

## 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**

936 HSB (4169)

H van der Stoep

14 June 2019

(028) 313 8900

Hermanus Administration

## 1. EXECUTIVE SUMMARY

An application has been received on 7 September 2018 (revised on 3 October 2018) from Messrs WRAP on behalf J Bierman applicable to Erf 936, Sandbaai for the following:

- ❖ Application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the removal of restrictive Title Deed conditions C.(a), (b), (c), and (d) as contained in Title Deed T17336/2018 applicable to the above erf in order to subdivide the property into two (2) portions, as well as to be in line with the primary rights and development rules as contained in the Overstrand Zoning Scheme Regulations.

The restrictive conditions as contained in Title Deed T17336/2018 to be removed, reads as follows:

- “C. (a) That the above erf or erven be used for residential purposes only.  
(b) That the above erf or erven be not subdivided.  
(c) That no more than one dwelling, together with the necessary outbuildings and accessories be erected on any of the above erven and that not more than one-half the area of any one of the above erven be built upon.  
(d) That no building shall be erected on the above erf or erven within 4,72 metres of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used as gardens but shall not be built upon.”*

- ❖ Application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 for the subdivision of the property into two (2) portions, namely Portion A (±591m<sup>2</sup> in extent) and a Remainder (±592m<sup>2</sup> in extent).

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

## 2. DECISION AUTHORITY

Municipal Planning Tribunal

### 3. BACKGROUND / SITE HISTORY

The erf is zoned Residential Zone 1: Single Residential, measures 1183m<sup>2</sup>. The property is undeveloped and situated in Grysbok Crescent, Sandbaai behind the Sandbaai Supperete. The property is a corner erf and is a new portion of the subdivision of Erf 1438, Sandbaai.

### 4. SUMMARY OF APPLICANT'S MOTIVATION

Only the main points of motivation are summarised as follows (the detailed report is attached as Annexure C):

- ❖ The approval and implementation of the proposal is in harmony with the prevailing urban form and fabric in Sandbaai.
- ❖ The restrictive title deed conditions remaining in place do not have any benefit for the owner or society. It will have a social benefit since additional employment opportunities during the construction phase will be created and it will also increase the housing opportunities in Sandbaai.
- ❖ The zoning of the two (2) erven will not be altered.
- ❖ Dwellings to be constructed on the two (2) erven will connect to the electricity, water and sewage networks.
- ❖ Portion A is to gain access from Grysbok Crescent and the Remainder via a 4m right of way servitude over Portion A.
- ❖ The approval and implementation of the proposal will lead to greater surveillance in the street and contribute to a safer environment.
- ❖ No noxious land uses will be permitted on the erven.
- ❖ The implementation of the proposal will change the derelict site to become visually appealing to the neighbours.
- ❖ The approval will achieve the protection of the existing and valued sense of place, improve accessibility at all scales and be in harmony with the mixed land use environment in Sandbaai.
- ❖ The approval will retain the unique character of Hermanus, whilst balancing the need for urban growth, strictly retain urban growth within the urban edge and align with the land use designation of the spatial plan.
- ❖ The approval will enhance the built environment and promote optimal land use planning and efficient use of services.
- ❖ The proposal is consistent with the planning principles.

### 5. ADMINISTRATIVE COMPLIANCE

Methods of advertising		Date published	Closing date for comments
Local newspaper	Yes	21/11/2018	18/01/2019
Gazette	Yes	23/11/2018	18/01/2019
Notices	Yes	19/11/2018	18/01/2019
Ward councillor	Yes	19/11/2018	21/12/2018
Total comments	<b>ONE (1)</b>		

Total letters of support	<b>NONE</b>
Was public participation undertaken in accordance with Section 47 - 50 of the 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
Local Heritage	27/11/2018	No objection.	Positive
Building Control	27/11/2018	No comment.	Positive
Engineering Services	28/01/2019	Attached as Annexure G.	Positive
Fire Department	21/12/2018	All structural development must be in compliance with the requirements of National Fire Protection Regulations SANS10400 T : 2011.	Positive
Telkom	18/01/2019	Attached as Annexure H.	Positive

## 7. SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION

### WJ Beukes (Erf 937, Sandbaai)

Mr Beukes individually objects to the various title deed conditions to be removed as applied for.

### Point of objection

#### **1."C.(a) That the erf be used for residential purposes only."**

- all properties in the circle are residential;
- any business will increase traffic flow;
- parking for clients, etc. will be problematic;
- unresolved issues regarding adjacent business makes objector's property less desirable and allowing other business will surround objector's property with businesses;
- approval will allow for a crèche, school, guesthouse, etc. to open up next door and as already seen Council cannot do much about disturbances;
- no indication of what type of business is intended – no protection against what can happen next door;

- instead of one (1) abutting residential property, the same erf will be now have two (2) properties with business rights that means objector will have four (4) businesses operating from the same erf that was meant for one (1) residential home;
- servitude along objector's erf means more of a security risk due to larger amount of people/traffic – it will be an invasion of privacy as delivery vehicles and 4x4's can look over wall where they pass objector's swimming pool and rooms;
- do not change zoning from residential to business as it will impact negatively on neighbouring properties;
- CBD already struggling and most of Main Road's properties becoming businesses, it is not necessary to change the zoning – the need for housing will be more beneficial if property remain residential;
- if to remain residential only then no reason to remove this condition.

#### Applicant's response

- removal of the condition does not absolve landowner from complying with the residential zoning status and the residential character around the circle will not be altered;
- erf is not to be used for commercial purposes – it will only be subdivided and used for residential purposes;
- compliance with on-site parking to be done in accordance with the Zoning Scheme that will prevent parking on the sidewalk;
- the application is not for a commercial enterprise – no reference for business is made in the motivation or application;
- concerns by objector to existing businesses must not reflect on the desirability of the application;
- servitude only to be used by future owners of the Remainder for primary dwelling and second dwelling unit – maximum of three (3) cars will not disturb the peace and comfort of the objector and since the boundary wall of the objector is very high it will not be possible for drivers to peek into objector's property;
- objector highlights need for additional housing in Sandbaai – motivation report highlights intention to unlock additional housing in Sandbaai;
- removal of the condition does not absolve applicant from compliance with the applicable primary rights of single residential;

#### Town Planner's response

The basis of all the points made against the removal of the above condition is based on an assumption that the subdivided properties are to be rezoned for business purposes and all the resulting negative aspects that will be caused as a consequence thereof. The application does not involve the rezoning of the property, however the primary land uses on residential does have a commercial component such as home occupation etc. The objector indicated that the applicant intends to make use of the second dwelling option and that the erf will remain residential. It is therefore not necessary to remove the condition.

#### Point of objection

#### **2."C.(b) That the above erf or erven be not subdivided"**

- if erf is split into two (2) portions nothing will stop the properties being sold off with business rights and without restrictions;

- concern that nothing is preventing the abutting crèche to become larger or something of similar nature that will generate noise and renders objector's property totally undesirable;
- the servitude will have a negative impact on objector's privacy, security traffic and noise – impact will be twice as much as having a single erf next door;
- parking area will lead to car lights disturbing objector at night, car doors slamming, radios, hooting, etc. with objector's bedrooms in this area;
- objector already gets disturbed by Superette's parking lot noise and there is another parking lot behind objector's house for the large scale crèche and his rooms will be surrounded by parking lots;
- up to eight (8) cars can be expected on property plus visitors if it remains residential, whilst provision is only made for six (6) cars that is a large amount of traffic running pass objector's wall and can be worse if it becomes business;
- the layout will isolate one (1) erf from the road especially if it has a gate that can prevent emergency service vehicles from accessing leading to a higher fire risk to all surrounding properties – already a high risk due to the wooden structures on abutting crèche site and the bin/gas storage area of the Superette that abuts subject property;
- if entrance to property is not gated, objector's property becomes a corner stand on a circle leaving his boundary unprotected;
- the roads interlinking with Grysbok Crescent is problematic due to a layout problem – the Crescent is a one-way that forces traffic around the circle in one direction and extra traffic will affect all residents in the Crescent and stress already problematic areas;
- it is not in the best interest of the community to subdivide the property as overpopulating an area has its own complications;
- Municipality does not necessarily get much more rates and taxes as implied as these costs are calculated on size of property and not amount of properties.

#### Applicant's response

- properties not allowed to be sold as commercial properties as the zoning does not permit it;
- concerns relating to noise that emanates from the crèche are not related to the application – the public participation process is not an appropriate platform to complain about noise from the crèche;
- the worst noise will be the sound of a car passing which is not loud and lasts for a few seconds until the owner stops on the Remainder that will in no way disturb the peace and comfort of the objector;
- noise levels generated from a place of instruction and a commercial enterprise are of higher intensity compared to that generated by dwellings, thus not comparable;
- emergency vehicles can access Portion A from the street and the Remainder via the 4m wide servitude or stop along the street and walk a few meters to the Remainder – it will thus not be an impediment to emergency vehicles;
- entrance to the property will be gated;
- six (6) cars that the property will attract cannot possibly result in an unbearable traffic problem in the Crescent as cars in the Crescent are never bumper to bumper as in the CBD during peak hours – the projected problems are thus nullified;
- Erf 1746 is a business site with a crèche and the site specific circumstances of Erf 1746 is therefore incomparable with the subject property;
- the proposed erf sizes are in harmony with the prevailing erf sizes of Sandbaai;

- rates and taxes are also calculated on the value of the dwelling to be constructed on the vacant erven that means that the value of the properties will increase and so will the rates and taxes;

#### Town Planner's response

The majority of the points raised in this point of objection are based on pure speculation that is not substantiated in any way and further has no bearing on the merit of the application. It is again stated that it seems that the objector is under the impression that application is made to obtain business rights for the proposed two (2) erven. It is in any event felt that certain points can be responded on as follows;

It is a well-known fact that objector has personal issues regarding the crèche for years already and the objection can thus most arguably be regarded as a "Not in my back yard" example. Objector was also well aware that when he purchased his property that it abuts a business premises.

In terms of the Zoning Scheme a developed property must have at least two (2) parking bays. The objector's reference to eight (8) cars therefore does not make any sense.

No erf will be isolated from the road since a right of way will be created for the Remainder and the proposed Portion A will have direct access from the street. Should the application be approved a condition can be imposed that the Remainder must at all times have free access to and from the road.

