



## Overstrand Municipality

### LAND USE PLANNING REPORT – MUNICIPAL PLANNING TRIBUNAL (MPT)

**ERF 631, 2 SHORT MARKET STREET, PEARLY BEACH, OVERSTRAND MUNICIPAL AREA :  
PROPOSED REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE :  
MESSRS PRINSLOO ARCHITECTURAL DESIGN OFFICE ON BEHALF OF DM & N MORRIS**

Reference number	631 GPB (3317)	Application submission date	27 May 2016	Date report finalised	2 December 2016
<b>PART A: AUTHOR DETAILS</b>					
First name(s)	Schalk Willem				
Surname	van der Merwe				
Job title	Senior Town and Regional Planner				
SACPLAN registration number	A/1850/2014				
Directorate/Department	Infrastructure and Planning				
Contact details	028-3138900 <a href="mailto:svdmerwe@overstrand.gov.za">svdmerwe@overstrand.gov.za</a>				
<b>PART B: APPLICANT DETAILS</b>					
First name(s)	MARTIN				
Surname	PRINSLOO				
Company name	PRINSLOO ARCHITECTURAL DESIGN OFFICE				
SACPLAN registration number	N/A	Is the applicant authorised to submit this application	YES	N	
Registered owner(s)	DM & N MORRIS				
<b>PART C: PROPERTY DETAILS</b>					
Property description (in accordance with Title Deed)	Erf 631, Pearly Beach				
Physical address	2 Short Market Street	Town/City	Pearly Beach		
Current zoning	Business Zone 3: Local Business	Extent (m <sup>2</sup> /ha)	613m <sup>2</sup>	Are there existing buildings on the property?	No
Applicable zoning scheme	Overstrand Municipality Zoning Scheme Regulations, 2014				
Current land use	Vacant (commercial)	Title Deed number & date	T23890/2015		
Any restrictive title conditions applicable	Yes	N	If Yes, list condition number(s)	Clause C.4. (b), (c) and (d)	

Any third party conditions applicable?		No	If Yes, specify	None
Any unauthorised land use/building work	Y	No	If Yes, explain	

#### PART D: PRE-APPLICATION CONSULTATION (ATTACH MINUTES)

Has pre-application consultation been undertaken?      Y      No      If yes, provide a brief summary of the outcomes below.

#### PART E: LIST OF APPLICATIONS (TICK APPLICABLE)

Consent use	√	Removal, suspension or amendment of restrictive conditions	√
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#### PART F: EXECUTIVE SUMMARY

An application was received on 27 May 2016 from Messrs Prinsloo Architectural Design Office on behalf of PM & N Morris for the following:

- Removal of restrictive title conditions with reference to Clauses C.4(b), (c) and (d) of Title Deed T23890/2015 in terms of Section 16(2)(f) of the Overstrand By-Law on Municipal Land Use Planning, 2016 applicable to Erf 631, Pearly Beach to enable the owners to develop a ground floor flat; and
- Consent use in terms of Section 16(2)(o) in order to develop a ground floor flat on Erf 631, Pearly Beach.

#### PART G: BACKGROUND

The subject property is zoned for Business Zone 3: Local Business purposes and situated on the corner of Short Market- and Commercial Streets; the main business node at the entrance of Pearly Beach. The application property is currently vacant and measures 613m<sup>2</sup> in extent. The property, in terms of the Title Deed is subject to restrictions limiting the use thereof to shop purposes, as well as coverage and building lines restrictions which the application seeks to remove, thereby permitting a ground floor flat and shop.

Although not stated in the motivation report the applicant acquired the property during 2015 under the impression that the construction of a dwelling house is a primary right. In a phone conversation with the Senior Town and Regional Planner the owner was advised that the primary rights in terms of the Scheme Regulations relates to the construction of a shop or office only and that the rezoning of the property to single residential is a high risk application and not likely to be supported. The applicant was advised that provision shall be made for residential above ground in accordance with the provisions of the scheme regulations, i.e. the applicable primary rights.

#### PART H: SUMMARY OF APPLICANTS MOTIVATION

The applicant motivates the application for removal of restrictive title conditions and consent use as follows:

- restrictive title conditions registered against the Title Deeds following township establishment in the 1950's is a burden to local authorities and property owners, since Zoning Schemes are in place, regulating development on properties;
- the immediate surroundings comprise mixed land uses including fourteen (14) commercial erven, of which only three (3) had been developed since the 1950's, authority use, single residential and general residential erven;
- the former commercial erven [twenty (20)] abutting Long Market Street had been developed in single residential erven since there were no need for commercial activities;
- the proposed flat will not be detrimental to the surrounding area given the surrounding mixed land uses;
- the development does not trigger Section 38 of the Heritage Resources Act;
- the development, being situated within a proclaimed town, does not trigger National Environmental Management Act (NEMA);
- the proposed development is in line with the Coastal Zone Policy (CZP) for the Western Cape;
- Provincial Spatial Development Framework (PSDF) and Overstrand Spatial Development Framework (OSDF) is not applicable since no rezoning will occur;
- the proposal will not have a mentionable impact on municipal service infrastructure;
- the proposal due to its small scale will not have a mentionable impact pertaining to traffic generation;
- parking provision will be provided on site in accordance with the provisions of the Scheme Regulations;
- Spatial Planning Principles in terms of LUPA & SPLUMA are not applicable; and
- employment opportunities during construction phase.

#### PART I: SUMMARY OF PUBLIC PARTICIPATION

Methods of advertising				Date published	Closing date for comments
Press	Y	N	N/A	29/09/2016	28/10/2016
Gazette	Y	N	N/A	30/09/2016	28/10/2016

