with policy documents.
- ❖ Is not regarded as being undesirable from a town planning point of view.

REASONS FOR NON-APPROVAL:

- The Accommodation Policy does not allow two (2) self-catering units on a property.
- The primary right of a Single Residential erf is permanent accommodation of a dwelling house of a single family.
- The manager's room is interleading through a bedroom of the proposed self-catering unit, without proper kitchen facilities.
- No indication was indicated in the motivation of shared facilities.
- The parking is not sufficient.
- Two (2) self-catering units are not in line with the primary rights of a Single Residential erf.

13. Annexures

Annexure A:	Locality Plan
Annexure B:	Motivation Report
Annexure C:	Site Development Plans
Annexure D:	Comment: Telkom
Annexure E:	Comment: Fire Services
Annexure F:	Services Report
Annexure G:	Site Photos
Annexure H:	Letter of approval dated 10 April 2017

SIGNATURES

REGISTERED PLANNER:

Name : **H VAN DER STOEP**

SACPLAN Reg No: A/1708/2013

Signature : _____

Date: _____

ENGELBRECHT & SCORGIE

ARCHITECTURAL OFFICE

CK 94-37399 23

Tel 028 316 3294 • Fax 028 316 2200 • Email archoffice@maxitec.co.za • 48 Main Rd • PO Box 181 • Onrust River 7201



26 November 2018

The Town Planner
Overstrand Municipality
P O Box 20
HERMANUS
7200

Dear sir/madam

CONSENT USE APPLICATION, AMENDMENT OF APPROVAL CONDITIONS AND BUILDING LINE DEPARTURE FOR RED CHAIR PROPERTIES (Pty) Ltd : ERF 678 : JIMMY SMITH STREET, SANDBAAL – OVERSTRAND MUNICIPALITY

1. Background

The owner of the property, Red Chair Properties (Pty) Ltd, has instructed B Scorgie from the firm, Engelbrecht & Scorgie Architectural office to apply for the following.

- A consent use application in order to establish two self-catering units
- Amendment to the conditions of approval
- Building line departure
Erf 678 measures 703m² and is held by Title Deed No. T 000035804/2015

2. Application detail

Application is made in terms of the following :

- Chapter 4 Section 16(2)(0) of the Overstrand Municipality's By-Law on Municipal Land Use Planning 2016, for the consent use on erf 678 to establish two self-catering units each with a maximum of 2 rooms
- Chapter 4 Section 16(2)(h) of the Overstrand Municipality's By-Law on Municipal Land Use Planning 2016, for the amendment of an existing approval
- Chapter 4 Section 16(2)(b) of the Overstrand Municipality's By-Law on Municipal Land Use Planning 2016, for a permanent departure from the provisions of the Zoning Scheme

3. Need and desirability

3.1 Property description

Erf 678 is situation on the corner of Jan van Riebeeck and Jimmy Smith Crescent in Sandbaal and is zoned single residential. The corner property is surrounded by similar residential properties and takes access off Jan van Riebeeck Street. This area is flat with none of the properties sporting a sea view, but most of the dwellings have some mountain views. Generally the surrounding properties are similar in size and mostly single storey.

The total square meterage of the two buildings is 239m² (34,2% coverage)

3.2 **Zoning**

Erf 678 is zoned residential Zone 1 (SR1). Surrounding properties have similar zoning

3.3 **Land use**

Erf 678 has two existing approved dwelling units on with footprints of 138 m² and 101,00 m² respectively.

The primary dwelling comprises an open plan living, dining kitchen and two en-suite bedrooms. The Manager's accommodation is also attached to the primary dwelling with its own bathroom.

The secondary dwelling comprises an open plan living, dining kitchen and two en-suite bedrooms.

On the western boundary of the property there is a free-standing Wendy house 3mx3,5m used for the storage of garden equipment. The position of the Wendy house has not been approved and forms part of this application.

3.4 **Proposal**

It is the intention of the property owner to apply for the following :

3.4.1 **Consent use**

Chapter 4 Section 16(2)(0) of the Overstrand Municipality's By-Law on Municipal Land Use Planning 2016, for the consent use on erf 678 to establish two self-catering units each with a maximum of 2 rooms

- The owner of the property recently renovated the existing dwelling and constructed a secondary dwelling unit on erf 678, Sandbaai all of which have been approved. The property was purchased as an investment and the intention is to rent the individual dwellings for tourist accommodation on a short term basis. The owner did not realize that approval for short term rentals, was a Municipal requirement and hence started advertising the self-catering units prior to submission of an application for consent use.
- Each self-catering unit comprises :
 - Open plan living area, dining and kitchen
 - Two en-suite bedrooms
 - Manager's accommodation area is separate, but attached to the primary unit

Title deed no. T000035804/2015 has no restrictions prohibiting the establishment of the two self-catering units. The title deed therefore has no restrictive conditions preventing a consent use application being submitted for consideration.