#### Point of objection

**3."C.(c) *That not more than one dwelling with the necessary outbuildings and accessories be erected on any one of the above erven and that not more than one half the area of anyone of the above erven be built upon.*"**

- the removal will allow for more than 50% of each property to be built upon and not restricted to one (1) dwelling means as many as they wish can be built not only the two (2) implied leaving objector living next to an over populated area such as a townhouse complex, school, B&B Guesthouse, etc.;
- the restrictions were put in place for reasons such as safety, security, over population and to encourage good neighbourliness – if allowed it should be allowed for all.

#### Applicant's comment

The various points of the applicant's response on the above points of objection are summarized as follows:

- the motivation report highlights that the removal of the condition will not absolve the 50% coverage and the 50% coverage in terms of the Zoning Scheme will still be applicable;
- safety, security and over population concerns will not be undermined with the approval of the proposal.

Town Planner's response

Whether the condition is removed or not, the Zoning Scheme still regulates the development of the property that only allows for 50% coverage – no application is made to exceed the allowable coverage once the erf is subdivided. Various similar applications have been approved by the Municipality in the past already.

In terms of the primary rights applicable to single residential properties as set out in the Zoning Scheme, only two (2) dwellings are allowed per erf of which the second dwelling unit is restricted in size. The assumption that no limitation on the amount of dwellings to be constructed once the condition is removed, is outright speculation and unsubstantiated by the objector.

Point of objection

**4."C.(d) That no building shall be erected on the above erf or erven within 4,72 meters of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts: such space may be used for gardens, but shall not be built upon."**

- if found impossible to construct a building with an acceptable shape within the building restrictions once subdivided, it renders the land inappropriate for its intended use;
- fire risk will be even greater if the boundary restrictions are removed;
- objector knows of people that had the boundaries relaxed who filled the properties from boundary to boundary with buildings – there is nothing in place then to prevent it.

Applicant's response

- the shape of the erven is perfect for its future uses;
- no fire risk as building plans must comply with Fire Department's requirements;
- the Zoning Scheme parameters will prevent the property from being built from boundary to boundary.

Planner's response

The applicant's response is concurred with.

Point of objection

**"Once restrictions have been removed, they cannot be reinstated!"**

- application shows no design or layout of buildings that the Municipality can hold the applicant to;
- Municipality cannot prevent the properties from being sold before its developed, but with the conditions removed the new owners will have free range to do whatever they wish – this has happened many times before;
- Council is requested to reject proposal and keep property as it was intended – complications and negative issues far outweigh the positive;

- more than ten (10) years of struggling involving the home owners of the Crescent, the Municipality and those responsible for Erf 1746 regarding a business that was operated illegally, yet Municipality has still not been able to stop this daily disturbance – it would be grossly unfair to objector and his neighbours to allow something like this to happen on an abutting erf;
- Municipality must take serious consideration and that someone represents objector's property for a change as this will negatively affect the desirability and value of not only his property, but the neighbours' properties too.

#### Applicant's response

- any construction may only occur within zoning rights, the same rights the objector enjoys;
- the land use activities on Erf 1746 are not related to the application submitted;
- objector's property value will not decrease.

#### Town Planner's response

The applicant's response is concurred with. In addition it must be noted that the statement regarding depreciation of the objector's property and surrounding properties are not substantiated. The objector can also not comment on behalf of surrounding property owners without their consent.

### **8. SUMMARY OF APPLICANT'S REPLY TO COMMENTS**

As above.

### **9. MUNICIPAL ASSESSMENT OF COMMENTS**

As above.

### **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 thus will 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 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 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 Point 10.2 above.

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

Consistent with the Zoning Scheme and 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 Services 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.

**11. ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS**

**The financial or other value of the rights**

The removal of the relevant conditions will ensure that the property can be subdivided and that less restrictive street building lines shall apply that will enlarge the developable area of the subdivided portions that will increase the property values if developed to its full potential resulting in a beneficial financial impact for the landowners.

**The personal benefits which will accrue to the holder of rights and/or to the person seeking the removal**

The original holder of rights was the township developer whose rights became null and void when the Municipality, the successor in title, took over its functions. The personal benefit is financial due to the creation of an additional erf that can be sold.

**The social benefit of the restrictive condition remaining in place, and/or being removed/amended**

Whether the restrictive conditions remain intact or being removed from the Title Deed, it will have social benefit in terms of developing a vacant erf that may be prone to misuse to the detriment of the adjacent properties.

**Will the removal, suspension or amendment completely remove all rights enjoyed by the beneficiary or only some of those rights**

No, it will only result in the subdivision of the property into two (2) residential erven and that the subdivided erven will enjoy the same rights parameter as prescribed in the Zoning Scheme resulting in the increase in value of the erven.

**12. THE DESIRABILITY OF THE PROPOSAL**

Removal of Restrictive Title Deed Conditions

The owner of the subject property wishes to have the relevant restriction removed from the Title Deed in order to subdivide the property into two portions and to be in line with the less restrictive development parameters, as well as to obtain the primary rights as set out in the Overstrand Municipality Zoning Scheme. Various property owners in the township already had their respective Title Deeds altered by means of relaxations or removals of the specific restrictive development clauses. The removal of the restrictive conditions will thus enable the owner to utilise the subdivided property more efficiently if approved.

The subdivided portions will contribute to stimulate the need for urban growth within the urban edge which is consistent with the Municipality's forward planning strategies. The sizes of the subdivided portions will also be within the norm of similar approvals by the Municipality in the past.

At first the Engineering Department was not in favour with the width of a proposed 4m wide right of way servitude over the proposed Portion A in favour of the Remainder. After discussions between the applicant and Engineering Department the width of the access servitude was widened to 5m and additional 2m wide services servitude had to be registered along the northern boundary of the proposed Portion A in favour of the Remainder to allow services to be connected to the bulk services in the street. (Both servitudes are exempted from municipal approval in terms of Section 26 of the By-Law.) A condition should however be imposed that Portion A must at all times allow the Remainder to have free access to and from the road over the access servitude. Taking the combined size of the servitudes into account as well as the fact that with the removal of condition C.(d) that restricts the street building line to 4,72m, ample space will exist on Portion A for the construction of a dwelling unit with an attached garage.

It is the opinion that the objector misunderstands the essence of the application, being the creation of one (1) additional residential erf. The majority of the points of objection are unfounded and has not bearing to the application at all and the objection can thus not be supported.

In view of the above it is the opinion that the removal of the restrictive title deed conditions and subsequent subdivision of the property will not detract from the amenity and character of the area or impact on the vested rights of property owners in the immediate vicinity thereof. It is thus not regarded as being undesirable from a town planning perspective.

### 13. RECOMMENDATION

1. that the objection be noted;
2. that the application in terms of Section 16(2)(f) of the Overstrand Municipality By-Law on Municipal Land Use Planning, 2015 (By-Law) for the removal of restrictive Title Deed conditions C.(a) to (d) as contained in Title Deed T17336/2018 applicable to Erf 936, Sandbaai, **be approved** in terms of the provisions of Section 61 of the By-Law;
3. that the application in terms of Section 16(2)(f) of the By-Law for the subdivision of Erf 936, Sandbaai into two (2) portions, namely Portion A ( $\pm 591\text{m}^2$  in extent) and a Remainder ( $\pm 592\text{m}^2$  in extent), **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 Portion A must at all times allow the Remainder to have free access to and from the road over the access servitude;
  - (b) that all the conditions in the Engineering Services Report (attached as Annexure G), and Telkom (attached as Annexure H), be complied with;
  - (c) that the approvals do not absolve the applicant from compliance with any other relevant legislation, and
  - (d) that all development parameters as prescribed in the relevant Zoning Scheme must be complied with on both land units.
5. that the objector and applicant be notified of its appeal rights in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2015 with regard to the above decisions.

### 14. REASONS FOR RECOMMENDATION

- ❖ The application has followed due procedure.
- ❖ None of the internal departments have any objection.
- ❖ From the objection received it is clear that the objector misconstrues the essence of the application leading to the majority of the points of objection being unfounded and not having bearing to the application at all.
- ❖ It is in line with policy documents.
- ❖ Is not regarded as being undesirable from a town planning point of view.

**15. ANNEXURES**

Annexure A: Locality Plan  
Annexure B: Subdivisional Plan  
Annexure C: Motivation Report  
Annexure D: Objection  
Annexure E: Comment of Objection  
Annexure F: Title Deed T17336/2018  
Annexure G: Engineering Services Report  
Annexure H: Telkom