Notices	Y	N	N/A	22/09/2016	28/10/2016	
Ward councillor	Y	N	N/A	22/09/2016	28/10/2016	
Site notice	Y	N	N/A			
Community organisation(s)	Y	N	N/A			
Public meeting	Y	N	N/A			
Third parties	Y	N	N/A			
Other	Y	N	If yes, specify	NONE		
Total valid comments	NONE			Total comments and petitions refused	N/A	
Valid petition(s)	Y	N	If yes, number of signatures	NONE		
Community organisation(s) response	Y	N	N/A	Ward councillor response	Y N N/A	
Total letters of support	NONE					
Was public participation undertaken in accordance with Section 45- 49 of the Proposed Draft By-law on Municipal Land Use Planning					Yes	
<b>PART J: SUMMARY OF COMMENTS RECEIVED DURING PUBLIC PARTICIPATION</b>						
No objections received.						
<b>PART K: SUMMARY OF COMMENTS FROM ORGANS OF STATE AND/OR MUNICIPAL DEPARTMENTS</b>						
Name	Date received	Summary of comments			Recommendation	
Electro Technical Services	22/09/2016	Attached as Annexure D			Positive Negative Comment	
Operational Services	11/10/2016	Attached as Annexure E			Positive Negative Comment	
Fire Services	21/10/2016	Subject to approved plan and compliance with National Fire Protection Regulations SANS10400T:2011			Positive Negative Comment	
Environmental Section	26/10/2016	Does not trigger listed activities.			Positive Negative Comment	
Engineering Department	31/10/2016	Attached as Annexure F			Positive Negative Comment	
<b>PART L: SUMMARY OF APPLICANT'S REPLY TO COMMENTS</b>						
N/A						
<b>PART M: MUNICIPAL ASSESSMENT OF COMMENTS</b>						
N/A						
<b>PART N: MUNICIPAL PLANNING EVALUATION ( REFER TO RELEVANT CONSIDERATIONS GUIDELINE)</b>						
Was the application processed correctly (if no, elaborate below):					Yes	N
Is the proposal consistent with the principles referred to in chapter 2 of SPLUMA and Chapter VI of LUPA? (can be elaborated further below)						
					Yes	N
<b>Application history</b>						
None						
<b>(In)consistency with the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)</b>						
The application is in line with the planning objectives applicable to this application. The objectives relating to:						
<b>Spatial Justice</b>						
Not applicable, since the subject property is situated within a business node in an existing town with primary and secondary rights in terms of the Scheme Regulations. The principle pertaining to redress imbalances of the past is thus not applicable.						

**Spatial Sustainability**

The proposed development is limited to the existing property and will not require additional use of resources such as services or land, which is inherently seen as a sustainable practice.

**Spatial Resilience**

The property is situated within an existing township governed with spatial plans, policies and land use management systems which will help the community of the area to resist, absorb and accommodate impacts which are caused by economic and environmental shocks

**Efficiency**

The subject property is situated within the CBD of an existing town with access to existing services. The opinion is thus held that the development contributes to the principle of efficiency since the subject property is more intensely utilised and constitutes development on brownfield land.

**Good administration**

The application follows the required planning procedures to ensure all structures are legal and the public process has been followed.

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

Same as above.

**(In)consistency with the IDP/Various levels of SDF's/applicable policies****Overstrand Spatial Development Framework, 2006**

The subject property is situated in a local business node identified in the SDF, 2006. Strategic SDF policies promotes economic and tourism development. More specifically the SDF promotes Pearly Beach as a tourism and retirement village, whilst commercial use/development should be restricted to the demarcated nodes, whilst at the same time protecting the rural/village character of the town through appropriate infill development. In terms of policy LPL8 business uses (i.e. commercial, office and retail) should be restricted to the demarcated business areas, whilst tourism development should be strongly promoted. The proposal that will introduce a predominant residential use at ground level is not considered consistent with the existing forward planning.

**Overstrand Growth Management Strategy, 2010**

The subject property is situated within Planning Unit 4 and is earmarked for residential densification purposes and economic opportunity due to its location in the main business node at the entrance of the town. Given the aforementioned residential densification should occur in accordance with the provisions of the Scheme Regulations, i.e. above ground floor thereby ensuring that commercial development is retained at ground floor level. The proposal that will introduce a predominant residential use at ground floor level is not considered consistent with the SDF.

**Overstrand Integrated Zoning Scheme Regulations, 2014**

The Scheme Regulations provides for consent use for flats on ground floor level. As such, the application accords with the provisions of the Scheme Regulations.

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

N/A

**Impact on Municipal engineering services**

No objections were raised from a municipal services point view on the basis of availability and capacity of services.

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

N/A

**Existing and proposed zoning comparisons and considerations**

The zoning of the subject property is Business Zone 3: Local Business with shops, offices and flats above ground floor level as primary rights. The Scheme Regulations however cater for flats that is seen as a caretakers dwelling as a consent use on ground floor level, but requires consent from the Municipality.

**The desirability of the proposal**

The subject property is situated in a local business node at the entrance of Pearly Beach.

The application provides for a mixed use development, consisting of a ground floor two (2) bedroom dwelling unit/flat measuring 116m<sup>2</sup> and a shop of 41m<sup>2</sup>. The construction of a flat above ground floor level is a primary right. The Scheme Regulations provides for consent use application for a ground floor flat (to provide for caretakers accommodation) by means of an application, when desirable.

The Title Deed restricts the utilization of the property to shop purposes only. Cognisance must be taken of the fact that the Title Deed restrictions date back to before the establishment of the Overstrand Municipality and the relevant Zoning Scheme Regulations. As such, the Title Deed was used to convey restrictions on property owners in order to form uniformity and a sense of place. It is therefore the opinion that the restrictions set out in the Title Deed are not relevant, because they are out-dated, thus the removal of the restrictions will enable the owner to utilise the property more efficiently in accordance with the provisions of the Scheme Regulations.

With the establishment of Pearly Beach provision was made for four (4) business nodes, namely one (1) node at the main entrance to Pearly Beach, a node on the corner of Camp-, Link- and Oranje Streets and two (2) further nodes either side of The Esplanade. To date only the main business node at the entrance of Pearly Beach has been developed for business purposes, comprising two (2) shops a restaurant and take away business. The application property is part of this node. The area north of the public open space comprising twenty (20) business erven situated between Long Market- and Church Streets that use to form part of the business node the application property is situated in was rezoned to Single Residential Zone. More recently Erf 332, forming part of the business nodes along The Esplanade, was rezoned from Business Zone 2: General Business to Single Residential Zone. Having had regard to the above, the main business node in which the application property is situated is to date the only node that contains commercial development. Due to the location of this node at the entrance of the town it is the most likely to be further developed for business/commercial purposes in the medium to long term in accordance with the provisions of the Scheme Regulations and existing forward planning. As such approval of non-commercial units at ground floor is not considered desirable.

The former repealed Gansbaai Zoning Scheme Regulations provided for flats and dwelling units as a primary right under its business zoning. The resulting impact was that business nodes in De Kelders and Franskraal had been developed for residential purposes. Accordingly the Overstrand Zoning Scheme Regulations seek to protect business nodes for business purposes in that residential uses are permitted as primary rights above ground floor level, in accordance with the forward planning for the area. The proposed ground floor flat is therefore not desirable.