The property's zoning will be retained and the Zoning Scheme Regulations make provision for properties with single residential zoning to apply for tourist accommodation.

Erf 678 has an area of 703m² with coverage on-site totaling 34,2%. Access to the property is off Jan van Riebeeck Street and off-street parking bays can be accommodated

as per the parking layout and approval conditions of Municipal approval letter dated 10th April 2017 (attached hereto as Annexure A).

The parking requirements for single residential erven are as follows :

- Self-catering unit 1 – 1 parking bay
- Self-catering unit 2 – 1 parking bay
- Manager – 1 parking bay

There is sufficient parking available on-site for the requirements of the proposed self-catering units and Manager. Each self-catering unit can only be rented out to a single family/group of people.

There will be a low impact on the environment and traffic flow and neither will be affected or compromised.

3.4.2 **Amendment of approval conditions**

Chapter 4 Section 16(2)(h) of the Overstrand Municipality's By-Law on Municipal Land Use Planning 2016, for the amendment of an existing approval

- The letter of approval received from Overstrand Municipality dated 10th April 2017 (attached hereto as Annexure A) applicable para. 3(d) reads : *"That the Wendy house be utilized as an out-building only (no residing purposes). That it may not encroach any building lines, it be properly upgraded and that it forms part of the building plan submission for the new dwelling unit."*

With reference to this letter of approval :

- There is no garage or storage space for garden tools which are required to maintain the outdoor gardens, lawns and spaces
 - A condition of approval was that the Wendy house conforms to the building lines, not be used for accommodation and be upgraded
 - There is no suitable position on-site for relocation of the existing Wendy house other than the currently proposed position. It is located away from any windows of habitable areas in the two dwelling units and in close proximity to the Manager's accommodation facility
 - The Wendy house has been upgraded and re-painted (see photos attached as Annexure B)
 - The property owner intends to build a 2,1m high screen and fire wall on the boundary between erf 678 and erf 679. The Wendy house will be moved slightly towards the primary unit to accommodate the width of the wall. Only the upper roof section of the Wendy house will be visible to the owners of erf 679 (see elevation on Architectural drawings)
 - The proposed position of the Wendy house triggers a building line relaxation which is addressed in this application under a separate section

With reference to the above, the amendments can be summarized as follows :

- The amendment of approval condition 3(d) to permit the Wendy house to encroach the lateral building line. The encroachment will require a lateral building line relaxation from 2m to 0m

3.4.3 **Building line departure**

Chapter 4 Section 16(2)(b) of the Overstrand Municipality's By-Law on Municipal Land Use Planning 2019, for a permanent departure from the provisions of the Zoning Scheme

- **New braai**

The main dwelling unit (proposed self-catering unit 1) has a spacious outdoor living area on Jan van Riebeeck Crescent. Due to the rotation of the 2nd dwelling unit (proposed self-catering unit 2) partly towards the main dwelling, the privacy of both the units would be compromised when entertaining externally. The only logical place for entertainment for the 2nd dwelling unit in close proximity to the living area, but which gives the house privacy from the main dwelling unit, is on the eastern corner of the erf, i.e. where the braai has been indicated. This braai has been constructed prior to submission of building plans.

Please see photos of completed braai (attached as Annexure C) also reflected on the Architectural drawings. The total braai height is 1,655 and does not protrude above the top of the boundary wall. There is very little visual impact.

The construction of the braai as indicated would necessitate the relaxation of the street building line on both Jimmy Smith Street and the splay on the erf from 4,0m to 1,040m

- **Wendy house**

There is no garage or storage space for garden tools which are required to maintain the outdoor gardens, lawns and spaces

- A condition of approval was that the Wendy house conforms to the building lines, not be used for accommodation and be upgraded
- There is no suitable position on-site for relocation of the existing Wendy house other than the currently proposed position. It is located away from any windows of habitable areas in the two dwelling units and in close proximity to the Manager's accommodation facility
- The Wendy house has been upgraded and re-painted (see photos attached as Annexure B)
- The property owner intends to build a 2,1m high screen and fire wall on the boundary between erf 678 and erf 679. The Wendy house will be moved slightly towards the primary unit to accommodate the width of the wall. Only the upper roof section of the Wendy house will be visible to the owners of erf 679 (see elevation on Architectural drawings)

The position of the Wendy house requires the lateral building line to be relaxed from 2m to 0m

3.5 **Character of environment**

The property is situated within a residential area which comprises roads, dwellings and public open spaces. The surrounding properties have similar type residential accommodation.

The Sandbaai area is characterized by single dwellings, some properties with primary and secondary dwellings attached, or separate units and in some instances the former, but with tourist type accommodation.