**SIGNATURES****REGISTERED PLANNER:**

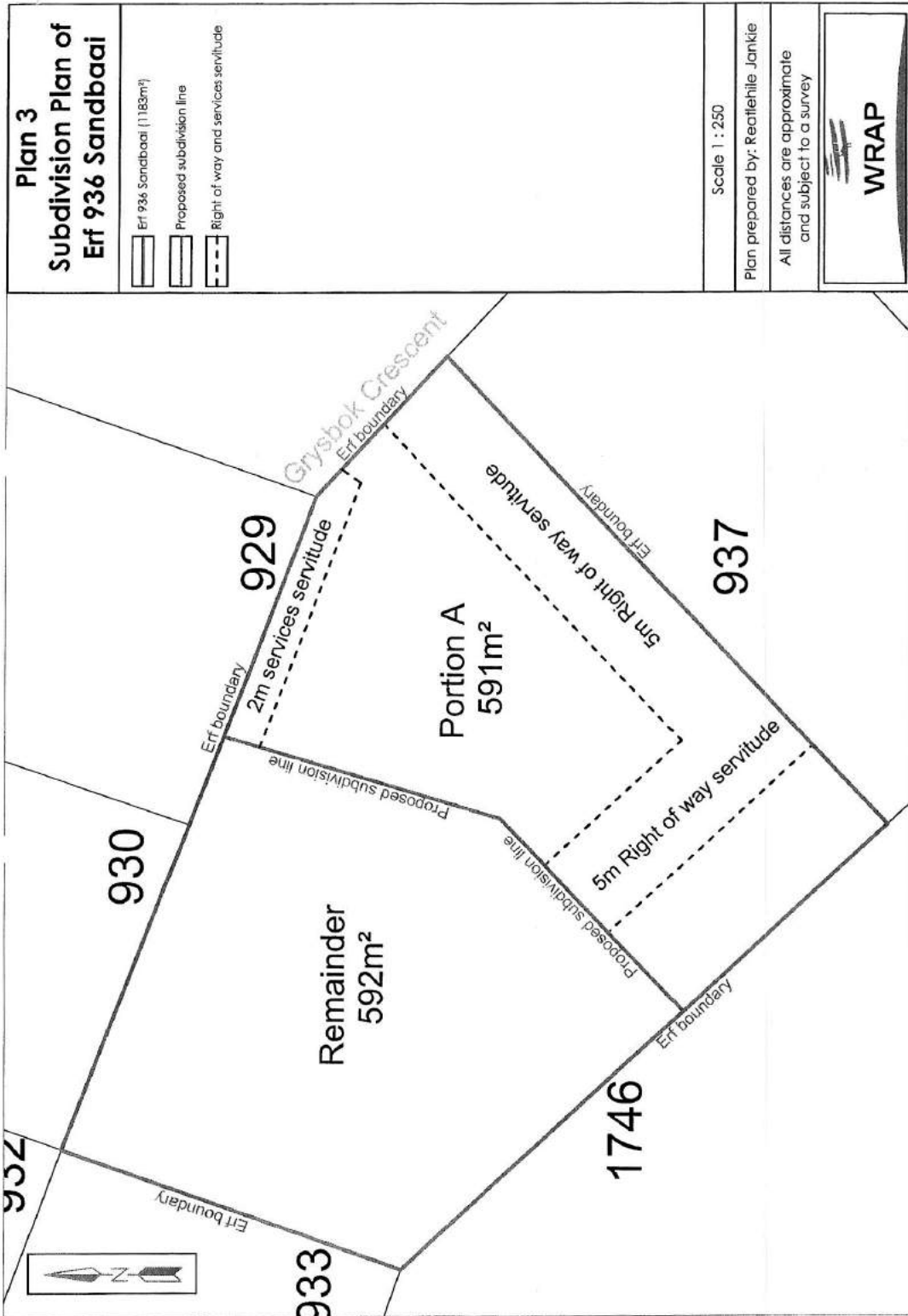
Name : **H VAN DER STOEP**

SACPLAN Reg No: **A/1708/2013**

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

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







WRAP

MOTIVATION

**2. ABBREVIATIONS**

<b>OMZS</b>	Overstrand Municipality Zoning Scheme, 2013
<b>SDF</b>	Overstrand Municipality Spatial Development Framework, 2006
<b>OM</b>	Overstrand Municipality
<b>OM By-Law</b>	Overstrand Municipality By-Law on Municipal Land Use Planning, 2015
<b>SPLUMA</b>	Spatial Planning and Land Use Management Act, 2013
<b>LUPA</b>	Land Use Planning Act, 2014
<b>PSDF</b>	Western Cape Provincial Spatial Development Framework 2014
<b>IDP</b>	Overstrand Municipality Integrated Development Plan
<b>DEADP</b>	Western Cape Department of Environmental Affairs and Development Planning
<b>SDP</b>	Site Development Plan

**3. SUMMARY OF PROPERTY DETAILS**

<b>Applicant</b>	WRAP (Wright Approach Consultancy)
<b>Registered owner</b>	Jana Bierman
<b>Erf number</b>	Erf 936
<b>Suburb</b>	Sandbaai
<b>Property extent</b>	1183m <sup>2</sup>
<b>Proposed building footprint</b>	0m <sup>2</sup> (Building plans will be submitted, should this application be approved)
<b>Title deed</b>	T17336/2018
<b>Restrictive title deed conditions</b>	Conditions C (a), C (b), C (c) and C (d)
<b>Applicable zoning scheme</b>	OMZS
<b>Current zoning</b>	SR1
<b>Current land use</b>	Vacant/derelict

**4. BACKGROUND**

The owner of the subject property purchased the erf in April 2018 with the purpose of subdividing it and constructing dwelling houses on the subdivided erven. This proposal is for the property owner to obtain the necessary land use rights to subdivide the erf.

**5. PROPOSAL**

The following is proposed for the property owner to obtain the appropriate land use rights.

**1. Removal of the following restrictive title deed conditions:**

- "C (a) That the erf or erven be used for residential purposes only."  
 "C (b) That the above erf or erven be not subdivided."

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"C (c) That not more than one dwelling together with the necessary outbuildings and accessories be erected on any one of the above erven and that not more than one half the area of any one of the above erven be built upon."

"C (d) That no building shall be erected on the above erf or erven within 4,72 meters of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used for gardens but shall not be built upon."

The rationale for the removal of this restrictive title deed condition will be elucidated in Section 7 of this report.

## 2. Subdivision of the property to create the following:

Portion A  $\pm 591\text{m}^2$ ; and  
The Remainder  $\pm 592\text{m}^2$

The approval and implementation of the subdivision (refer **Plan 3**) will increase the housing accommodation opportunities in Sandbaai and contribute to the optimal utilisation of land and services located within the urban edge. Additional detail pertaining to the rationale for the subdivision will be highlighted in this report.

## 3. Confirmation of an exemption of a servitude:

### Access to portion A

Access can be gained from Grysbok Crescent.

### Access to the Remainder

Access will be gained via a proposed right of way servitude over Portion A and connects to Grysbok Crescent.

The right of way servitude proposed does not require the approval of the OM and is exempt as highlighted under Section 62 (1) (v) of the OM By-Law. It is therefore requested that the OM certify in writing that the 4m wide right of way servitude which measures  $159\text{m}^2$  over Portion A is exempted from the provisions of Section 22 to 26 of the OM By-Law and endorse the subdivision plan (refer **Plan 3**) accordingly.

## 6. SITE SPECIFICS

The purpose of this subdivision is for two dwelling units to be constructed on Portion A as well as on the Remainder. The future dwelling units are proposed to be located to the north of the property no closer than 2m from the side erf boundaries. The reason why the dwelling units will not be located to the south of the property is because there is a commercial enterprise and a creche on Erf 1746 Sandbaai. The area immediately abutting the southern boundary on Portion A and the Remainder is therefore proposed to be used for parking (refer **Plan 5**). This will ensure that the future dwelling units will have some buffer from the commercial and creche enterprise. The rationale for the right of way servitude over Portion A running next to the south eastern boundary

  
WRAP

**MOTIVATION**

and connecting with the Remainder on the south is to leave the northern part of Portion A open for the proposed buildings.

An architect will design and submit building plans should this application be approved which will depict the structures which are proposed on the property in detail which will be located up to 2m from the side boundary.

Considering the above, WRAP has been appointed to apply for a removal of restrictive title deed conditions, subdivision and exemption of a right of way servitude.

  
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## MOTIVATION

## 7. URBAN FORM AND URBAN FABRIC

The majority of the erven zoned SR1 which are located to the south of Sandbaai measurement falls in the erf size bracket between 600m<sup>2</sup> to 700 m<sup>2</sup>. The subject erf which measures 1183m<sup>2</sup> is very large and out of character with the prevailing urban form and size of the erven in the suburb. The proposal for erven which measure ±591m<sup>2</sup> and ±592m<sup>2</sup> is aligned with the prevailing urban form in Sandbaai.

The urban fabric in Sandbaai is characterised by diverse land uses which range from residential, town housing, commercial and community land uses. These land uses are all clustered together in a harmonious and complementary manner. The approval and implementation of this proposal is in harmony with the prevailing valued urban fabric of Sandbaai.

## 8. TITLE DEED CONDITION PROPOSED FOR REMOVAL

The following definitions are pertinent to this proposal:

*"Urban sprawl is the rapid expansion of the geographic extent of cities and towns, often characterized by low-density residential housing, single-use zoning, and increased reliance on the private automobile for transportation."*

*"Urbanisation is an increase in a population in cities and towns versus rural areas."*

The rationale for the removal of the restrictive conditions was assessed and is motivated as follows:

<b>Title deed restriction</b>	• "C (a) That the erf or erven be used for residential purposes only."
<b>Motivation</b>	The subject property will be used for residential purposes however this restrictive condition is proposed for removal as land uses in suburbs are not static but subject to changes and geographic movement depending on the prevailing development pressures of the time. This would however be subject to a statutory town planning application and will not be done arbitrarily on the subject property.

<b>Title deed restriction</b>	• "C (b) That the above erf or erven be not subdivided."
<b>Motivation</b>	The intention of this proposal is for the subject property to be subdivided so the immediate intent for the removal of this restrictive title deed condition can be illustrated.
	<b>Background</b> This title deed restriction was inserted in the title deed in 1950 when the prevailing trend in the development of suburbs was large plots which exacerbated urban sprawl. The low population growth and

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	<p>absence of urbanisation made this model of suburban development feasible in the 1950's.</p> <p><b>Current urban development trends</b></p> <p>The suburban landscape in Sandbaai is currently characterised by rapid urbanisation which increases the pressure for residential opportunities within the urban landscape. This therefore makes contextually appropriate densification through subdivision while not adversely altering the character of the suburb appropriate considering the shift in suburban development trends and pressures from 1950 to 2018.</p>
--	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

<b>Title deed restriction</b>	<ul style="list-style-type: none"> <li>• <b><i>"C (c) That not more than one dwelling together with the necessary outbuildings and accessories be erected on any one of the above erven and that not more than one half the area of any one of the above erven be built upon."</i></b></li> </ul>
<b>Motivation</b>	<p>The property owner seeks to exercise the primary right enshrined in the zoning of SR1 in the OMZS to construct two dwelling units on Portion A and as well as the Remainder. Immediate intent which justifies the removal of this restrictive title deed condition can be illustrated. The two future dwelling units on both erven will be illustrated in detail in the building plan submission process which will commence should this application be approved.</p> <p><b>Background to "That not more than one dwelling together with the necessary outbuildings and accessories be erected on any one of the above erven".</b></p> <p>The restriction of one dwelling unit per erf was inserted in 1950 in response to suburban sprawl.</p> <p><b>Current urban development trends to the above restriction</b></p> <p>The prevailing principle of promoting densification within the urban edge which is a prevailing urban planning principle and a common trend in all urban areas. The urbanisation experienced in Sandbaai and other urban areas, makes this restrictive condition out of sync with the current suburban development trends. This restrictive title deed condition remaining in place would further stifle the availability of housing opportunities within the urban edge and potentially exacerbate urban sprawl which is contrary to the nature of development which is promoted in the Hermanus.</p> <p><b>Background to "That not more than one half the area of any one of the above erven be built upon"</b></p> <p>The restrictive condition of not more than half the erf be built upon was also inserted in conjunction with the restrictive condition that not more than one dwelling unit per erf be constructed. This was to ensure that the dwelling unit did not become too large as that would lead to more than one family occupying the dwelling unit which was</p>