The SDF encourage a balanced land use mix, economic development, appropriate infill development and to restrict commercial uses to designated business nodes. Although the principle of mixed land uses is supported in business nodes with reference to the SDF and GMS, such uses should comply with the Scheme Regulations, being situated above ground floor level. The proposed development intends to introduce a predominant residential use in a commercial area that is not consistent with the forward planning for the area as per the SDF and GMS, and character of the area.

The subject property is situated in a location that had been identified in the existing forward planning documents for commercial purposes. The opinion is also held that the proposed development is not compatible with the character of the area due to the fact it would predominantly introduce is residential use in a predominant commercial area, with commercial being subservient thereto. The intention of the Scheme Regulations is to provide for a caretaker's flat. The proposed flat is not considered a caretaker's unit since it is not subservient to the commercial activities on the premises.

The layout of the proposed development is such that the future commercial development of the property, due to its small erf size, would not be possible, since future commercial development is not likely to comply with the requirements of the Scheme Regulations pertaining to parking and servicing. Therefore the proposed ground floor residential flat is not considered desirable.

The application for removal of restrictions is not considered to have an adverse impact on the value of surrounding properties or community at large, since the Scheme Regulations provide sufficient control in order to protect to the rights of surrounding properties.

**PART O: ADDITIONAL PLANNING EVALUATION FOR REMOVAL OF RESTRICTIONS****The financial or other value of the rights**

The owner of the property will acquire financial benefit from the application since successful removal of the restrictive condition will permit development on the subject property in accordance with the provisions of the Scheme Regulations, thereby allowing the utilisation of the property to its full potential that would subsequently have financial benefits for the landowner.

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

The personal benefit will be to the owner since removal of the restrictive conditions will permit the utilization of the property in accordance with the Scheme Regulations.

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

The condition has been transferred on each of the erven situated within the local business node, thereby ensuring this node is utilised for business purposes only. Removal will mainly benefit the owner, since it will permit the utilisation of the property in accordance with the Scheme Regulations.

**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 removal of the use, building line and coverage restrictions as per clause C.4(b), (c) and (d) of the title deed T23890/2015.

**PART P: SUMMARY OF EVALUATION**

The application for removal of restrictive title conditions is considered desirable and recommended for approval. The application for consent use to permit a ground floor flat is not desirable and accordingly recommended for refusal.

**PART Q: RECOMMENDATION****RECOMMENDATION :**

1. that in terms of Section 16(2)(f) of the Overstrand Municipal By-Law on Land Use Planning, 2016 the application for the removal of the title deed restrictions as per Clause C.4(b), (c) and (d) of Title Deed T23890/2015 to permit the utilisation of the property in accordance with the provisions of the Scheme Regulations, **be approved**;
2. that in terms of Section 16(2)(o) of the Overstrand Municipal By-Law on Municipal Land Use Planning, 2016 the application for a consent use in order to develop a ground floor flat on Erf 631, Pearly Beach, **not be approved**, for the following reasons:
  - (a) that the ground floor flat is not consistent with the SDF and GMS;
  - (b) that the proposed shop is subservient to the residential flat;
  - (c) that the approval of the proposed development will sterilise the future development potential of the subject property, thereby rendering it incapable for future commercial use, and
  - (d) that a predominant residential use (i.e. flat) in a commercial area is not in keeping with the character of the area
3. that the applicant be notified of its right of appeal in terms of Section 78 of the Overstrand Municipality By-Law on Land Use Planning, 2016 with regard to the above conditions of approval.

**PART R: REASONS FOR RECOMMENDATION**Removal of Restrictions:

- ❖ the application has followed due procedure;
- ❖ no objections have been received
- ❖ the removal of restrictive conditions permitting the utilization of the property in accordance with the provisions of the scheme regulations is deemed to be desirable, and

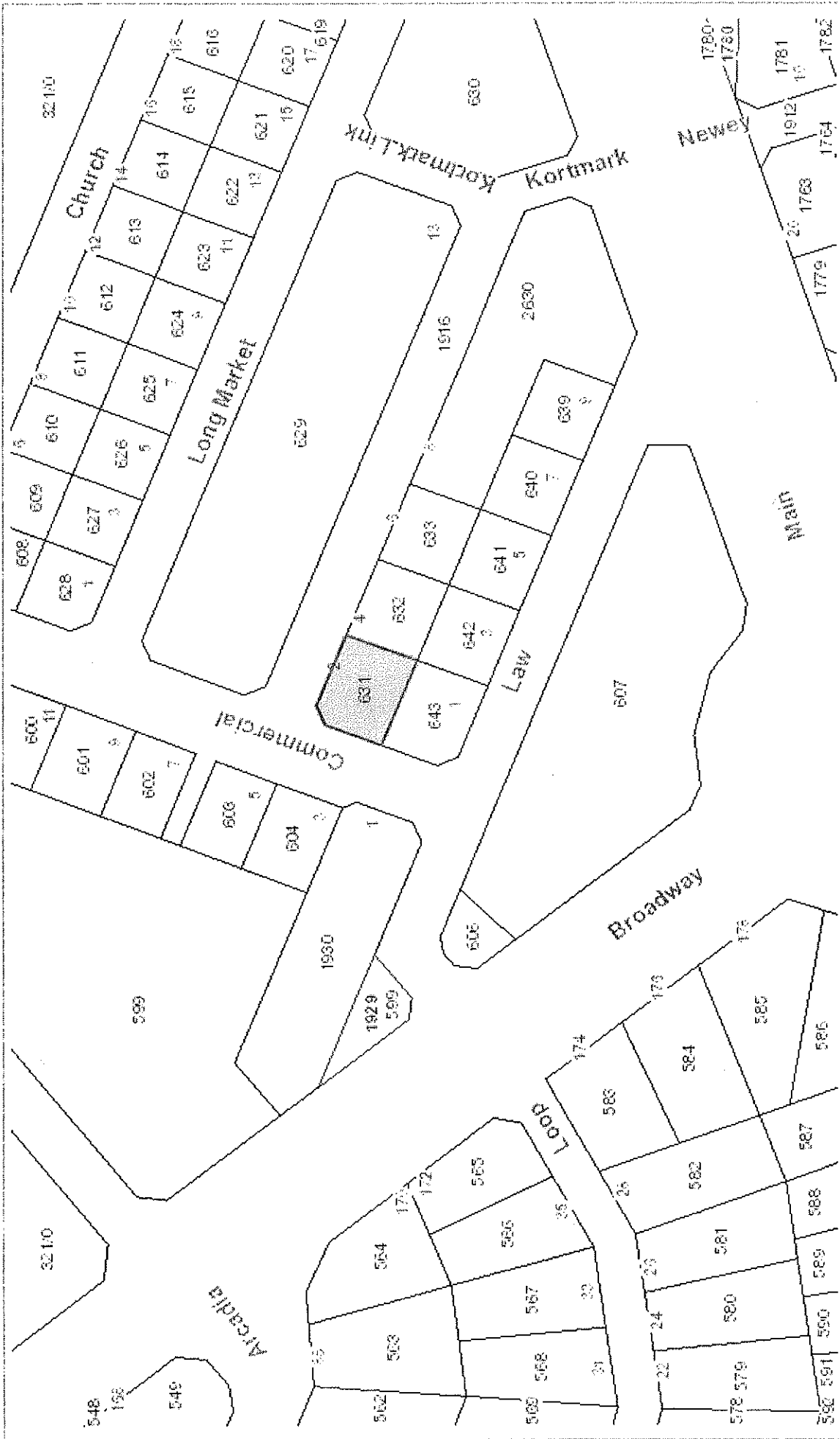
Consent Use to permit a ground floor flat:

- ❖ that the ground floor flat is not consistent with the SDF and GMS
- ❖ that the proposed shop is subservient to the residential flat
- ❖ that the approval of the proposed development will sterilise the future development potential of the subject property, thereby rendering it incapable for future commercial use, and
- ❖ that a predominant residential use (ie flat) in a commercial area is not in keeping with the character of the area.

**PART S: ANNEXURES**

Annexure A	Locality Plan
Annexure B	Proposed Site Development
Annexure C	Motivation Report
Annexure D	Electro Technical Services
Annexure E	Operational Services
Annexure F	Services Report

**PART T: SIGNATURES**Author name : **SW VAN DER MERWE**Author signature : Date: 8/02/2017Registered planner name : **H VAN DER STEOP**Registered planner signature : SACPLAN registration number: **A/1708/2013**Date: 14/2/2017



Erf 631 Pearly Beach  
Locality Map



## MOTIVATION REPORT: ERF 631, PEARLY BEACH (2016)

## Page 2.

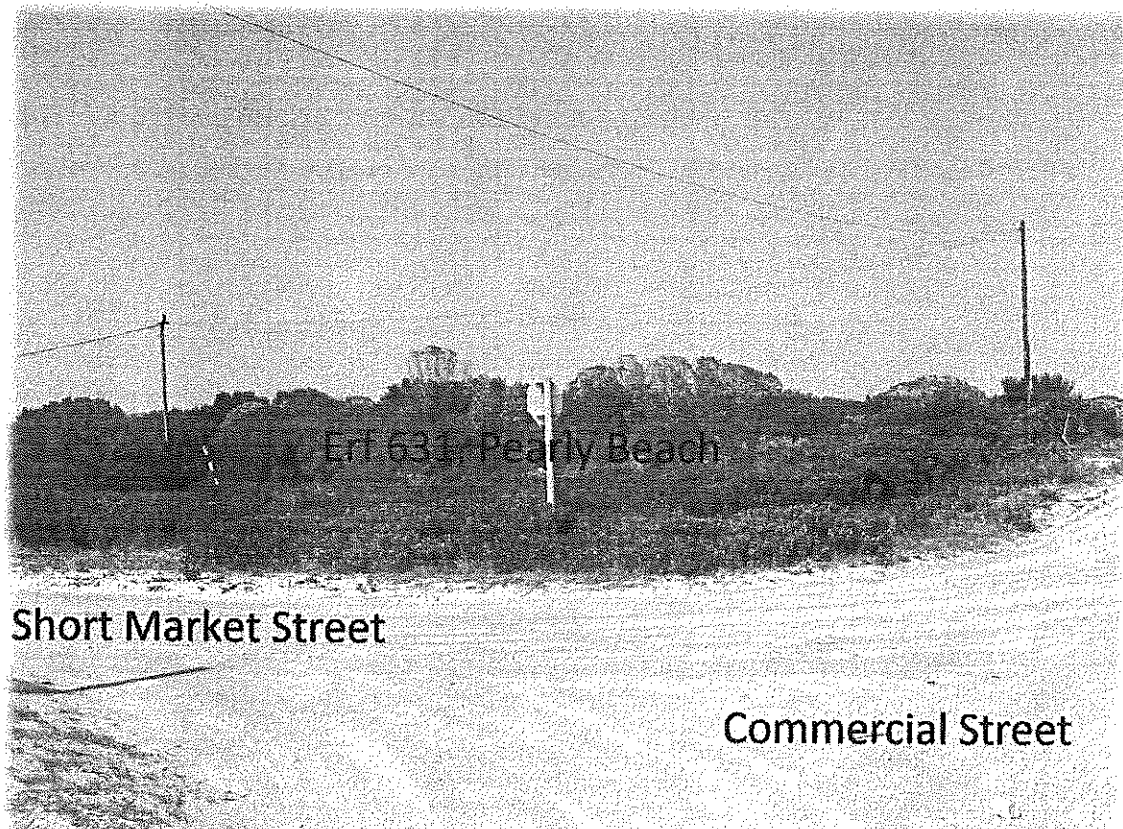
**2.3 Current Zoning Status**

Erf 631, 2 Short Market Street, Pearly Beach, is zoned for Business Zone 3 (Local Business) purposes. The property is situated at the corner of Commercial- and Short Market Streets.

**2.4 Existing Development on the Property**

- The property is undeveloped, and has been undeveloped since the establishment of the township of Pearly Beach during the 1950s.

BELOW: PROPERTY FROM A NORTHERN VIEW



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**3. PROPOSED DEVELOPMENT AND MOTIVATION**

3.1 It is the intension of the owners to develop the property with a single ground floor dwelling unit/flat combined with a shop in terms of the secondary uses of Business Zone 3, read together with the definition of "flats" as contained in the Overstrand Zoning Scheme Regulations. (See preliminary development plans attached to the application.) Should the applications be approved, full blown building plans will be drawn up in collaboration with, and for consideration by the municipality.