The majority of the properties in this area of Sandbaai are relatively flat with most of the dwellings having some mountain view.

Although the property lies in close proximity to the sea and local shopping mall, tourists visiting and staying over in the proposed self-catering units would most probably travel by vehicle to the local attractions and amenities.

3.6 **Desirability of the proposal**

3.6.1 **Consent use application for self-catering units**

The property is located in a quiet area of Sandbaai bordered by two relatively quiet roads. The erf is in walking distance to the sea, beaches and local mall, but most visitors to the proposed self-catering units will mostly travel to the attractions and amenities by vehicle.

The two small self-catering units can be let individually to two families, but also have the possibility to cater for two families who prefer their separate space, but wish to travel and spend time together.

The secure "off-street" parking and enclosed property is an attraction for tourists and travelers in a country riddled with insecurities and crime.

3.6.2 **Braai and screen wall**

The braai to be constructed on the eastern corner of the property is well away from any of the surrounding property owners as it falls within the street building line and is on the corner of the erf. None of the surrounding properties have any mountain or sea views which will be affected. The total height of the braai and screen wall is only 1,655m which is lower than the permitted max height of 2,1m for a boundary wall. If a solid boundary wall was constructed, the braai would not be visible from anywhere outside the erf

3.6.3 **Wendy house**

The dwelling constructed on erf 679 is not in close proximity to the Wendy house and will not be affected by the position of the Wendy house. A fire wall (to SANS Regulations) will be constructed between the Wendy house and the adjoining property. Erf 681 has no view towards the east and will not be affected in any way

3.7 **Heritage value**

The property is not situated within a Heritage overlay zone (as determined by the Growth Management Strategy 2010) and has no grading in terms of the Overstrand Heritage Survey Report 2009. The property has no relevance or association with any event, person or groups. The property also has no association with any history of slavery.

Taking all the above into account, the consent use application will not have a negative input on the heritage value of the property.

3.8 **Traffic, parking and access**

Access to the self-catering units will be taken from Jan van Riebeeck Street which currently is also the official registered address of the property. Provision is made for the following on-site parking :

- 2 x self-catering units – 2 parking bays
- Manager – 1 parking bay
- Total – 3 parking bays

All parking bays are 5mx2,5m in size with sufficient maneuvering space to access the parking areas comfortably. Sufficient parking can be provided on-site for the self-catering units and Manager/owner. It must be emphasized that each self-catering unit with 2 bedrooms each, will be rented to single families. The movement of traffic arriving and leaving the property will have little effect on the traffic flow as guests arriving at the self-catering units and departing do so at different times.

3.9 **Title deed**

The title deed no. T000035804/2015 has no restrictions that need to be removed in order for the consent use application to be considered.

3.10 **Forward planning**

The Overstrand Spatial Development Framework (SDF 2006) earmarks the area where Erf 678 is situated for residential purposes. The zoning of the property (Residential Zone 1) will be retained.

The consent use application will not change the zoning and the Zoning Scheme Regulations make provision for consent use applications. The Zoning Scheme Regulations make provision for two separate dwellings with separate living areas. The conversion of the individual dwellings into tourist accommodation being the two self-catering units will have similar type occupancy to the permitted primary and secondary dwelling unit. The self-catering units consent use proposal will be in line with the spatial planning guidelines for the area as this is within the existing land uses for the area.

3.11 **Overstrand Municipal Management Strategy 2010**

The erf falls within the lower income, low density section of the Sandbaai residential area. the consent use application in order to conduct business for self-catering units does not increase the density of the property. The growth management strategy therefore does not apply to this application.

3.11.1 **Environmental impact**

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

3.12 **Planning principles**

3.12.1 **Spatial justice**

The consent use application to conduct business as self-catering units if approved will create job opportunities for local residents. Staff will benefit from the proposed self-catering units either through permanent employment or associated services

employment by service related industries. Most of the staff will be local residents living in informal settlements in Hermanus (i.e. previously disadvantage communities).

3.12.2 **Spatial sustainability**

The self-catering units which are being proposed will be within an established residential area. The self-catering units will be established within the two existing residential units on erf 678, Sandbaai.

This application will have no impact on the conservation worthy areas of Sandbaai. Spatially the land use will be in keeping with the residential character of the area.

3.12.3 **Efficiency**

The proposed self-catering units are easily accessible from the main provisional feeder road, the R43/beaches and tourist facilities are within walking distance and the commercial node is within a short easily accessible road. This all makes the use of the facility, as well as travelling to the facility easy and accessible to everyone.

3.12.4 **Spatial resilience**

This is not applicable to the consent use application.