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	<p>contrary to the concept of human settlements in suburbs in the 1950's era.</p> <p><b>Current urban development trends to the above restriction</b>          Considering that two dwelling units per erf is aligned with the current urbanisation trends in some cases may potentially contribute to a larger percentage of the property being used for the construction of a dwelling, the above restrictive condition becomes contextually inappropriate. The removal of this restrictive condition will therefore not absolve compliance with the restrictive development parameters of a maximum of 50% coverage which is in the OMZS SR1 zoning and any departure from this provision would have to follow a prescribed town planning application and cannot be done arbitrarily.</p>
<b>Title deed restriction</b>	<ul style="list-style-type: none"> <li>• <b>"C (d) That no building shall be erected on the above erf or even within 4,72 meters of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used for gardens but shall not be built upon."</b></li> </ul>
<b>Motivation</b>	<p>The property owner has the intention of constructing the future building within 2m of the lateral boundary and not closer than 4m from the street boundary. The building footprint area which is left (refer <b>Plan 5</b>) because of this restrictive condition would make it impossible to construct a building which has an acceptable shape particularly on Portion A. Immediate intent for the removal of this restrictive condition can therefore be illustrated. The details pertaining to the location of the future building to be located up to 2m from the side building line will be depicted in detail during the building plan submission process by the architect.</p> <p><b>Background</b>          This restrictive title deed condition was inserted into the title deed in 1950 when the prevailing urban development trend was buildings which were more centrally located on an erf.</p> <p><b>Current urban development trends</b>          The current development trend is for buildings to be located closer to the street and side boundary while conforming to the building lines in the OMZS SR1 zoning which guarantees some form of privacy for neighbours and is aligned with the current valued prevailing housing typology in Sandbaai.</p>

The above restrictive title deed conditions are also contrary to the primary rights and development perimeters which are conferred on the subject property as highlighted in the SR1 zoning which will be illuminated in Section 8 of this report. The removal of

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## MOTIVATION

these restrictive conditions will therefore contribute to legislative synchrony in town planning.

Additionally, the removal of all these restrictive title deed conditions would ensure that the OM and the Deeds Office do not remove the restrictions one by one on multiple occasions when the need arises separately, as that would place a lot of strain on the work load which government officials are currently confronted with.

**Requirements for the amendment, suspension or removal of restrictive conditions:**

Section 35(4) of the Overstrand By-Law on Municipal Land Use Planning, 2015, highlights the relevant Municipal considerations for the removal, suspension or amendment of restrictive title deed conditions. Herewith are the relevant considerations assessed in conjunction with this proposal.

**(a) The financial or other value of the rights in terms of the restrictive condition enjoyed by a person or entity, irrespective of whether these rights are personal or vests in the person of the owner of a dominant tenement.**

This restrictive condition does not have a beneficial financial or other value for the property owner or anyone else.

**(b) The personal benefits which accrue to the holder of rights in terms of the restrictive condition.**

There are no personal benefits which accrue to the holder of these restrictive title deed conditions.

**(c) The personal benefits which will accrue to the person seeking the removal of the restrictive conditions, if removed.**

The removal of these restrictive title deed conditions will enable the property owner to derive the following benefit;

- The subdivision will be permissible and would enable the construction of two dwellings on the two proposed erven.

**(d) The social benefit of the restrictive condition remaining in place.**

There is no social benefit if the restrictive conditions remain in place.

**(e) The social benefit of the removal of the restrictive condition.**

Herewith are the social benefits

- The OM will derive additional rates and taxes once the two dwellings are constructed on each subdivided erf which will contribute to a greater availability of funds for service delivery in the OM;
- Housing opportunities will be unlocked in response to the urbanisation in Sandbaai; and
- The construction of the dwellings will contribute to an enhanced suburban landscape.

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**(f) Whether the removal, suspension or amendment of the restrictive condition will completely remove all rights enjoyed by the beneficiary or only some of those rights.**

There are no rights which are enjoyed by any member of the society and the removal of these restrictive conditions do not constitute a deprivation of rights.

## 9. ZONING

The zoning of SR1 will not be altered with the approval of this proposal. The future dwellings to be constructed on the property will have to comply with the following development parameters:

Residential Zone 1: Single Residential	
	Parameters
Primary use	Dwelling house, day care centre, guest rooms, home occupation and second dwelling unit.
Consent uses which may be applied for	Crèche, guest house, green house, house shop, institution, place of instruction, place of worship, residential building and tourist accommodation.
<b>Land Use Restrictions</b>	
Coverage	50%
Street building line	4 metres to any street boundary provided that in the case of a corner site with an average depth of 20m or less has a 3m street building line.
Side and Rear building line	Side and Rear building lines for erven greater than 400m <sup>2</sup> are 2m.
Height	8 m measured from the base level to the top of the roof.
Garages and carports	Garages and carports may be constructed within the building lines in accordance with 16.1.2.
Parking	Parking and access shall be provided on the land unit in accordance with Section 17.1 of the Overstrand Municipality Zoning Scheme of November 2013.

## 10. SERVICES

The availability of services was assessed. The property owner will be required to pay the applicable bulk services levies should this application be approved.

## 10.1 Electricity

There is an existing electricity network in Sandbaai to which the dwellings which will be constructed on both erven will connect to.

## 10.2 Water

The two dwellings to be constructed on both erven will connect to the existing water network provided by the OM in Sandbaai.

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**10.3 Sewage**

The two dwellings to be constructed on both properties will be connected to the existing sewage network provided and managed by the OM in Sandbaai.

**10.4 Access and egress****Portion A**

Access to Portion A is proposed to be gained from Grysbok Crescent.

**Remainder**

Access to the Remainder is proposed to be gained via a 4m right of way servitude over Portion A that connects to Grysbok Crescent (refer **Plan 3**).

**11. HEALTH AND SAFETY**

The approval and implementation of the proposal will result in the construction of dwellings which will be occupied and subsequently lead to the additional people who will be additional surveillance in the street and contribute to a safer environment.

The SR1 zoning which is proposed on the property will not allow any noxious land uses and not adversely impact on the health of neighbours.

**12. VISUAL IMPACT**

The subject property is currently vacant and characterised by plants which make the subject erf visually unattractive and an eyesore to the neighbours. This proposal entails the transformation of the derelict site to one which will have architecturally appealing buildings which conform to the prevailing architectural character of Sandbaai and the reasonable expectation of the residents to have a beautiful built environment.

**13. SPATIAL PLANNING DOCUMENTS****Spatial planning documents**

This proposal was assessed in terms of the existing spatial planning documents and the compliance with the applicable spatial planning policies can be recorded as follows:

**PSDF**

The aim of the PSDF is to give spatial expression to the national and provincial development agendas and serves as a basis for coordinating, integrating, and aligning ground delivery of national and provincial departmental programmes. The framework also aims to communicate the government's spatial development intentions to the private sector and civil society.

Policy proposals which are pertinent this application was assessed, and the outcome is as follows:

- **The PSDF promotes the protection and enhancement of the prevailing sense of place and settlement patterns.**

The prevailing sense of place in Sandbaai is the variety of housing typologies, densities, social and economic fabric and creates a unique ambiance in the area which is

valued by the residents. This proposal is in harmony with the prevailing sense of place in the area.

- **Accessibility at all scales is promoted.**

The proposed right of way servitude over Portion A which provides access to the Remainder is aimed at improving accessibility on the subject property.

- **The promotion of an appropriate land use mix in a settlement is highlighted as integral.**

The properties adjacent to the subject property are used for local commercial and residential purposes. The proposed subdivided properties are therefore serving as an interface area between the commercial and residential land uses in Sandbaai.

#### SDF

The objective of the SDF is to formulate strategic spatially based policy guidelines and proposals where the needs, changes and growth in the area can be managed to benefit the inhabitants and the environment in the Overstrand Municipality. The SDF is guided by a set of objectives and the consistency of this proposal was assessed in terms of these core objectives.

- **Retain the unique character of Hermanus while balancing the need for urban growth.**

This proposal is responding to the need for growth in Hermanus by proposing the creation of an additional erf. This proposal responds to the pressure for growth in Sandbaai and retains the suburb in the existing format.

- **Development must be strictly retained within the urban footprint.**

The proposed subdivision is located within the existing urban footprint.

- **The ongoing provision of land and/ or redevelopment opportunities for residential housing within the urban edge is cited as a priority.**

The idea for this subdivision proposal was formulated by the property owner after extensive market research which revealed that there is a critical need for residential rental opportunities in Sandbaai. The approval and implementation of this proposal responds to this priority.

- **Spatial proposal plan**

The SDF designates the subject property for residential purposes and the approval and implementation of the proposal is aligned with this prescribed designation.

#### OMGMS

The purpose of the Growth Management Strategy is to improve the Overstrand Municipalities' overall environmental sustainability by enhancing the quality and efficiency of the built environment. The consistency of this proposal with the core objectives of the document was assessed and the outcome can be recorded as follows:

- **The built environment of Hermanus should be enhanced and well managed.**

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The approval and implementation of this proposal will lead to the enhancement of the subject site. The property owner is also committed to ensuring that the dwellings to be constructed on the subject property are well managed and kept in a satisfactory condition and not degenerate into a dilapidated condition.

- **Promote the optimal land use planning and efficient use of services.**

The additional erf promotes the optimal utilisation of services within the urban edge to cater to 4 dwelling units instead of only one dwelling unit which is permissible in terms of the restrictive title deed condition.

- **Promote developments which are within the immediate scale and character.**

This proposal is within the visually attractive immediate scale, character, bulk, height and architectural styling of the residential component of Sandbaai. The approval and implementation of this proposal will therefore contribute to maintaining the morphology of Sandbaai in the current form.

#### **Spatial proposal plan**

The spatial proposal plan designates the subject property for residential purposes and this proposal is aligned with this designation.