3.2 The definition of flats as contained in the Overstrand Zoning Scheme Regulations are quoted as follows:

**"flats"** means a building containing three or more **dwelling units**, together with such outbuildings as are ordinarily associated therewith; provided that in those zones where flats are permissible, less than three dwelling units shall also be permitted;

In view of the meaning of the highlighted text of the above definition, it is evident that the municipality shall/may, on request, allow for less than three dwelling units within flats on ground level. In terms of the By-Law, no provisions are made for departure applications in order to deviate from the contents of definitions as contained in the Zoning Scheme Regulations. Thus, the request for one flat (dwelling unit at ground floor level), does not require an application for departure in terms of the By-Law.

3.3 It is general knowledge that outdated town planning legislation has recently been repealed and replaced with new legislation, and subsequently various decision making powers in this regard have also been delegated from Provincial Level to Local Authority levels in the Western Cape.

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When the Pearly Beach township development application was approved during the 1950s, restrictive title deed development parameters were registered against the majority of its title deeds. These conditions, as is the case within the majority of coastal townships in the greater Overstrand area, are regarded as "burdens" to Authorities and landowners since zoning schemes have been in place for many decades already in terms of which the development parameters of properties are regulated and forced down by local authorities.

**Thus, from a technical point of view, the motivation for the consent use should also be read as the motivation for the removal of the relevant restrictive title deed conditions.**

**3.4 Existing Character of Immediate Surrounding Urban Environment and Possible Impacts thereon relating to Proposal**

The area surrounding Erf 631, Pearly Beach consists of various land uses that include commercial properties, namely Erven 600 – 604, 632, 633, 2630, and 639 – 643. Of these 14 commercial erven only 3 has ever been developed post approval of the township in the 1950s, namely Erven 602, 639 and 2630.

It should further be noted that Erven 608 – 617, and Erven 619 – 628 (20 Erven in total) that borders Long Market- and Church Streets to the north of Erf 631, were reserved as commercial properties (Local Business Zone) during the township approval of Pearly Beach. All of these commercial erven have however been simultaneously rezoned to Single Residential zone decades ago already. The reason being, that these erven were never developed in terms of its commercial status, since there were no need for commercial activities on these erven by the landowners at that time, since it was regarded as more profitable when developed for residential purposes.

## MOTIVATION REPORT: ERF 631, PEARLY BEACH (2016)

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Thus, the majority of these erven have in the meantime been developed for single residential purposes.

Erven 629, to the north, and 599 to the west, have Authority Zone status. Erf 1930 to the west has a General Residential 3 (blocks of flats) status, and Erf 607 to the south has a General Residential 1 (town housing) status.

Taking the surrounding mixed land uses into consideration, the proposed ground floor flat (single dwelling unit) will not be detrimental to the surrounding developed area. Further, the current zoning status of Erf 631 will remain intact, since no rezoning of the property is being applied for. The proposal is therefore consistent with the actual overall spatial proposals for the area. It will further not impact on the rights of surrounding property owners, and together with the above it can thus be regarded as desirable from a town planning point of view.

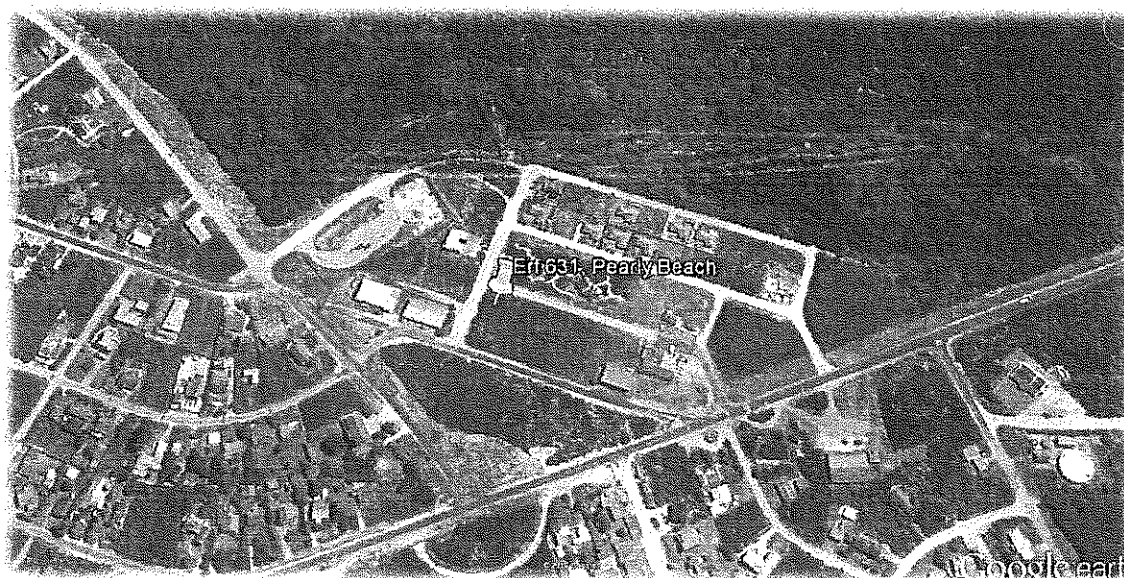
### 3.5 Biophysical Characteristics

The application property does not contain any mentionable biophysical characteristics that would have an impact on the proposed development, nor on the existing surrounding properties. The property is mainly covered with indigenous fynbos. See aerial photo below:

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BELOW: AERIAL PHOTO INDICATING APPLICATION PROPERTY AND SURROUNDING BUILD ENVIRONMENT



### 3.6 Topography

The application property drops from the western boundary towards the eastern boundary with approximately 2 meters. It also has a mild slope from the southern boundary towards the northern boundary. Cut-and-fill may occur once the development is being commenced with. It is the opinion that with proper planning of the structure, the 2 meter slope will not have any mentionable limitations on the proposed development.

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### 3.7 Heritage

In terms of the Overstrand Heritage Survey, the property is not listed under any category of the South African Heritage Resources Act or its Regulations. The Act is hence regarded as not being applicable to the application and therefore no heritage assessment is required.

### 3.8 Environmental Legislation

The Regulations in terms of the National Environmental Management Act, previously listed various development activities that need environmental approval prior to the commencement thereof. However, these Regulations were amended during 2014 to the extent that properties fall within the boundaries of approved townships, are in most instances excluded from requirements of the Regulations of the Act. The amended Regulations were in any event thoroughly consulted and no activities could be found that trigger any environmental approval/s.