3.12.5 **Good administration**

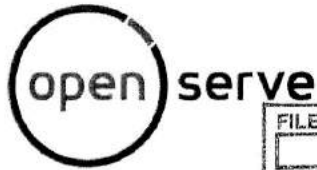
Our firm will co-operate with the Overstrand Municipality to ensure a smooth efficient planning process. We are committed to the principles of good administration.

I trust you will consider our application and I look forward to your correspondence.

Yours sincerely


BRANDON SCORGIE
for Engelbrecht & Scorgie

ANNEXURE D 1/4



TRA Theart
(Choliver)

FILE NO:	EL 678 Sandbaai
SCAN NO:	HSB 678
COLLABORATOR NO:	1253740

Division of Telkom SA SOC Ltd

10 Jan Smuts Drive
Pinelands
7404

Candice Spammer

Tel: 021 414 5582

Fax: 086 480 0617

Email: spammec1@telkom.co.za

Our Ref.: WWIP_WHMN0228_19

Your Ref.: 678 HSB 4137

05 February 2019

Attention: S Muller

Overstrand Municipality
HERMANUS

APPLICATION FOR CONSENT USE, THE DELETION OF A CONDITION IN RESPECT OF AN EXISTING APPROVAL AND DEPARTURE: ERF 678, 82 JAN VAN RIEBEECK CRESCENT, SANDBAAI

With reference to your letter received December 2018.

I hereby inform you that Open Serve approves the proposed work indicated on your drawing in principle. This approval is valid for 12 months only, after which reapplication must be made if the work has not been completed.

Any changes or deviations from the original planning during or prior to construction must immediately be communicated to this office.

Approval is granted, subject to the following conditions.

As per the drawing supplied, Open Serve infrastructure will not be affected. However, care should still be taken should it be evident that there is in fact Open Serve network present on the actual sites.

Please notify this office immediately if you locate any Open Serve plant that was not indicated. Please contact our representative Frederik Swart at telephone number 028 514 1199 / 081 363 7815 / FrederikS@openserve.co.za

P - 5 FEB 2019

61 Oak Avenue, Highveld, Techno Park, Centurion 0157,
Private Bag X881, Pretoria, Gauteng, 0001

It would be appreciated if this office can be notified within 30 days of completion of the construction work. Confirmation is required on completion of construction as per agreed requirements.

Should Open Serve infrastructure be damaged while work is undertaken, kindly contact our representative immediately.

All Open Serve rights remain reserved.

Yours faithfully

pp  _____

Selwyn Bowers

Operations Manager

Wayleave Management: Western Region

PLANT NOT AFFECTED

If any plant not indicated exists and information or supervision is required please contact this office at least 48 hours before any work commences.