#### **Consistency with the various planning principles**

The analysis of the spatial planning policies illustrates the consistency of the proposal with the PSDF, SDF and OMGMS.

#### **14. COMMON LAW**

Common law dictates that a home owner may not use his land in such a way as to interfere with the rights of others, particularly neighbours (*sic utere tuo ut alienum non laedas*). A nuisance occurs when a planning proposal is reasonably projected to interfere with a neighbour's or communities health, wellbeing or comfort in the occupation of his/her land. There must however be evidence of material interference and the complainant must not be oversensitive.

The test applied is one of reasonableness. In other words, would a reasonable man who is the neighbour or public be of the opinion that dwelling units located in a suburb which is predominantly residential and contextually appropriate tolerate the subject land uses. In other words, would this proposal affect the wellbeing of the neighbours or the public in the occupation of land? Considering the merits and the small scale of this subdivision, a reasonable person would not be deprived of his right of occupation and wellbeing should this application be approved.

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## 15. PLANNING PRINCIPLES

The proposal was analysed for consistency with the planning principles to provide a recommendation to the OM for the application in terms of Section 7 of SPLUMA and Chapter VI of LUPA and the outcome is the following:

### **Spatial Justice**

Refers to the need to redress the past apartheid spatial development imbalances and aim for equity in the provision of access opportunities, facilities, services and land. This proposal will contribute to employment creation during the construction phase particularly for the historically marginalised. The income which will be derived from the premises will enable the employees to afford facilities, services and quality accommodation and achieve upward socio-economic mobility. This proposal will therefore contribute to addressing the historic imbalances caused by apartheid planning.

### **Spatial Sustainability**

Spatial sustainability in the context of land use planning means promoting compaction, mixed use urban environments which allow for a functional space economy. A spatially sustainable settlement will be one that ensures the protection of valuable agricultural land, environmentally sensitive and biodiversity rich areas and limit urban sprawl. This proposal will contribute to the prevailing mixed land use environment which is prevalent in Sandbaai. This proposal will not encroach on agriculturally viable, environmentally sensitive or biodiversity rich areas. The approval and implementation of this proposal will contribute to combating urban sprawl.

### **Efficiency**

Efficiency refers to the need to create settlements that optimise the use of space, energy, infrastructure, resources and land. This proposal is to optimally use the space, energy, infrastructure, resources and land in an optimal manner to cater to the future residents in the 4 dwelling units.

### **Spatial Resilience**

Spatial resilience in the context of land use planning refers to spatial plans, policies and land use management systems that should enable the communities to resist, absorb and accommodate these shocks and to recover from these shocks in a timely and efficient manner. The subject proposal is aligned with the spatial resilience principles promoted in the PSDF, SDF and OMGMS. This will enable the subject property to be resilient in times of economic and environmental shock.

### **Good Administration**

Good administration in the context of land use planning refers to the promotion of integrated, consultative planning practices in which all spheres of government and other role players ensure a joint planning approach is pursued. The proposed development will promote consultative planning as the Municipality will advertise the proposal to the public to allow the comments of the public to be taken into consideration. WRAP will also respond to the comments of the public and take the

  
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comments into consideration in the planning of the project. All these measures will ensure that a joint planning approach is pursued to the benefit of the owner of the subject property and the community.

  
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FILE NO: EL 936 - HSB
SCAN NO: HSB 936
COLLABORATOR NO: 1247621



ANNEXURE D 1/4  
Page 1 of 4

17 January 2019  
6 Grysbok crescent  
Sandbaai  
Erf: 937

TP-A Theart  
(Holwier)

**TO:** Town Planning, Hemanus

**RE:** Objection to subdivision and rezoning application of erf 936 Sandbaai

To whom it may concern

I own and reside on erf 937 and share a boundary with erf 936.

I object to the removal of the following restrictive title deed conditions for the following reasons:

**1. "C(a) That the erf or erven be used for residential purposes only."**

Motivation for objection:

- This is not in keep with the rest of the properties on the circle which are all for residential purposes only.
- Any business will increase the traffic flow, this proposal will double the amount of traffic flow to this property.
- There is only provision made for 6 parking spaces, where will the guests or clients or service Providers park their vehicles? The only place is either in the circle or outside my property on the sidewalk.
- Due to the bad experience and unresolved issues involving the business on my other neighbouring erf (ie, Paddakoor Academy) my property is already less desirable and allowing another business will then surround my residential property by businesses, this should not be allowed when I have invested in a residential area. Agreeing to this will allow for a crèche, school, guesthouse, etc. to open up next-door to me and we have already seen that the council can do not much about their disturbances. Once it is there I must live with it so let us rather prevent this from happening again.
- There is no clear indication of what business they intend to have, I will have no protection against what can then happen next door.
- This means that I will have, instead of the one residential property abutting mine, on the same erf I will now have 2 properties, both with business rights and this then means I most likely will have 4 businesses operating from this same erf that was meant for one residential home only.
- The proposed servitude road running along the side of my erf means more of a security risk due to larger amount of people/traffic on my neighbouring erf. It will also be an invasion of my privacy as delivery vehicles and big 4x4's can see over my wall where they pass my swimming pool, bathrooms and bedroom.

TP

17 JAN 2019

- Please do not change the zoning from residential to business, it will only have a negative impact on the neighbouring properties. With an already struggling CBD and most of Sandbaai's main road properties becoming businesses I do not feel it is necessary to change the zoning. With the need in our area for housing, it will be far more beneficial to this community and especially to this circle and its inhabitants if this were to remain residential only.
- If the intent is to remain residential only, then there is no reason to remove this condition.

## 2. "C(b) That the above erf or erven be not subdivided"

### Motivation for objection:

- If this erf was split in 2 as proposed there will be nothing stopping either of the properties being sold off with business rights and without restrictions. What really concerns me is there will be nothing preventing the existing crèche that abuts it to then become even larger or something of similar nature that will generate as much noise, this will then render my property totally undesirable.
- The servitude road that is proposed runs along the full length of my erf and will have a negative impact on my property's privacy, security and traffic noise. The impact will be at least twice as much as having a single erf next door.
- The parking area will mean I have car lights disturbing me at night and car doors slamming, radios, hooting etc. My bedrooms are in this area. I already get disturbed by the superette's parking lot noise and there is another parking lot behind my house for the large scale Early Childhood Development Centre. My rooms will become surrounded by parking lots. The amount of cars if this remains residential can mean up to 8 cars can be expected to be kept on this property, plus visitors etc. There is only provision for 6 parking spaces. This is a large amount of traffic running passed my wall and can be even worse if it becomes businesses.
- The layout proposed will isolate one of the 2 properties from the service road, especially if it has a gated entrance. This can prevent emergency service vehicles from accessing it and thus can be a higher fire risk to all the surrounding properties. We are already at a higher risk due to the wooden structures of the school and the bin/ gas storage area of the superette that abuts this erf.
- If the entrance to this property is not gated, my property in effect becomes a corner stand (on a circle??) and will leave my boundary unprotected.
- The roads that interlink Grysbok Crescent and Jan Van Riebeek and Main Road is problematic due to a layout problem. Grysbok Crescent is also a one way and forces all the traffic to drive around the circle in one direction so this extra traffic will affect all the residents living around Grysbok Crescent and stress already problematic areas.
- For the same reasons that erf 1746 cannot subdivide the property, so should the same reasons be applied to erf 936, the property abutting it.

- Due to the unique shape and position of this erf I do not believe it is in the best interest for this community to subdivide. Overpopulating an area has its own complications.
- The Municipality does not necessary get much more in rates and taxes etc. as implied as these costs are calculated on size of property and not amount of properties.

**3." C(c) That not more than one dwelling together with the necessary outbuildings and accessories be erected on any one of the above erven and that not more than one half the area of anyone of the above erven be built upon.**

Motivation for objection:

- To remove this restriction will allow for more than 50% of each property to be built upon and not restricted to only one dwelling means they can then build as many as they wish, not necessarily only the 2 dwellings they imply. This can then leave me living next to an over populated area such as a townhouse complex, school, b&b, guesthouse, etc. which this land usage was not intended for.
- These restrictions have been put in place for many reasons such as safety, security, overpopulation, and to encourage a sense of good neighbourliness. If you allow it for one it should be allowed for all!

**4." C(d) That no building shall be erected on the above erf or erven within 4,72 meters of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts: such space may be used for gardens but shall not be built upon.**

Motivation for objection:

- If it is impossible to construct a building which has an acceptable shape within the building restrictions once it is subdivided, it renders the land inappropriate for what they intend the land use for.
- The already mentioned fire risk will be even greater if these boundary restrictions are removed.
- We also know from past experience that people have boundaries relaxed and then fill the properties from boundary to boundary with buildings, there is nothing then in place to prevent this.

**Once restrictions have been removed, they cannot be reinstated!**

This application shows no design or layout of buildings and gives the Municipality no concrete plans that they can hold the applicant to. The Municipality cannot prevent the properties from being sold off before being developed but once all these conditions are removed, which will then give the new owners free range to do whatever they wish. This has happened many times before!

I request that the council reject this proposal and keep this property as it was intended, the complications and negative issues involved with this proposal far outweigh the positive. Let's keep Grysbok Crescent a quiet residential circle where people can still walk their dogs and children can keep riding their bicycles, as what it was intended for.

After the more than 10 year struggle involving the affected home owners in Grysbok Crescent, the municipality and those responsible for erf 1746 regarding a business that was then operating illegally, we have had to watch while everything was done for it to become compliant etc. yet the municipality has still not been able to stop this daily disturbance. I think it will be grossly unfair to me and my neighbours to allow something like this to happen on my other abutting erf.

It would be greatly appreciated if the Municipality take a serious consideration and that someone represents my property for a change as this will negatively affect the desirability and value of not only my property but the neighbouring properties too.