### 3.9 Coastal Zone Policy for the Western Cape

The aim of the Policy is to give, amongst others, guidance regarding the sustainable development and management of the Western Cape Province coastal townships, with specific reference to the creation of environments for investment opportunities, which would lead to economic development and consequent sustainability of the economic growth of its coastal towns. The proposed development is in line with the principles of the Policy.

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3.10 Forward Planning Documents

The following forward planning Documents were consulted:

Provincial Spatial Development Framework (PSDF);

Overstrand Spatial Development Framework (OSDF);

The application does not comprise the change in land use (rezoning) of the property, but only an additional right (consent use) is being applied for – the zoning status of the property will thus remain unchanged. That section of the OSDF pertaining to the forward planning of Pearly Beach, indicates that the property must be reserved for business usage. It further encourages the development of a balanced mix of land uses within the urban edges of the greater Gansbaai area's townships.

(The proposal does not affect the above Frameworks, and is thus not applicable to the application under discussion.)

Further, secondary land uses (consent uses), are regarded as being complementary with the listed primary uses under the different zonings of a zoning scheme. The proposal is therefore not seen as being inconsistent with the actual overall spatial proposals for the area.

In view of the above, it is the opinion that the proposal cannot have any detrimental impact on the existing mixed land use character of the surrounding developed area, and can only contribute positively towards the existing and future character thereof.

In view of the above, the proposed development is regarded as being Desirable from a planning point of view.

**Page 9.****3.11 Services Infrastructure and Municipal Engineering Services**

The property is located within an existing developed area together with Municipal infrastructure networks being in place (roads, electricity, sewerage and water). The landowners are currently uncertain whether a 3-phase electricity connection would be required for the proposed development. Only once the formal building plans are deliberated, the landowners will consider whether or not to apply for a 3-phase connection.

However, any possible impacts on existing Municipal infrastructure within Pearly Beach's commercial node was already taken into account prior to the formal approval of the OSDF by the Municipality. Due to the relative small scale of the development, it is not foreseen that it will have any mentionable impacts, if any, on the existing Municipal infrastructure within the specific commercial node.

**3.12 Accessibility of the Property from the surrounding Area and possible Traffic Impacts thereon**

General access to the property will route mainly from Main Road, Pearly Beach, and then via internal streets such as Short Market and Commercial Street. Short Market and Commercial Street are however not covered with tarred surfaces. It is however anticipated that once more of the commercial properties are developed, those streets will eventually be tarred by the Municipality. In the latter regard it is the opinion that due to the relevant small scale of the development, no mentionable generation of additional traffic is envisaged. Further, no negative impact on the existing surrounding roads network is envisaged, and subsequently no traffic impact assessment for the proposed development are regarded as necessary.

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3.13 Access to the Property and provision of Off-Street Parking

It should be noted that the application property is a corner erf and access to the property can be obtained either from Commercial Street or Short Market Street, or by means of access- and exit points at the said streets.

Refer to the Layout Plan attached to the application: The requirements of the Overstrand Zoning Scheme Regulations with regard to off-street parking will be met in that ample and practical parking can be provided on the property for the overall development. No problems are therefore foreseen with the off-street parking requirements for the development. The parking layout is however still subject to change.

3.14 Planning Principles in terms of the Spatial Planning & Land Use Management Act of 2014 (as referred to in Motivational Report Guidelines of the Municipality)Spatial Justice

Application is not made for the creation of any settlements or urban extensions. Application is mainly made for an additional right (residential/flat as a secondary right) as a result of a restricted clause in the title deed of the property, which clause restricts the usage of the property to business purposes only. The overall principles and planning development norms and criteria, as set out in Section 42 of Spatial Planning and Land Use Management Act of 2013 and Chapter VI of the Land Use Management Act of 2014 are thus not regarded as being applicable in this case.

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Spatial Sustainability

Not regarded as being applicable in view of comment under "Spatial Justice" above.

Efficiency

Not regarded as being applicable in view of comment under "Spatial Justice" above.

Spatial Resilience

Not regarded as being applicable in view of comment under "Spatial Justice" above.

Good Administration

Not regarded as being applicable in view of comment under "Spatial Justice" above.

3.15 Removal of Restrictive Title Deed Conditions

Please read the contents of this paragraph together with the contents of the first section of paragraph 3.3 of this report.

The restrictive title deed conditions referred to in the application form, requires the removal thereof in order to authorize the landowners to also construct a single dwelling unit (flat on ground floor) on the property combined with commercial activities. The removal of the restrictions will also ensure that only the development parameters as set out in the Zoning Scheme, will be applicable.

3.16 Creation of Employment

I is currently uncertain how many permanent job opportunities will be created in future. Several semi-permanent job opportunities will however be created during construction phase.