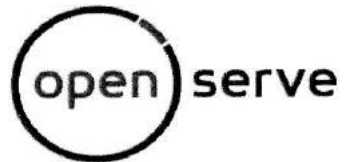
Frederik Swart

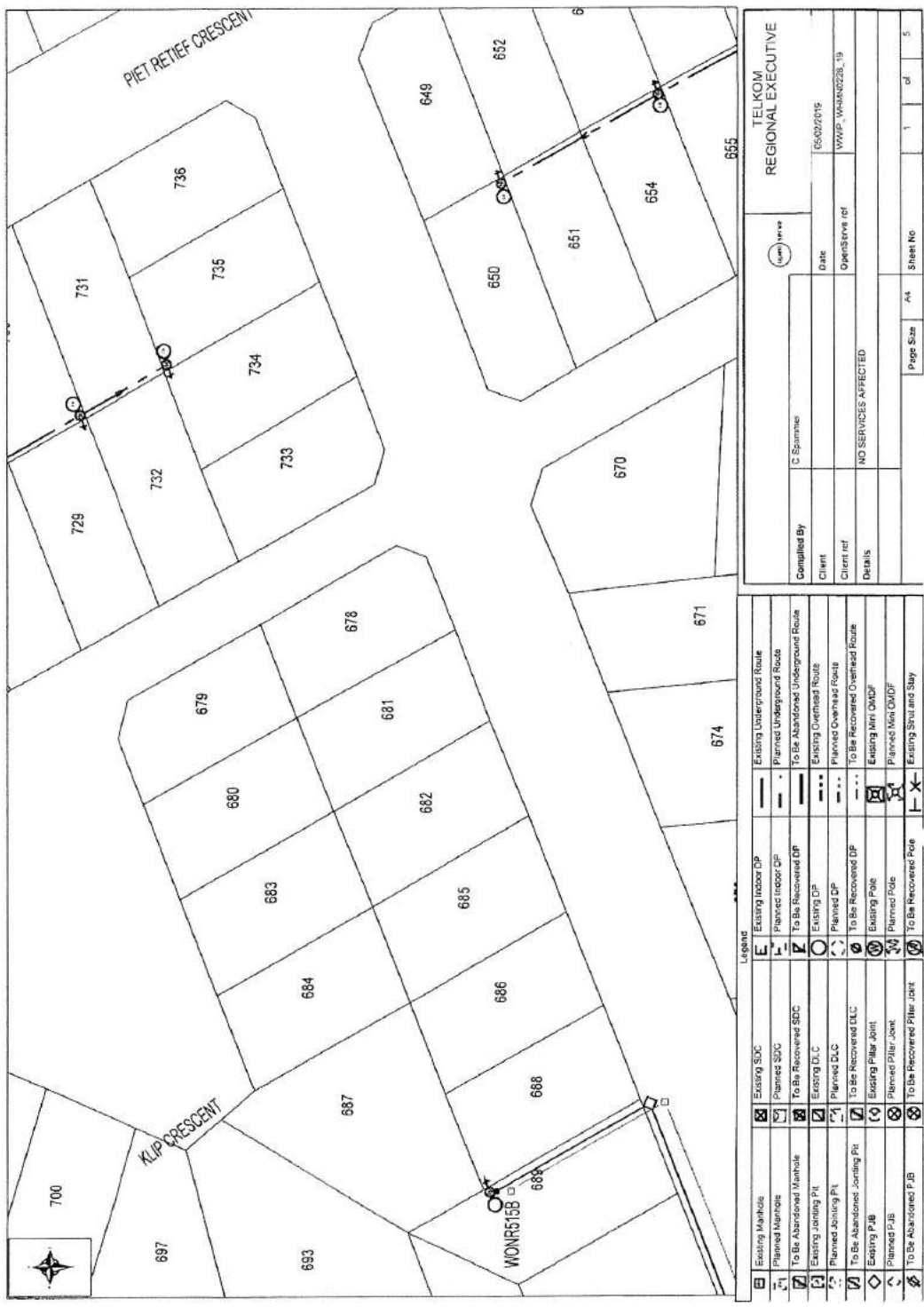
081 363 7815

Refence number
WWIP_WHMN0228_19

Marked Up
Candice Spammer

Date
05-Feb-19





Compiled By		C Spammer	
Client	Date	[5/02/2019]	
Client ref	Operations ref	WWAP_WHANS28_19	
Details			
NO SERVICES AFFECTED			
Page Size	A4	Sheet No	1 of 5

Legend		TELKOM REGIONAL EXECUTIVE	
	Existing SDC		Existing Underground Route
	Planned SDC		Planned Underground Route
	To Be Recovered SDC		To Be Abandoned Underground Route
	Existing JCB		Existing Overhead Route
	Planned JCB		Planned Overhead Route
	To Be Abandoned JCB		Existing Mini OMDP
	Existing PJB		Planned Mini OMDP
	Planned PJB		Existing Stru and Stay
	To Be Abandoned PJB		

File reference:	678 HSB (4137)
Date:	11 December 2018

INTERNAL MEMORANDUM

From	: Town Planning Department
Town Planner	: Helgaardt Boshoff

TO:

Area Manager	Building Department	District Health	Electrical Department
Environmental Officer	Fire Department	Infrastructure and Planning	Local Heritage Committee
Operational Services	Traffic Department	Ward Councillor (Clfr. D. Botha)	Waste Management

Applicant	ENGELBRECHT AND SCORGIE (obo RED CHAIR PROPERTIES EIENDOMS BPK)
Property Details	ERF 678, 82 JAN VAN RIEBEECK CRESCENT, SANDBAAI: APPLICATION FOR CONSENT USE, THE DELETION OF A CONDITION IN RESPECT OF AN EXISTING APPROVAL AND DEPARTURE
Application Description	<p>Notice is hereby given in terms of Section 48 of the Overstrand Municipality By-Law on Municipal Land Use Planning 2015 (By-Law), that the following applications applicable to Erf 678, Sandbaai have been received:</p> <ul style="list-style-type: none"> • application for consent use in terms of Section 16.(2)(o) of the By-Law for "tourist accommodation" in order to utilize both the existing dwelling units on the property as self-catering dwelling units for tourists; • application in terms of Section 16.(2)(h) of the By-Law for the deletion of a condition in respect of an existing approval in order to accommodate a wendy-house that is to be used as a garden shed at the northern lateral boundary of the property; and an • application in terms of Section 16.(2)(b) of the By-Law for departure to relax the northern lateral building line of the property from 2m to 0m in order to accommodate the above wendy-house, and the southern street building line from 4m to 1,04m in order to accommodate an open braai.
Attachments:	<p>1. Locality Plan</p> <p>2. Site Development Plans</p> <p>3. Motivation</p> <p><i>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.</i></p>



YOUR DEPARTMENT'S COMMENTS:

a) CONSENT USE FOR SELF CATERING ACCOMMODATION IS SUBJECT TO COMPLIANCE WITH THE REQUIREMENTS OF THE NATIONAL FIRE PROTECTION REGULATIONS SANS10400T:2011 - OCCUPANCY H5 (HOSPITALITY). REFER TO ANNEXURE A FOR REQUIREMENTS.

b) NEW BRAAI - NO OBJECTION

c) WENDY HOUSE - THE PLACING AND REQUIRED FIRE PROTECTION AS INDICATED IN THE APPLICATION IS COMPLIANT WITH THE NATIONAL FIRE PROTECTION REGULATIONS SANS10400T:2011.