Kind regards



Willem Beukes

Cell: 082 765 1095



ANNEXURE E 1/5



TPA Theast  
(H. Olivier)

ESTABLISHED  
2002

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Project  
Management

Liquor  
Licensing

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Wright Approach  
Investments 136 CC

Reg No  
CK 2002/060745/23

Our reference: 18/010  
Your reference: 936 HSB (4169)

28 January 2019

The Municipal Manager  
Overstrand Municipality  
P O Box 20  
**HERMANUS**  
7200

Sir

**ERF 936 SANDBAAI: APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED  
CONDITIONS AND SUBDIVISION: RESPONSE TO OBJECTIONS**

Objections and comments were received from:

- W Beukes

**Response to objections pertaining to the behaviour of alcohol consumers.**

Objections	Response
<p><b>1." C(a) That the erf or erven be used for residential purposes only."</b> <b>Motivation for objection:</b></p> <p>(i) This is not in keep with the rest of the properties on the circle which are all for residential purposes only.</p> <p>(ii) Any business will increase the traffic flow, this proposal will double the amount of traffic flow to this property.</p> <p>(iii) There is only provision made for 6 parking spaces, where will the guests or clients or service Providers park their vehicles? The only place is either in the circle or outside my property on the sidewalk.</p>	<p>(i) The removal of this restrictive title deed condition does not absolve the property owner from having to comply with the zoning of Residential Zone 1: Single Residential (SR1) which restricts the subject property to only be used for residential purposes. The residential character around the circle which the objector values will not be altered with the approval and implementation of this proposal;</p> <p>(ii) This proposal is not for the subject erf to be used for commercial purposes but only for the property to be subdivided into two portions and exclusively be used for residential purposes;</p> <p>(iii) Each of the subdivided portions will have to illustrate compliance with on-site parking requirements elucidated in Section 17 of the Overstrand Municipality Zoning Scheme, 2013 when building plans are submitted. The objector can be assured that compliance with the parking requirements will prevent parking on the sidewalk;</p>

TP 28 JAN 2019

FILE NO:	EL 936
SCAN NO:	Sandbaai
COLLABORATOR NO:	15
	1250478

Objection	Response
<p>(iv) Due to the bad experience and unresolved issues involving the business on my other neighbouring erf (ie, Paddakoor Academy) my property is already less desirable and allowing another business will then surround my residential property by businesses, this should not be allowed when I have invested in a residential area. Agreeing to this will allow for a creche, school, guesthouse, etc. to open up next-door to me and we have already seen that the council can do not much about their disturbances.</p> <p>(v) Once it is there, I must live with it so let us rather prevent this from happening again. There is no clear indication of what business they intend to have, I will have no protection against what can then happen next door.</p> <p>(vi) This means that I will have, instead of the one residential property abutting mine, on the same erf I will now have 2 properties, both with business rights and this then means I most likely will have 4 businesses operating from this same erf that was meant for one residential home only.</p> <p>(vii) The proposed servitude road running along the side of my erf means more of a security risk due to larger amount of people/traffic on my neighbouring erf. It will also be an invasion of my privacy as delivery vehicles and big 4x4's can see over my wall where they pass my swimming pool, bathrooms and bedroom.</p> <p>(viii) Please do not change the zoning from residential to business, it will only have a negative impact on the neighbouring properties. With an already struggling CBD and most of Sandbaai's main road properties becoming businesses I do not feel it is necessary to change the zoning. With the need in our area for housing, it will be far more beneficial to this community and especially to this circle and its inhabitants if this were to remain residential only.</p> <p>(ix) If the intent is to remain residential only, then there is no reason to remove this condition.</p>	<p>(iv) This submitted town planning application is not for a commercial enterprise;</p> <p>(v) There is no reference to a business in the motivation report as the submitted town planning application is not for a business;</p> <p>(vi) Concerns are raised by the objector pertaining to the existing businesses which cause a discomfort for the objector. The operation of these businesses should not be a reflection on the desirability of the submitted town planning application;</p> <p>(vii) The servitude will only be used by the future occupants of the Remainder who will reside in the primary dwelling and additional dwelling unit. This will be a maximum of 3 cars which will enter and egress the property. This is therefore not projected to emit ear shattering noise and will not disturb the peace and comfort which the objector currently enjoys. The boundary wall of the objector is very high, and it will not be possible for a person who drives a car past the boundary wall to peek into the objectors property;</p> <p>(viii) The objector highlights that there is a need for additional housing in Sandbaai. The motivation report highlights that this proposal is intended to unlock additional housing opportunities in Sandbaai as requested by the objector as that will be beneficial to the community; and</p> <p>(ix) The removal of this condition does not absolve the property applicant from having to comply with the primary rights in the zoning of Residential Zone 1: Single Residential which is applicable on the subject property.</p>

Objection	Response
<p><b>2." C(b) That the above erf or erven be not subdivided"</b></p> <p><b>Motivation for objection:</b></p> <p>(i) If this erf was split in 2 as proposed there will be nothing stopping either of the properties being sold off with business rights and without restrictions. What really concerns me is there will be nothing preventing the existing creche that abuts it to then become even larger or something of similar nature that will generate as much noise, this</p>	<p>(i) The properties are not allowed to be sold for commercial purposes because the SR1 zoning prevents it. The concerns pertaining to the noise which emanates from the creche are not related to the submitted town planning application. This public participation process is not an appropriate platform to complain about the noise which emanates from the creche;</p> <p>(ii) The worst noise which will emanate will be the sound of a car passing by which is not</p>

<p>will then render my property totally undesirable.</p> <p>(ii) The servitude road that is proposed runs along the full length of my erf and will have a negative impact on my property's privacy, security and traffic noise. The impact will be at least twice as much as having a single erf next door.</p> <p>(iii) The parking area will mean I have car lights disturbing me at night and car doors slamming, radios, hooting etc. My bedrooms are in this area. I already get disturbed by the superette's parking lot noise and there is another parking lot behind my house for the large-scale Early Childhood Development Centre. My rooms will become surrounded by parking lots. The amount of cars if this remains residential can mean up to 8 cars can be expected to be kept on this property, plus visitors etc. There is only provision for 6 parking spaces. This is a large amount of traffic running passed my wall and can be even worse if it becomes businesses.</p> <p>(iv) The layout proposed will isolate one of the 2 properties from the service road, especially if it has a gated entrance. This can prevent emergency service vehicles from accessing it and thus can be a higher fire risk to all the surrounding properties. We are already at a higher risk due to the wooden structures of the school and the bin/ gas storage area of the superette that abuts this erf.</p> <p>(v) If the entrance to this property is not gated, my property in effect becomes a corner stand (on a circle??) and will leave my boundary unprotected.</p> <p>(vi) The roads that interlink Grysbok Crescent and Jan Van Riebeek and Main Road is problematic due to a layout problem. Grysbok Crescent is also a one way and forces all the traffic to drive around the circle in one direction so this extra traffic will affect all the residents living around Grysbok Crescent and stress already problematic areas.</p> <p>(vii) For the same reasons that erf 1746 cannot subdivide the property, so should the same reasons be applied to erf 936, the property abutting it.</p> <p>(viii) Due to the unique shape and position of this erf I do not believe it is in the best interest for this community to subdivide. Overpopulating an area has its own complications.</p> <p>(ix) The Municipality does not necessary get much more in rates and taxes etc as implied as these costs are calculated on size of property and not amount of properties.</p>	<p>loud and will only last for a few seconds until the property owner stops on the Remainder. This minimal sound will therefore not in any way disturb the peace and comfort in the occupation of land which the objector currently enjoys;</p> <p>(iii) Noise levels which the objector refers to which are emitted by the creche and the Superette are emitted from a place of instruction and a commercial enterprise and are of a higher intensity compared to noise emitted from dwellings. To compare the approval and implementation of this proposal with the noise which will emanate from the above land uses is therefore not comparable;</p> <p>(iv) Emergency vehicles can access Portion A directly from the street. Emergency vehicles can access the Remainder via the 4m wide servitude or stop along Grysbok Crescent and walk for a few meters to the Remainder. The approval and implementation of this proposal will therefore not be an impediment to fire trucks or emergency vehicles as cited by the objector;</p> <p>(v) The entrance to the property will be gated;</p> <p>(vi) The 6 additional cars which the subject property will attract cannot possibly result in an unbearable traffic problem in Grysbok Crescent. The cars in Grysbok Crescent are never bumper to bumper as witnessed in the Hermanus CBD during peak hours. The traffic problems projected by the object is therefore nullified;</p> <p>(vii) Erf 1746 Sandbaai is zoned Business Zone 3: Local Business and used as a creche. The site-specific circumstances of Erf 1746 Sandbaai that the subject property is therefore incomparable;</p> <p>(viii) The proposed Erf size is in harmony with the prevailing erf sizes in Sandbaai and this was elucidated in Section 7 of the submitted motivation report; and</p> <p>(ix) The rates and taxes are also calculated on the value of the dwelling which is constructed on the vacant erven. This by implication means that the value of the property will increase and so will the rates and taxes. The subdivision also does not reduce the square meters of the two erven which will not reduce rates and taxes paid to the Municipality as asserted by the objector.</p>
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Objection	Response
<p><b>3. " C(c) That not more than one dwelling together with the necessary outbuildings and accessories be erected on any one of the above erven and that not more than one half the area of anyone of the above erven be built upon.</b></p> <p><b>Motivation for objection:</b></p> <p>(i) To remove this restriction will allow for more than 50% of each property to be built upon and not restricted to only one dwelling means they can then build as many as they wish, not necessarily only the 2 dwellings they imply. This can then leave me living next to an over populated area such as a townhouse complex, school, b&amp;b, guesthouse, etc. which this land usage was not intended for.</p> <p>(ii) These restrictions have been put in place for many reasons such as safety, security, overpopulation, and to encourage a sense of good neighbourliness. If you allow it for one it should be allowed for all!</p>	<p>(i) The motivation report explicitly highlights that the removal of this restrictive title deed condition will not absolve the 50% coverage which is applicable on the subject property in terms of the SR1 zoning from being applied. The subject property is therefore prevented from being overpopulated; and</p> <p>(ii) This restriction will remain in place in the SR1 zoning of the subject property. The safety, security and push against overpopulated neighbourhoods concerns which are highlighted by the objector will not be undermined with the approval and implementation of this proposal.</p>