## MOTIVATION REPORT, ERF 6811, PEARLY BEACH (2016)

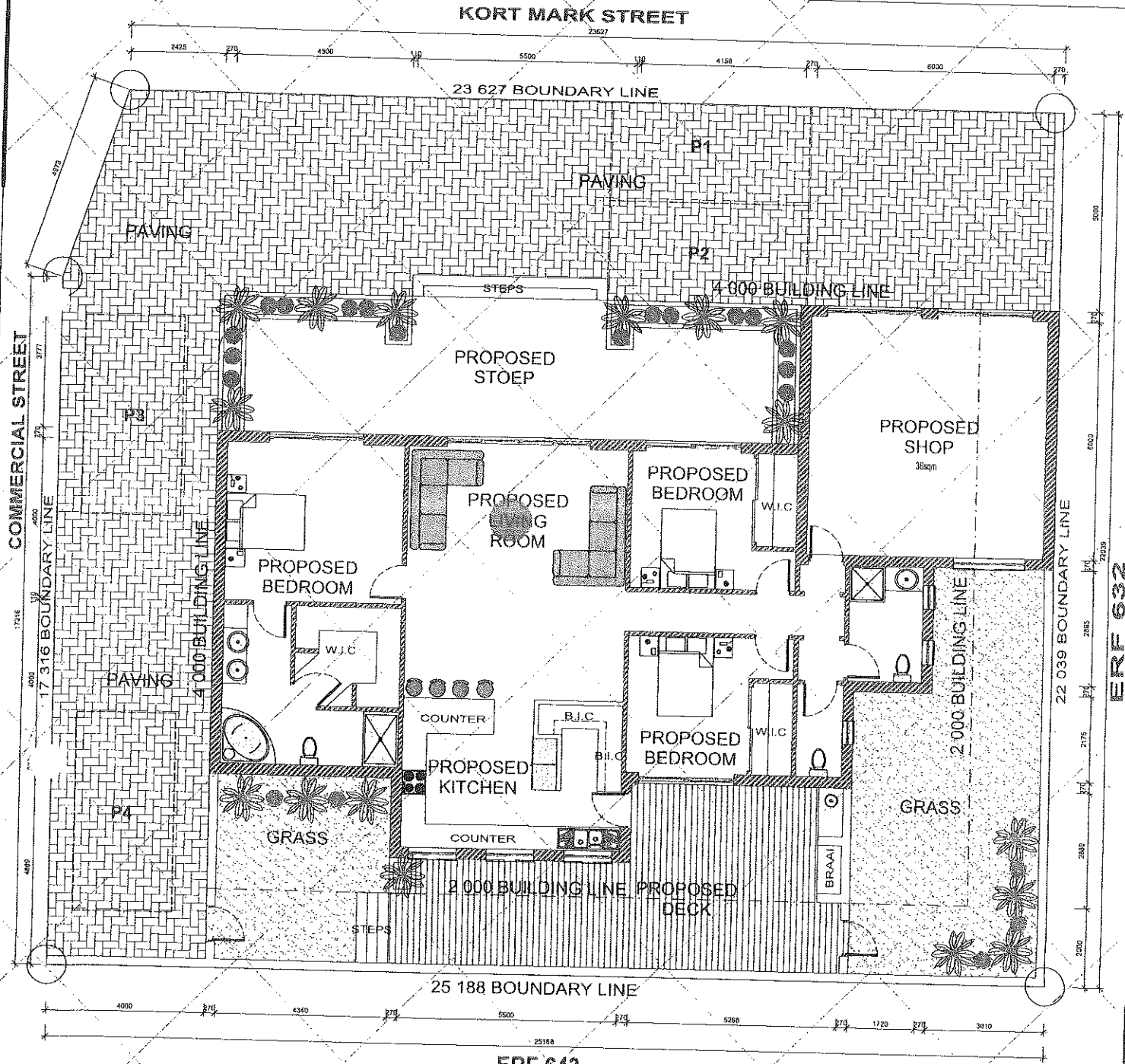
Page 12.

3.17. CONCLUSION

From the content of this report it is apparent that the proposed additional land use will have no negative impacts in general and that every effort has been made to mitigate any possible impacts. The proposed development will be in line with the requirements of all relevant legislation. The application is therefore regarded as being desirable from a town planning point of view and it is thus recommended that the Municipality approve the applications.

END OF MOTIVATION REPORT

PROPOSED SHOP & FLAT  
 FOR MR. & MS. MORRIS  
 ON ERF 631,  
 PEARLY BEACH  
**GANSBAAI**



**GROUND STOREY PLAN**  
 SCALE 1: 200

**PRINSLOO**  
 ARGITEKTONIESE  
 ONTWERPKANTOOR  
 CK 95 / 17286 A 23

**MARTIN PRINSLOO**  
 N.D. ARGITEKTOUR • LID VAN S.A./E.A.P.  
 DIKKE UKS STR 22 • GANSBAAI 7124  
 TEL. (048) 3641524, 591 023372875  
 prins\_orca@intekom.co.za

ANNEX: E

**From:** Danie Maree  
**To:** Alida Calitz  
**Date:** 2016/09/22 01:50 PM  
**Subject:** Re: Internal Memo - Erf 631 Pearly Beach - proposed ROR & consent use

Alida,

We have no objection. Erf 631 Pearly Beach currently has no electricity connection. A standard connection fee will be applicable as per approved municipal tariffs. Should the owner require a connection larger than a standard single phase 60 amp connection, an investigation will have to be done to determine if there is sufficient capacity. All investigation fees, upgrading fees and any fees pertaining to the repositioning of any municipal infrastructure will be for the client's account.

Kind Regards  
Marissa Radyn

for

Danie Maree  
Snr. Manager Electro Technical Services  
Snr. Bestuurder Elektro Tegniese Dienste  
Tel 028 384 8311  
Mobile 082 3738269  
Faks 028 384 8314  
dmaree@overstrand.gov.za

Problems are not stop signs, they are guidelines .

>>> Marietjie Harmse 2016/09/22 12:27 PM >>>

INTERNAL MEMO: ERF 631 PEARLY BEACH - PROPOSED REMOVAL OF RESTRICTIONS AND CONSENT USE

Attached please find an Internal Memo for your attention. Kindly provide your department's comments to Alida Calitz [alida@overstrand.gov.za](mailto:alida@overstrand.gov.za)

on or before 28 October 2016.

NB: Kindly provide all comments in English. Your comments, as received, are copied straight into the Council & Delegated Reports.

Regards

*Marietjie Harmse*  
Senior Klerk - Stadsbeplanning  
Overstrand Municipality/Munisipaliteit

**Overstrand Municipality**

A: 1 Magnolia Street, Hermanus, 7200 | P: P.O Box 20, Hermanus, 7200

T: +27 (0) 313 8988

E: [mharmse@overstrand.gov.za](mailto:mharmse@overstrand.gov.za)

*Munisipaliteit – U-Masipala – Municipality*  
**OVERSTRAND**

## INTERNAL MEMORANDUM

<b>Aandag / For Attention:</b>	Town Planning department: A Calitz	<b>Van / From:</b>	Department: Operational Services
<b>Afskrif / Copy:</b>		<b>Datum / Date:</b>	11 October 2016

Ref: Erf 631, Gansbaai

**RE: APPLICATION FOR REMOVAL OF RESTRICTIVE CONDITIONS AND CONSENT USE –  
ERF 631, GANSBAAI**

The request for comment from the Department: Operational Services (Gansbaai) dated 22 September 2016 with regard to the abovementioned proposal refers.

The proposal entails the following:

- Proposed removal of restrictive conditions and "consent use" on Erf 631, Gansbaai (613m<sup>2</sup>), in order to establish a business.