Signature: _____ Date: _____ 2018/9

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

- Building Control Department to confirm that all structures on the property/ies are in accordance with the approved building plans.

COMMENTS REQUIRED BY: 11 January 2019



STANDARD REQUIREMENTS FOR OPERATION OF AN ESTABLISHMENT CLASSIFIED – H5 HOSPITALITY - SELF CATERING TOURIST ACCOMMODATION IN ANY H3 OR H4 CATEGORY BUILDING IN TERMS OF THE NATIONAL FIRE PROTECTION REGULATION SANS10400T:2011

ANNEXURE A – ERF 678 HSB, JIMMY SMITH STREET, SANDBAAI
TOWN PLANNING APPLICATION No: 4137

The town planning application is subject to compliance with the following fire safety requirements are prescribed together with any other building standards compliance requirements:

Fire Extinguishers:

SANS10400T:2011 – 4.37:

* x Portable Fire Extinguisher per each accommodation unit of a type - 4.5kg Dry Chemical Powder.

Combustibility of Floor Coverings:

Shall comply with requirements of Section 4.14 of SANS10400T:2011 for occupancy H5.

Combustibility of Wall Coverings:

Shall comply with requirements of Section 4.15 of SANS10400T:2011 for occupancy H5.

SANS10400T:2011 – 4.58 require the provision of:

- Escape route signs – Photoluminescent SANS1186-5 in all passages and corridors and also above all exit doors.
- Self-contained luminaires (automatic actuating battery operated lights) in all passages and corridors.
- Stand-alone smoke alarms compliant with the requirements of European Standard EN14604 in each:
 - Sleeping room
 - Communal area
 - Passage or corridor leading to rooms
- Fire Hose Reels located so that each accommodation unit can be protected in case of fire.
- Doors leading to the outside of the building with single turn locks or any other lock device approved by the Fire Authority.

A suitable approved emergency plan indicating evacuation routes that informs guests as to action that must be taken in the event of an emergency that is affixed to the back of each room door or prominent place in the room.

These plans must include:

- Action to be taken when discovering a fire or if an emergency arises
- Action to be taken for evacuation of the building and assuring accountability of all occupants.
- The interim action to be taken pending the arrival of emergency services
- An evacuation floor plan that identifies the escape route, appropriate exit doors and post evacuation mustering point.

Chief Fire Officer

ANNEXURE F

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:
APPLICATION FOR CONSENT USE, THE DELETION IN RESPECT OF AN
EXISTING APPROVAL & DEPARTURE: ERF 678, SANDBAAI (4137)**

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

Conditions:

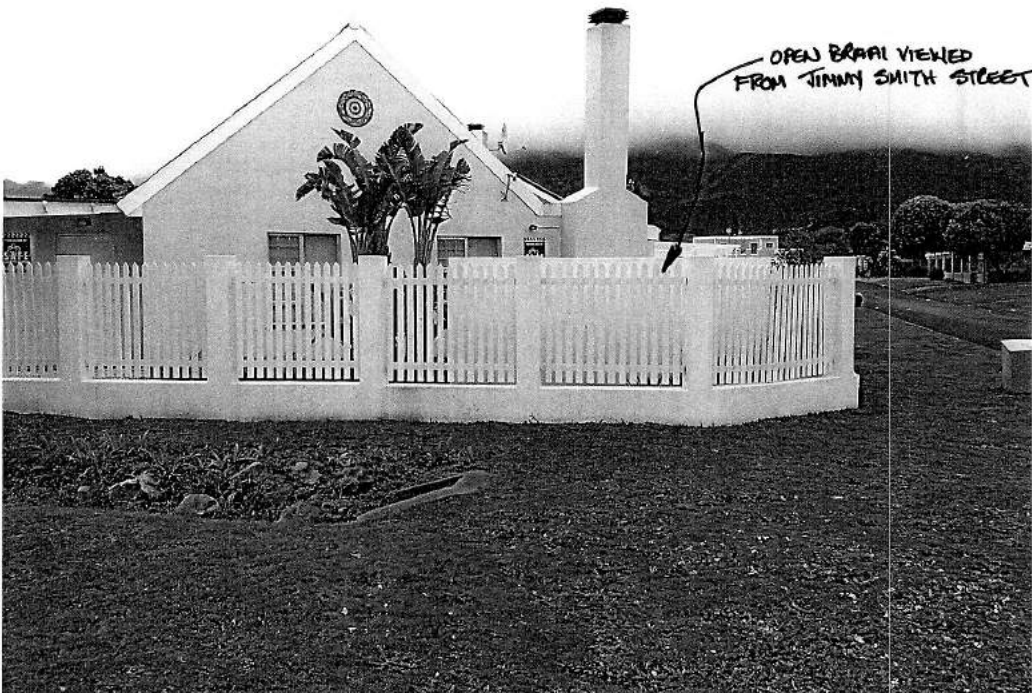
1. that only the existing water and sewerage connections will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the owner's cost;
2. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the owner's cost;
3. that 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;
4. that the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 10400 – P: 2010: Drainage*;
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 stormwater be allowed to discharge through Erf 678, Sandbaai, unobstructed;
7. that any additional and / or extended vehicle entrances will be for the owner's account;
8. that refuse will be removed from the sidewalks as per municipal arrangement;
9. that no on-street parking be allowed.