Objection	Response
<p><b>4." C(d) That no building shall be erected on the above erf or erven within 4,72 meters of any boundary line between the said erf or erven and any street, road or avenue on which such erf or erven abuts: such space may be used for gardens but shall not be built upon.</b></p> <p><b>Motivation for objection:</b></p> <p>(i) If it is impossible to construct a building which has an acceptable shape within the building restrictions once it is subdivided, it renders the land inappropriate for what they intend the land use for.</p> <p>(ii) The already mentioned fire risk will be even greater if these boundary restrictions are removed.</p> <p>(iii) We also know from past experience that people have boundaries relaxed and then fill the properties from boundary to boundary with buildings, there is nothing then in place to prevent this.</p>	<p>(i) The shape of the erven is perfect for the future intended uses. Page 10 of the motivation report highlights that an architect will design a building on the subdivided portions;</p> <p>(ii) There will be no fire risk as building plans are going to be requested which will comply with the prescripts of the Overstrand Municipality Fire Department; and</p> <p>(iii) The Overstrand Municipality Zoning Scheme building lines and 50% coverage applicable on the subject property will prevent the property from being built from boundary to boundary.</p>
<p>This application shows no design or layout of buildings and gives the Municipality no concrete plans that they can hold the applicant to. The Municipality cannot prevent the properties from being sold off before being developed but once all these conditions are removed, which will then give the new owners free range to do whatever they wish. This has happened many times before!</p>	<p>Any construction on the subject property may only occur within the zoning rights of SR1 which are the same as the rights which the objector enjoys. The subject property proposed for subdivision will not enjoy additional rights which will ensure that any construction of a dwelling will be within the immediate scale of the surrounding.</p>
<p>I request that the council reject this proposal and keep this property as it was intended, the complications and negative issues involved with this proposal far outweigh the positive. Let's keep Grysbok Crescent a quiet residential circle where people can still walk their dogs and children can keep riding their bicycles, as what it was intended for.</p>	<p>The approval and implementation of this proposal will not prevent the objector or anyone from walking dogs and children from riding bicycles.</p>

<p><i>After the more than 10-year struggle involving the affected home owners in Grysbok Crescent, the municipality and those responsible for erf 1746 regarding a business that was then operating illegally, we have had to watch while everything was done for it to become compliant etc. yet the municipality has still not been able to stop this daily disturbance. I think it will be grossly unfair to me and my neighbours to allow something like this to happen on my other abutting erf.</i></p>	<p style="text-align: right;">5/5</p> <p>The land use activities on Erf 1746 are not related to the submitted town planning application.</p>
<p><i>If would be greatly appreciated if the Municipality take a serious consideration and that someone represents my property for a change as this will negatively affect the desirability and value of not only my property but the neighbouring properties too.</i></p>	<p>The value of the objector's property will not decrease with the approval and implementation of this proposal.</p>

**Conclusion**

The objections are premised on the assumption that the proposal is for commercial land use rights, which is not correct. Considering this, it is proposed that the Municipality ignores these objections as they are not relevant to the application.

Yours faithfully



**REA JANKIE**  
**TOWN PLANNER (B/8392/2017)**

ANNEXURE F 1/4

25

Vorster & Steyn  
Mitchell House  
16 Mitchell Street  
HERMANUS  
7200

Fee endorsement	
Purchase price/Value	Amount
	R 675 000,00
Exempt 12: 0	

Prepared by me

*[Signature]*  
 CONVEYANCER  
 MONICA KORF

T 000017336 / 2018

DEED OF TRANSFER

BE IT HEREBY MADE KNOWN THAT

ANTON LUTHER POSTHUMUS

appeared before me, REGISTRAR OF DEEDS at CAPE TOWN, the said appearer being duly authorised thereto by a Power of Attorney granted to him/her by

MARIETTA DU TOIT  
Identity Number 550913 0170 08 2  
Unmarried

DATA / VERIFY  
 24 APR 2018  
 VAN TONDER ELIZABETH

which said Power of Attorney was signed at HERMANUS on 12 March

*[Signature]*

DATA / CAPTURE  
 23 APR 2018  
 PHUMELELA MNAMATA

And the appearer declared that his/her said principal had, on 6 March 2018, truly and legally sold by Private Treaty, and that he/she, the said Appearer, in his/her capacity aforesaid, did, by virtue of these presents, cede and transfer to and on behalf of:

**JANA BIERMAN**  
**Identity Number 990511 0246 08 0**  
**Unmarried**

her Heirs, Executors, Administrators or Assigns, in full and free property

ERF 936 SANDBAAI  
 IN THE OVERSTRAND MUNICIPALITY  
 DIVISION OF CALEDON, WESTERN CAPE PROVINCE

IN EXTENT 1183 (ONE THOUSAND ONE HUNDRED AND EIGHTY THREE)  
 Square metres

FIRST TRANSFERRED by Deed of Transfer Number T 15681/1950 with  
 Diagram No. 3565/50 relating thereto and held by Deed of Transfer Number  
 T14950/2006

**SUBJECT TO THE FOLLOWING CONDITIONS:**

- A. ....
- B. FURTHER subject to the following conditions contained in Deed of Transfer Nr. 15681 dated 18 October 1950 and imposed by the Sandbaai Seaside Estate Company (Proprietary) Limited (herein referred to as the "mentioned Company") as owners of the remainder of Lot Nr. 3 of the Onrust Rivier held by Deed of Transfer Nr. 11466 of 1929 and the owners of the erven in the aforementioned Township transferred or to be transferred to under similar conditions, namely:
- (a) Die maatskappy behou vir homself en sy opvolgers die alleenreg tot alle hotelle en dranklisensies, en die Transportnemer/s of sy/hulle opvolgers in regte sal die reg nie hê om enige hotel op te rig of om enige dranklisensie te besit, sonder om eers skriftelike toestemming van die Direkteure van die Maatskappy op sy opvolgers in regte, te verkry.
  - (b) Die maatskappy en sy opvolgers sal nie geregtig wees om die grond liggende tussen die erwe te verkoop as seefronterwe en die see, in erwe te verdeel, en/of te verkoop nie.
  - (c) Dat geen gebou opgerig sal word op die hierbo beskrywe eiendom voordat die planne van sulke geboue nie voorgelê is aan en goedgekeur is deur die Direkteure van die gesegde Maatskappy of sy opvolgers in regte.
  - (d) Die Transportnemer/s of sy/hulle opvolgers in regte van die hierbo beskrywe eiendom sal die reg hê om enige stroom water wat oor die eiendom loop, af te keer langs enige van die lane of strate soos aangewys op die algemene plan van die dorp.

- (e) Die Maatskappy behou vir homself en sy opvolgers in regte die vrye en onbelemmerde oorgang van elektriese, telegraaf- of telefoonlyne, te enige tyd hierna oor en op enige gedeelte van die hierbokeskrewe eiendom met die verder reg om hulle aan enige gebou van watter aard ook te laat vassit, nie minder dan 3,05 meter van die grond af, met reg van toegang tot sulke lyne vir die doel om hul te verwyder of in orde te hou.
- (f) Die Maatskappy behou vir homself en sy opvolgers in regte om te enige tyd hierna pype te lê en in orde te hou onder enige gedeelte van die hierbokeskrewe grond of op enige ander plek, en ten alle tye reg van toegang te hê na sulke pype, vir verwydering, in orde hou of uitbreiding daarvan of vir enige ander doel en om alles te laat doen as nodig mag blyk vir die gerief van die inwoners van die dorpsgebied in verband met die verskaffing van water aan hulle.
- (g) Die Maatskappy behou vir homself die alleenreg tot alle water wat ontstaan of vloei oor die eiendom van die Maatskappy. Daar sal egter van hierdie voorbehoud uitgesluit word enige water verkry deur 'n eienaar van die hierbokeskrewe grond deur middel van putte of boorgate op sulke grond gegrawe of geboor."

C. **FURTHER SUBJECT** to the following conditions imposed by the Administrator when approving of the establishment of the Township and contained in Deed of Transfer T 15681 dated 18 October 1950, namely:

- (a) That the above erf or erven be used for residential purposes only.
- (b) That the above erf or erven be not subdivided.
- (c) That not more than one dwelling, together with the necessary outbuildings and accessories be erected on any one of the above erven and that not more than one-half the area of any one of the above erven be built upon.
- (d) That no building shall be erected on the above erf or erven within 4,72 metres of any boundaryline between the said erf or erven and any street, road or avenue on which such erf or erven abuts; such space may be used as gardens but shall not be built upon."

Page 4

WHEREFORE the said Appearer, renouncing all rights and title which the said

**MARIETTA DU TOIT, Unmarried**

heretofore had to the premises, did in consequence also acknowledge her to be entirely dispossessed of, and disentitled to the same, and that by virtue of these presents, the said

**JANA BIERMAN, Unmarried**

her Heirs, Executors, Administrators or Assigns, now is and henceforth shall be entitled thereto, conformably to local custom, the State, however reserving its rights, and finally acknowledging the purchase price to be the sum of R675 000,00 (SIX HUNDRED AND SEVENTY FIVE THOUSAND RAND) .

IN WITNESS WHEREOF, I the said Registrar, together with the Appearer, have subscribed to these presents, and have caused the Seal of Office to be affixed thereto.

THUS DONE and EXECUTED at the Office of the REGISTRAR OF DEEDS at CAPE TOWN on

20 APR 2018

  
q.q.

In my presence

  
REGISTRAR OF DEEDS

**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR REMOVAL OF RESTRICTIVE TITLE DEED  
CONDITIONS, SUBDIVISION, DEVIATION FROM THE OVERSTRAND  
MUNICIPAL GROWTH MANAGEMENT STRATEGY & CONFIRMATION OF  
EXEMPTION OF A RIGHT OF WAY SERVITUDE: ERF 936, SANDBAAL  
(4169)**

Electricity	:	In order
Water	:	In order
Sewer	:	In order
Stormwater	:	In order
Roads and traffic	:	In order

**Conditions:**

1. That a Bulk Services Contribution Levy (BICL) be paid by the developer to supplement municipal services and amenities in accordance with the relevant legislation and as determined by the Council. The BICL tariff is adjusted by Council annually. The total BICL payable will be the amount as determined by the BICL Policy and tariff at the date of **actual payment**. BICL amounts quoted in any document will normally be applicable to the particular year in which the document was compiled and Council will not be bound by the quoted amounts.

**1.1 Developments containing Sectional Title Units/ Commercial Buildings** (non-free standing properties – property is not to be subdivided)

The BICLs are to be paid in full **prior** to submission of the building plans. Building Plans will not be accepted unless the BICL is paid in full.