### 1. ANALYSIS

#### 1.1. Water

- 1.1.1. The existing municipal water reticulation network is available in the vicinity of Erf 631. The Directorate: Infrastructure and Planning must however give comment with regard to network capacity.
- 1.1.2. Erf 631 is not currently serviced with a metered water connection to the municipal water network. Should Erf 631 be developed, the erf must be serviced with an individual metered water connection to the Municipal system, which must comply with the standards of the Department: Operational Services (Gansbaai).
- 1.1.3. In order to affect this, application must be made to the Department: Operational Services (Gansbaai) by the owner for the provision of the water connection, to which Erf 631 must connect to.
- 1.1.4. Application for the Municipal connection must be made at least 3 weeks prior to requirement. A job card will be opened, and the owner will be responsible for all costs.

1.1.5. The proposed removal of restrictive conditions and consent use will not have a significant impact on the existing municipal water supply network. The Directorate: Infrastructure and Planning must however give comment with regard to the relevant Bulk Services Levies.

## 1.2. Sewer

1.2.1. No municipal sewer network is available in the vicinity of Erf 631.

1.2.2. Should Erf 631 be developed, Erf 631 must be provided with adequate sewer conservancy tanks, which must comply with the standards of the Department: Operational Services (Gansbaai).

1.2.3. Sewerage will be removed from the sewer conservancy tanks as per municipal arrangement.

1.2.4. Any relevant commercial food preparation facilities must be provided with a grease trap, which must comply with the standards and specification of the Department: Operational Services.

1.2.5. The developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of *SANS 1400 – P: 2010: Drainage*.

1.2.6. The proposed development of Erf 631 will not have a significant impact on the existing municipal sewer tanker service.

1.2.7. Any rezoning and / or development of Erf 631 will have a further impact on the municipal sewer tanker service, and may result in service development contribution costs. Any application for rezoning should therefore be referred to the Directorate: Infrastructure & Planning for further investigation and determination of the relevant service development contribution costs.

## 1.3. Streets

1.3.1. Access can be obtained from either Commercial Street or Short market Street.

1.3.2. Any additional and / or extended vehicle entrances will be for the owner's account.

## 1.4. Storm water

1.4.1. The "Common Law" shall apply with regards to storm water discharge.

## 1.5. Parking

1.5.1. "On-site parking" must be provided. The parking areas are to be provided at a ratio as described by the Town Planning Scheme, with permanent surfaces and layout to the satisfaction of the Department: Operational Services.

**1.6. Other services**

1.6.1. The Department: Operational Services does not have any information regarding any Telkom-, other telecommunications- and / or Electrical services which may be affected by the proposed development. The Electrical- and Traffic departments, as well as Telkom and other relevant service providers, must therefore also give their recommendations regarding the application.

**1.7. Refuse removal**

1.7.1. Refuse will be removed from sidewalks as per municipal arrangement.

**1.8. Irrigation water**

1.8.1. No irrigation water is available in this area.

**1.9. Waste Water Treatment Works (WWTW)**

1.9.1. The proposed development will not have a significant impact on the Waste Water Treatment Works. The Directorate: Infrastructure and Planning must however give comment with regard to the relevant Bulk Services Levies.

**1.10. Bulk Water Supply**

1.10.1. The proposed development will not have a significant impact on the bulk water supply, reservoirs or other bulk water infrastructure. The Directorate: Infrastructure and Planning must however give comment with regard to the relevant Bulk Services Levies.

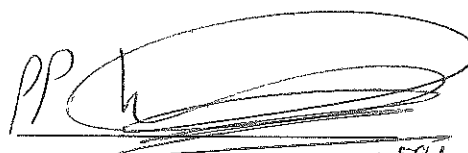
**RECOMMENDATION**

- 1.1. With regard to the application for the removal of restrictive conditions and consent use on Erf 631, Gansbaai towards establishment of a business , **the Department: Operational Services has no objections to the application, subject to the following conditions:**
- 1.1.1. That the proposed development on Erf 631 must be serviced with an individual and separate water connection to the municipal system, which must comply with the standards of the Department: Operational Services.
- 1.1.2. That the proposed development on Erf 631 be provided with adequate sewer conservancy tanks, which must comply with the standards of the Department: Operational Services, and to which the sewer services of the development must connect to.
- 1.1.3. That the sewer conservancy tanks must be accessible to the municipal sewer tankers from one of the adjacent public roads, with parking areas for the sewer tankers provided with permanent surfaces and to the layout and specification of the Department: Operational Services.
- 1.1.4. That the developer investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 10400 – P: 2010: Drainage.
- 1.1.5. Those on-site parking facilities are provided as per the Planning Schedule, and to the satisfaction of the Department: Operational Services.
- 1.1.6. That any additional and / or extended vehicle entrances will be for the owner's account.
- 1.1.7. That the Electrical- and Traffic Departments, as well as Telkom and any other relevant authorities and service providers not have any objections to the application.

Yours faithfully



**W. Germishuys**  
Principal Technician: Operational Services  
Gansbaai



**J. de Villiers Pr. Eng.**  
Senior Manager: Operational Services  
Gansbaai

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**COMMENTS FROM THE ENGINEERING SERVICES DEPARTMENT FOR:  
APPLICATION FOR REMOVAL OF RESTRICTIONS AND CONSENT USE:  
ERF 631, PEARLY BEACH (3317)**

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

**Conditions:**

1. that only the existing water connection will be available to the development, should larger capacity in any of these services be required, the upgrading will be at the developer's cost;
2. that only the existing electricity connection will be available for the development and that, should additional capacity be required, an investigation be conducted, with regard to the capacity required and that available, at the developer's cost;
3. that the proposed development on Erf 631 be provided with adequate sewer conservancy tanks, which must comply with the standards of the Department: Operational Services, and to which the sewer services of the development must connect to;
4. that the sewer conservancy tanks must be accessible to the municipal sewer tankers from one of the adjacent public roads, with parking areas for the sewer tankers provided with permanent surfaces and to the layout and specification of the Development: Operational Services;
5. that the developer must investigate and determine the limitations of the site in terms of sewer drainage, subject to the minimum requirements of SANS 140400 – P: 2010: Drainage;
6. that on-site parking facilities be provided as per that Planning Schedule, and to the satisfaction of the Department: Operational Services;
7. that any additional and / or extended vehicle entrances will be for the developer's account.



**DENNIS HENDRIKS  
SENIOR MANAGER:  
ENGINEERING SERVICES**

31/10/2016  
DATE