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

19/01/2018
DATE

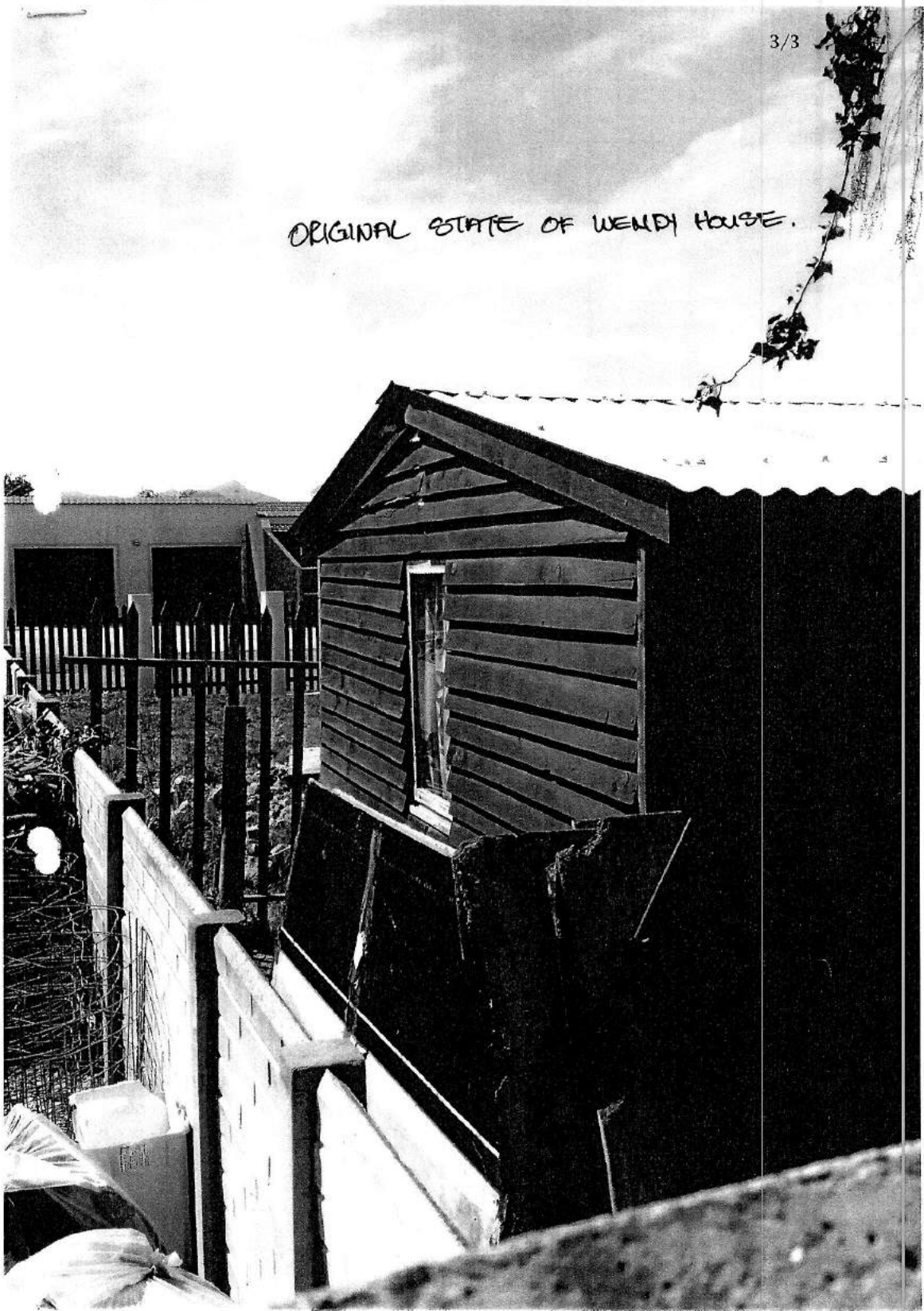
ANNEXURE G 1/3





3/3

ORIGINAL STATE OF WENDY HOUSE.