**1.2 Developments with free standing properties** (property that is subdivided and plots to be sold individually).

The BICLs are payable **prior** to clearance being issued by the Income Department of the Municipality.


The contribution according to the current policy (**2018/2019**) is as follows:

**Freehold erven:**

Water	R 21 688.60 x 1	=	R 21 688.60
Sewerage	R 14 623.16 x 1	=	R 14 623.16
Roads	R 6 557.01 x 1	=	R 6 557.01
Stormwater	R 7 565.79 x 1	=	R 7 565.79
Solid Waste	R 1 311.40 x 1	=	R 1 311.40
Electricity	R 32 139.45 x 1	=	<u>R 32 139.45</u>
<b>TOTAL (inclusive of VAT)</b>		=	<b>R 83 885.41</b>

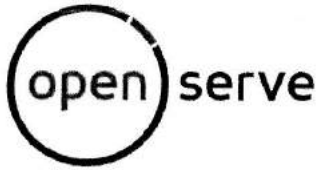
**Note:****1.3 The above figures are estimates****1.4 The above figures do not include connection fees**

2. that Portion A – as well as Remainder of Erf 936 be provided with individual and separate metered water connections must comply with the standards of the Department: Operational Services, as well as sewer conservancy tanks;
3. that new suction points for the sewer conservancy tanks, which must comply with the standards of the Department: Operations must be provided for both Portion A – as well as Remainder of Erf 936 at the street boundary with Cape Robin Crescent;
4. 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;
5. 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;
6. that any additional and / or extended vehicle entrances will be for the owner's account;
7. 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;
8. that stormwater be allowed to discharge through the proposed Erven, Sandbaai, unobstructed;
9. that the right of way servitudes be registered in respect of all servitudes indicated on the revised site development plan, at the developer's cost.
10. that no on-street parking be allowed.



DENNIS HENDRIKS  
SENIOR MANAGER: ENGINEERING SERVICES

15/02/2019  
DATE



ANNEXURE H 1/4



TPA Theart  
(Holiver)

Division of Telkom SA SOC Ltd

10 Jan Smuts Drive  
Pinelands  
7404

FILE NO:	EL 936
	Sandbaai
SCAN NO:	HSB 936
COLLABORATOR NO:	1248070

Candice Spammer

Tel: 021 414 5582

Fax: 086 480 0617

Email: spammec1@telkom.co.za

16 January 2019

Our Ref.: WWIP\_WHMN0076\_19

Your Ref.: 936 HSB 4169

Attention: S Muller

Overstrand Municipality  
HERMANUS

**PLANT AFFECTED:**

**PROPOSED REMOVAL OF RESTRICTIVE TITLE DEED CONDITIONS, SUBDIVISION, DEVIATION FROM THE OVERSTRAND MUNICIPAL GROWTH MANAGEMENT STRATEGY AND CONFIRMATION OF EXEMPTION OF A RIGHT OF WAY SERVITUDE - ERF 936, 4 GRYSBOK CRESCENT, SANDBAAI**

With reference to your application received **November 2018**.

**As important cables and other infrastructure are affected, please contact our representative Frederik Swart at 028 514 1199 / 081 363 7815 / [FrederikS@openserve.co.za](mailto:FrederikS@openserve.co.za) 48 hours prior to commencement of construction work.**

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 sketch attached, Open Serve infrastructure will be affected, consequently the conditions below and on the attached legend will apply.

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

TP

18 JAN 2019

Telecommunication services position is shown as accurately as possible but should be regarded as approximate only.

Should alterations or relocation of existing infrastructure be required, such work will be done at the request and cost of the applicant.

Please notify this office within 21 working days from this letter of acceptance and if any alternative proposal is available or if a recoverable work should commence.

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 AFFECTED : COPPER**

This wayleave, Reference Number **WWIP WHMN0076 19** is valid for 12 months from date hereof and is subject to the following conditions:

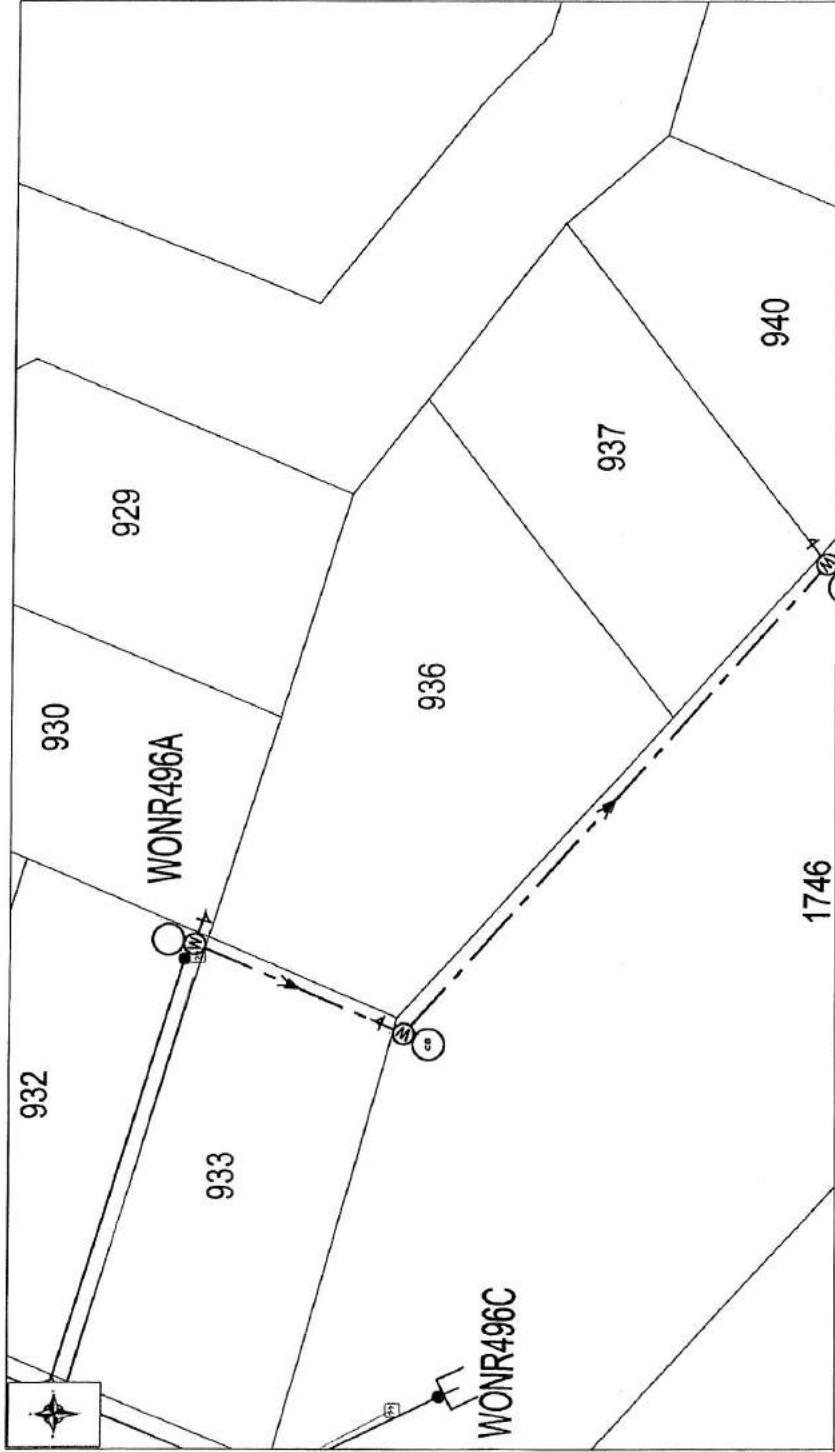
1. No mechanical plant or vibrator type compactors may be used within three meters of any Open Serve Plant (I.E. any Telecommunication equipment above or below ground level).
2. The position of our plant affected by the proposal is indicated as approximate and **Frederik Swart** at Telephone No **081 363 7815** must be contacted at least 48 hours prior to commencement of the work, upon which the actual location of the Open Serve Plant will be indicated on site.
3. A written request must be submitted to Open Serve for consideration, should the of the work, upon which the actual location of Open Serve Plant will be applicant require our plant to be relocated. The cost of such a relocation will be recoverable from the applicant.
4. It is the responsibility of the applicant to verify the existance of the indicated plant and to notify Open Serve immediately, should the applicant locate any Open Serve Plant which is not indicated on the plans.
5. Should the applicant expose any Open Serve plant, the safeguard thereof will be the applicant's full responsibility.
6. Failing to comply with the above conditions or any special conditions addendum hereto will be regarded as gross negligence and the applicant will be held responsible for any damage or loss as a result thereof.

Date: 2019/01/16

By: C Spammer  
For Regional General Manager  
Western Cape

Legend	Green
1. Underground Pipe	
2. Underground Cable	
3. Manhole	
4. Street Distributio Cabinet (SDC )	
5. Jointing Pit / AJB	
6. Jointing Pillar ( PJ )	
7. Pipe Junction Box ( B/S )	
8. Robot Control	
9. Pole	
10. Stay	
11. Strut	
12. Aerial Cable ( A/C )	





Compiled By		C Spammer		TELKOM REGIONAL EXECUTIVE	
Client				Date: 15/01/2019	
Client ref				Open/serve ref: WWP_WONR00076_19	
Details		CDPIR SERVICES AFFECTED		Page Size: A4	
				Sheet No: 1 of 5	

Legend	
	Existing SDC
	Planned SDC
	To Be Abandoned Manholes
	To Be Recovered SDC
	Existing DLC
	Planned DLC
	To Be Abandoned Existing PL
	To Be Recovered DLC
	Existing Pole
	Planned Pole
	To Be Abandoned P.B
	To Be Recovered Pole/Joint
	Existing Indoor DP
	Planned Indoor DP
	To Be Abandoned Underground Route
	To Be Recovered DP
	Existing DP
	Planned DP
	To Be Abandoned Overhead Route
	To Be Recovered Overhead Route
	Existing Mini OMDP
	Planned Mini OMDP
	Existing Street and Stay
	To Be Recovered Pole
	Existing Underground Route
	Planned Underground Route
	To Be Abandoned Underground Route
	To Be Recovered Route
	Existing Overhead Route
	Planned Overhead Route
	To Be Abandoned Overhead Route
	To Be Recovered Overhead Route