Navrae:
Enquiries: H Boshoff (Town Planner)

Lêerverwysing:
File Reference: 678 HSB (3424)

Datum:
Date: 10 April 2017



TOWN PLANNING / STADSBEPLANNING
HERMANUS

Plan Active
Ms. M. Lerm
PO Box 296
HERMANUS
7200

REGISTERED MAIL

Dear Madam

DECISION LETTER TO APPLICANT

ERF 678, 87 JAN VAN RIEBEEK CRESCENT, SANDBAAI, OVERSTRAND MUNICIPAL AREA : PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND DEPARTURE : M LERM OF PLANACTIVE TOWN AND REGIONAL PLANNERS ON BEHALF OF RED CHAIR PROPERTIES (EIENDOMS) BEPERK

1. The application received on 31 August 2016 refers.
2. The Municipal Planning Tribunal on 29 March 2017 **approved** your application in terms of Section 62 of the Overstrand By-law on Municipal Land Use Planning.
3. The Resolution with conditions are as follows:

RESOLVED:

- *1. *that the application for the removal of restrictive conditions C.1.(c), C.2.(c) & C.2.(d) contained in Title Deed T35804/2015 applicable to Erf 678, Sandbaai, be approved, in terms of Section 16(2)(f) of the Overstrand By-Law on Municipal Land Use Planning, 2016;*
2. *that the application for departure applicable to Erf 678, Sandbaai in order to encroach the 4m eastern street building line from 4m to 3,643m and 3,933m respectively to accommodate the existing braai room, the 4m eastern street building line to 2,417m to accommodate the existing pergola, and the 4m southern street building line from 4m to 2,901m to accommodate a small portion of the existing scullery as well as a portion of the stoep that forms part of the scullery, be approved, in terms of Section 16(2)(b) of the Overstrand By-Law on Municipal Land Use Planning, 2016;*
3. *that the approvals in 1. and 2. above be subject to the following conditions:*
 - (a) *the building line encroachments be strictly in accordance with the dimensions as indicated on the site layout plan number erf678_MULLERA1/01-2016-DA 1 and 2, as submitted with the application;*

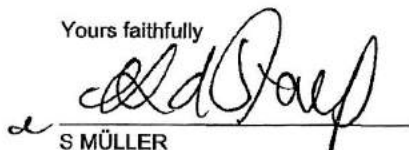
Tel: 028 313 8900
Fax: 028 313 2093
E-mail : loretta@overstrand.gov.za

PO Box 20 / Posbus 20
HERMANUS
7200

ANNEXURE H 2/2

- (b) *building plans must be submitted to the Building Department for approval, and any conditions required by the Fire- and Building Departments, must be complied with;*
- (c) *that all the conditions in the Engineering Services Report be complied with;*
- (d) *that the wendy-house be utilized as an outbuilding only (no residing purposes), that it may not encroach any building lines, it be properly upgraded, and that it forms part of the building plan submission for the new dwelling unit; and*
- (e) *that this approval does not absolve the applicant from compliance with any other relevant legislation, and*
- (f) *that all other development parameters as prescribed in the relevant Zoning Scheme be complied with.*
4. *that the applicant and the objector be notified of their respective rights of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2016 with regard to the above conditional approvals."*
4. Reasons for the above decision are as follows:
- ❖ The application has followed due procedure.
 - ❖ No new municipal services will be needed.
 - ❖ This is an existing situation and the approval of this application will have no additional impact on surrounding neighbours.
 - ❖ The application is regarded as being desirable from a town planning point of view.
5. You are hereby informed of your right to appeal to the Appeal Authority in terms of Section 78(2) of By-law.
- 5.1 The appeal form must be completed and should be directed to the Appeal Authority (Executive Mayor) and received **within 21 days of notification** of this decision together with proof of payment of the appeal fee (R2700-00).
- 5.2 The appeal form is available at request or alternatively on the Municipal website (www.overstrand.gov.za).
- 5.3 Contact details are as follows:
- Physical address : 16 Paterson Street, Hermanus, 7200
 Postal Address : PO Box 20, Hermanus, 7200
 E-mail address : loretta@overstrand.gov.za
6. Kindly note that in view of the fact that an objection has been received against the proposal, the rights are still not in place until the prescribed 21 days of registration of this letter have passed and it is confirmed by our offices that there has been no appeal received against the proposal.

Yours faithfully


 S MÜLLER
 DIRECTOR : INFRASTRUCTURE AND PLANNING